


Hazardous Substance SPCC Rule

Congress stated that “as soon as practicable after October 18, 1972, and from time to time thereafter, the President shall issue regulations ...establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and **hazardous substances** ... from onshore facilities ... and to contain such discharges.”

CWA §311(j)(1)(C)

federal register

FRIDAY, SEPTEMBER 1, 1978
PART V



ENVIRONMENTAL
PROTECTION
AGENCY

NATIONAL POLLUTANT
DISCHARGE
ELIMINATION SYSTEM

Proposed Requirements for Spill
Prevention Control and
Countermeasure Plans to Prevent
Discharges of Hazardous
Substances From Certain
Facilities



ACTION: Proposed rulemaking.

SUMMARY: This proposed rule would establish requirements for spill prevention control and countermeasure plans to prevent discharges of hazardous substances from facilities subject to permitting requirements under the National Pollutant Discharge Elimination System of the Clean Water Act (hereafter “the Act”).



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Thousands Without Water After Spill in West Virginia



CHARLESTON, W.Va. (Jan. 10, 2014) - As 300,000 people awoke on Friday to learn that their tap water was unsafe for brushing teeth, brewing coffee or showering, residents and businesses expressed a mix of anger and anxiety in coping with an industrial accident with no clear end in sight.

Officials said that up to 5,000 gallons of an industrial chemical used in coal processing seeped from a ruptured storage tank into the Elk River, just upstream of the intake pipes for the regional water company.

Authorities struggled to determine how much danger the little-known chemical, MCHM, or 4-methylcyclohexane methanol, posed.

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- July 15, 2015, NGOs filed Citizen Suit under CWA claiming “EPA not fulfilling their regulatory duties”
 - 2014 spill of 4-methylcyclohexane methanol in Charleston, WVA
 - 2013 spill of three different water treatment chemicals in Petersburg, VA
 - 2007 spill of sodium hydroxide in Maderia, CA
 - 2006 spill of sodium hypochlorite in Garyville, LA
- February 16, 2016, EPA settled with NGOs and agreed to “sign a notice of proposed rulemaking pertaining to the issuance of the Hazardous Substance Regulations, and to take final action after notice and comment on said notice”
- EPA agreed to sign their proposed rule by June 16, 2018, and issue Final Rule by August 2019
- EPA held three public and two virtual stakeholder meetings in late 2016
- Applicable only to list of 292 CWA hazardous substances 40 CFR §116

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- “The Environmental Protection Agency (EPA or the agency) is proposing to establish no new requirements under Clean Water Act (CWA), Section 311”
- Decision based upon analysis of National Response Center (NRC) spill reporting data
- NRC (2007-2016)
 - 285,867 spill reports
 - 2,419 (<1%) were CWA hazardous substances that originated from a non-transportation related facility AND reached water
 - Polychlorinated biphenyls - 1,322 reports (21 with water impacts)
 - Sulfuric Acid - 185 reports (14 with water impacts)
 - Sodium Hydroxide - 147 reports (4 with water impacts)
 - Ammonia - 112 reports (18 with water impacts)
- Agency also reviewed existing discharge prevention, containment and mitigation provisions of existing regulatory programs; concluded that programs generally serve to, directly and indirectly, prevent CWA discharges

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- “Administrator Pruitt decided again today to side with corporate polluters over the public's health and safety--and especially the health and safety of people of color and low-income families,” said **Michele Roberts, National Co-Coordinator of the Environmental Justice Health Alliance (EJHA)**.
- “Charleston, WV, is still feeling the economic impacts of the 2014 Elk River chemical spill--which left 300,000 people without drinking water,” said **Pam Nixon, President of People Concerned About Chemical Safety (PCACS)**.
- “Scott Pruitt’s action today will seriously endanger Americans because he is refusing to protect communities affected by the hundreds of hazardous spills that happen each year,” said **Erik Olson, Senior Director of Health and Food for the Natural Resources Defense Council**. “Millions of people—disproportionately low-income and people of color—live near industrial sites that pollute streams, lakes and drinking water sources. Congress more than 40 years ago required protections from these hazardous spills. In the wake of the tragic Charleston, West Virginia toxic chemical spill in 2014, EPA consented to a court order to issue these standards. Today, the Pruitt EPA is brazenly refusing to do that.”

Source: Press Release. NRDC & Partners: EPA Refuses to Protect Americans from Hazardous Spills. June 19, 2018.

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- Next steps
 - Federal Register Publication
 - EPA requesting comments on:
 - Proposal to establish no new requirements under the authority of CWA 311(j)(1)(C)
 - The approach EPA used to analyze the frequency and quantify the impacts of hazardous substance discharges
 - Their analysis of existing federal regulations and their applicability or relevance to the CWA for purposes of spill prevention
 - EPA plans to submit an Information Collection Request to states, tribes and other federal stakeholders in a better attempt to quantify the population of on shore facilities that store hazardous substances
- WESTCAS Comments?