



March 19, 2026

The Honorable Lee Zeldin
Administrator
U.S. Environmental Protection Agency (EPA)
1200 Pennsylvania Avenue NW
Washington, DC 20460

Submitted electronically via www.regulations.gov.

Re: EPA-HQ-OLEM-2025-1707 Clean Water Act Hazardous Substance Facility Response Plans; Amendment Reconsideration

Dear Administrator Zeldin:

The Association of Metropolitan Water Agencies (AMWA) appreciates the opportunity to comment on the advance notice of proposed rulemaking (ANPRM) seeking feedback on reconsidering the Clean Water Act Hazardous Substance Facility Response Plans regulation. AMWA is an organization representing the largest publicly owned drinking water systems in the United States, and its membership serves more than 160 million people nationwide. AMWA members place immense value on protecting drinking water sources, and the best protection against the negative impacts from chemical spills remains avoiding them altogether. Given the health, economic and environmental risks posed by spills, it is critical that EPA continue to have strong rules in place to prevent hazardous chemical discharges.

Source water protection

Protecting the source waters that drinking water systems rely on for supply is a foremost concern for AMWA’s members. Drinking water systems’ top priority is protecting public health, and the ability to treat source waters is key to providing safe and reliable drinking water. USGS estimates

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that surface water sources provided 61 percent of the total water withdrawn for public supply use in 2015¹.

AMWA has continually stressed in multiple comments to EPA over the years that it is most effective to control pollutants at their source, where they are highly concentrated, rather than remove them at the consumer's expense after entering a water body or supply source. Remediating water supply contamination can be a major cost to a community. When drinking water supplies are disrupted due to contamination, costs are incurred not just by the utility and its rate payers, but also the taxpayers of local, state, and federal units of government that may be involved with the response. A proactive approach ensures that those who pollute our natural resources are not allowed to pass the cost of cleanup onto public drinking water systems and their customers. For this reason, AMWA opposes any changes to the rule that would alter the substantial harm criteria related to the ability of a discharge of a hazardous substance to navigable waters to adversely impact a public water system (PWS). Maintaining these drinking water specific criteria is critical to ensuring that water systems can continue to deliver safe drinking water.

Surface water pollution remains a risk, with recent analysis of EPA data showing that the total amount of chemicals being introduced into surface waters has not meaningfully fallen since 2015 with some toxic chemicals (such as mercury compounds) becoming more widespread over the last 10 years.² Many CWA hazardous substances are toxic to humans even at low concentration. Moreover, given the wide variation of toxicity across the over 300 CWA hazardous substances, assigning a single threshold quantity would be inappropriate. AMWA therefore supports maintaining the existing screening threshold. In addition, AMWA does not support implementing de minimis thresholds for container sizes given that spills from multiple small containers can still cause serious contamination events, and the distributed risks should be addressed in facility response plans.

Exemption from the applicability threshold determination

AMWA strongly recommends that in the amendment to this rule, EPA explicitly make water treatment facilities exempt from the applicability threshold determination. As it currently stands, this rule requires some PWSs to submit a facility response plan (FRP) for CWA hazardous substances that they are already required to plan for under the Clean Air Act (CAA) Risk Management Program (RMP). For example, some large water systems rely on gaseous chlorine for water disinfection to ultimately supply safe drinking water to the public. Chlorine is listed as a CWA hazardous substance, and some water systems with large stores of it meet the threshold requirement in this rule. But in the case of stores of gaseous chlorine that are already subject to RMP oversight, AMWA believes requiring water systems to submit an FRP under this rule would lead to duplicate efforts that would redirect resources away from other important operations.

¹ Dieter, C.A., Maupin, M.A., Caldwell, R.R., Harris, M.A., Ivahnenko, T.I., Lovelace, J.K., Barber, N.L., and Linsey, K.S., 2018, Estimated use of water in the United States in 2015: U.S. Geological Survey Circular 1441. Retrieved from <https://pubs.usgs.gov/circ/1441/circ1441.pdf>

² Environmental Data & Governance Initiative, 2025. Surface Waters Under Threat. <https://envirodatagov.org/surface-waters-under-threat/>

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Page 3 of 3

Conclusion

AMWA asks EPA to continue to use its authorities to address water pollution at the source and to hold polluters responsible to reduce burdens on water systems. However, AMWA believes that water systems should not be required to duplicate efforts already mandated by the RMP and should therefore be exempted from the applicability threshold determination in this rule.

AMWA thanks EPA for the opportunity to provide comments on the proposed ANPRM for Clean Water Act Hazardous Substance Facility Response Plans regulations. If you have any questions about the content of this letter, please contact Liz Jordan, AMWA's Manager of Sustainability and Resilience Policy.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Dobbins". The signature is fluid and cursive, with a large initial "T" and "D".

Tom Dobbins
Chief Executive Officer