



## NASTTPO 2023 Mid-Year Conference

Office of Emergency Management

EPA-HQ

Jennifer Barre

# Agenda

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Clean Water Act (CWA)  
Hazardous Substance FRPs

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RMP

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Animal Waste Air Emissions  
under EPCRA Section 304

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PFAS - PFOA/PFOS



# CWA HS FRP Rulemaking



# CWA Hazardous Substance FRP Rulemaking

## BACKGROUND

- 2019 - NRDC, on behalf of the Environmental Justice Health Alliance for Chemical Policy Reform and Clean Water Action, filed suit to compel EPA to initiate this rulemaking and issue worst case discharge facility response planning regulations for CWA hazardous substances [311(j)(5)(A)(i)].
- EPA entered into a consent decree requiring signature on a proposed action by March 12, 2022, and signature on a final action 30 months later.
- EPA signed a Notice of Proposed Rulemaking on March 10, 2022.
  - New requirements for facilities that could reasonably be expected to cause substantial harm to the environment, to prepare and submit a plan for responding, to the maximum extent practicable, to a worst-case discharge and to a substantial threat of such a discharge, of CWA hazardous substances.
  - The proposed action considers increased risks of worst-case discharges from climate change as well as impacts to communities with environmental justice concerns and solicited comment on additional strategies to take these concerns into account.

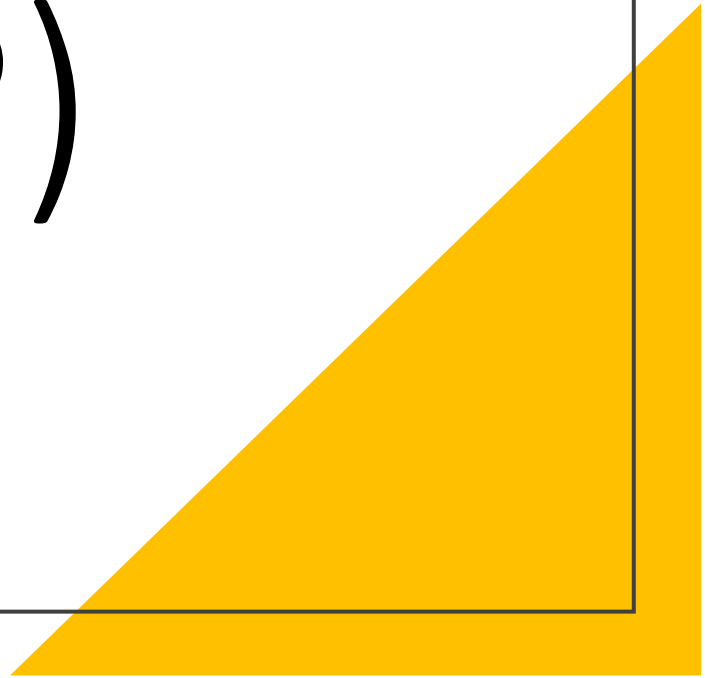


# CWA Hazardous Substance FRP Rulemaking

## UPDATE

- In response to public requests, EPA extended the comment period to 120 days, closing on July 26, 2022.
- EPA conducted a tribal engagement session on April 6, 2022.
- EPA received nearly 30,000 comments on the proposal.
- Final Rule is at Office Management and Budget. Rule may be signed as early as January 2024.
- Under the consent decree EPA must sign a final action by September 28, 2024.

# Risk Management Program (RMP)



# RMP

## BACKGROUND

- December 2019 – EPA published the RMP Reconsideration final rule, finalizing changes to the January 2017 RMP Amendments rule.
- EPA **rescinded** amendments relating to:
  - safer technology and alternatives analyses,
  - third-party audits,
  - incident investigation root cause analysis,
  - information availability, and
  - several other minor regulatory changes.
- EPA **modified** amendments relating to local emergency coordination, emergency exercises, and public meetings, and changed the compliance dates for some of these provisions.

# RMP

## UPDATE

- August 31, 2022 – EPA published the Safer Communities by Chemical Accident Prevention Proposed Rule, which proposes revisions to the Risk Management Program regulation. The proposed rule is designed to further protect vulnerable communities from chemical accidents, especially those living near facilities with high accident rates.
- The proposal includes new provisions for:
  - Safer technology and alternatives analysis
  - Third party audits
  - Incident investigation root cause analysis
  - Employee participation
  - Public information availability
  - Modifications to strengthen the rule's existing hazard analysis provisions to better address natural hazards and climate change, power loss, and stationary source siting
  - Modifications to strengthen the rule's existing emergency response and emergency exercise program provisions.



# RMP

- EPA held a series of virtual public hearings on September 26, 27, and 28, 2022, to solicit comments on the proposal.
- The public comment period on the proposal closed October 31, 2022.
- The Agency plans to publish a final rule by early 2024.
- For more information, contact Deanne Grant – [grant.deanne@epa.gov](mailto:grant.deanne@epa.gov), (202)564-1096

# Animal Waste Emissions & EPCRA Section 304



# Current Status

- Farms are not required to report animal waste air emissions under either CERCLA or EPCRA.
- Rural Empowerment Association for Community Help (REACH) and several other environmental groups filed a complaint in the U.S. District Court for the District of Columbia challenging the reporting exemption for farms under EPCRA (i.e., the 2019 rule).
- On February 14, 2022, D.C. Circuit Court granted EPA's motion to remand 2019 rule without vacatur. (The exemption is still in place while EPA either revise or rescind through a rulemaking).
- The Proposed Rule to reinstate EPCRA reporting for farms is at OMB for review.
- If EPA finalizes the rule, it will still be several months to go through the final rule process and several more months to develop guidance which needs to be completed prior to requiring farms to report.

# PFAS Rulemakings

# PFAS

On September 6, 2022, EPA published a proposed rule to designate two per- and polyfluoroalkyl substances (PFAS), perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), including their salts and structural isomers as hazardous substances under CERCLA. <https://www.epa.gov/superfund/proposed-designation-perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos>

- Designation will affect release reporting requirements under CERCLA 103 and EPCRA 304.
- The comment period closed on November 7, 2022.

The Agency is analyzing 60,000 comments, including mass mail. The final rule may be published in March 2024.

# CAMEO Software Suite

- New CAMEO Chemical Release this week! Incorporates WISER features.
- CAMEO Data Manager and Tier II Submit releases should be out in November.
- ALOHA major update release will follow in early 2024.
- MARPLOT release will be after the ALOHA release.

## CWA Hazard Substances Spill Planning Regulations

- <https://www.epa.gov/hazardous-substance-spills-planning-regulations>
- Broussard.Rebecca@epa.gov

## RMP Safer Communities Chemical Accident Prevention Proposed Rule

- <https://www.epa.gov/rmp/risk-management-program-safer-communities-chemical-accident-prevention-proposed-rule>
- Grant.Deanne@epa.gov

## CERCLA Listing of PFAS, PFOA, and PFOS.

<https://www.epa.gov/superfund/proposed-designation-perfluorooctanoic-acid-pfoa-and-perfluorooctanesulfonic-acid-pfos>

## CAMEO and EPCRA Questions:

Barre.Jennifer@epa.gov