# Facility Response Plan Seminar


# Oil Pollution Act of 1990

In response to these major oil spills, Congress enacted the Oil Pollution Act of 1990.

# Oil Pollution Act Goals

- Expand planning and spill prevention activities;
- Improve preparedness and response capabilities;
- Ensure that responsible parties pay for cleanups;
- Establish a research and development program.

# Oil Pollution Act

Section 4202 of the Oil Pollution Act amended CWA Section 311(j) by directing the President to issue regulations requiring owners or operators of tank vessels, offshore facilities, and certain onshore facilities to prepare and submit Facility Response Plans (FRPs).

# FRPs

- The President delegated the authority to EPA to regulate non-transportation related on-shore facilities.
- FRPs prepare a facility for responding to the maximum extent practicable to a worst case discharge of oil

# FRPs

- EPA issued the final guidelines for developing FRPs in July 1994
- The regulation are codified at 40 CFR Part 112

# Do I need a FRP?

- Does the facility pose a substantial harm to the environment ?
- Does the facility pose a substantial and significant harm ?

# Facility Response Plans

The owner or operator of any non-transportation related onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines shall prepare and submit a facility response plan to the RA.

# Facility Response Plans (cont.)

The RA shall review plans submitted by facilities to determine whether the facility, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging oil into or in the navigable waters or adjoining shorelines. Such plans must be approved by the RA.

In addition to substantial harm criteria, facilities are evaluated for their potential to cause significant and substantial harm, based on but not limited to:

- Lack of secondary containment
- Proximity to natural waters
- Proximity to environmental sensitive areas
- Type of transfer operation
- Proximity to drinking water intakes
- Probability of natural disaster
- Proximity to economic areas
- Spill history
- Tank age

- Facilities that formerly did not meet the applicability requirement, but now pose a substantial harm to the environment because of a change in operations must submit a plan before implementing the change.

- Newly constructed facilities must prepare and submit a FRP prior to operating
- Each significant change to a FRP requires resubmission for approval

- The OPA requires that all FRPs must:
  - Be consistent with the NCP and ACPs;
  - Identify the qualified individual having full authority to implement removal actions;
  - Identify and ensure by contract or other approved means the availability of personnel and equipment to address a worst-case discharge;

- Describe the training, equipment testing, periodic unannounced drills, and response actions to be carried out during a worst-case discharge;
- Be updated periodically; and
- Be resubmitted for approval of each significant change

# Non-Petroleum Oils

- EPA interprets the Clean Water Act definition of Oil to include Non-Petroleum Oils such as:
  - Silicone Fluids
  - Tung Oils
  - Wood-Derived Oils (resin/rosin oils)
  - Animal Fats and Oils
  - Edible and Inedible Seed Oils from Plants

# New FRP Requirements for Animal Fat/Vegetable Oil Facilities

- New rule complies with the Edible Oil Regulatory Reform Act (EORRA)
- Applies to Facilities that handle mainly Animal Fat and Vegetable Oils and
  - Transfer large volumes over water or
  - Store 1,000,000 gallons or more of oil
- Differentiates between Animal Fat, Vegetable Oils, and other oils based on properties and Effects

# Facility Response Plan Formats

- If required to submit a Facility Response Plan, a Facility may submit either:
  - An Integrated Contingency Plan (ICP) or -
  - A Facility Response Plan (FRP)

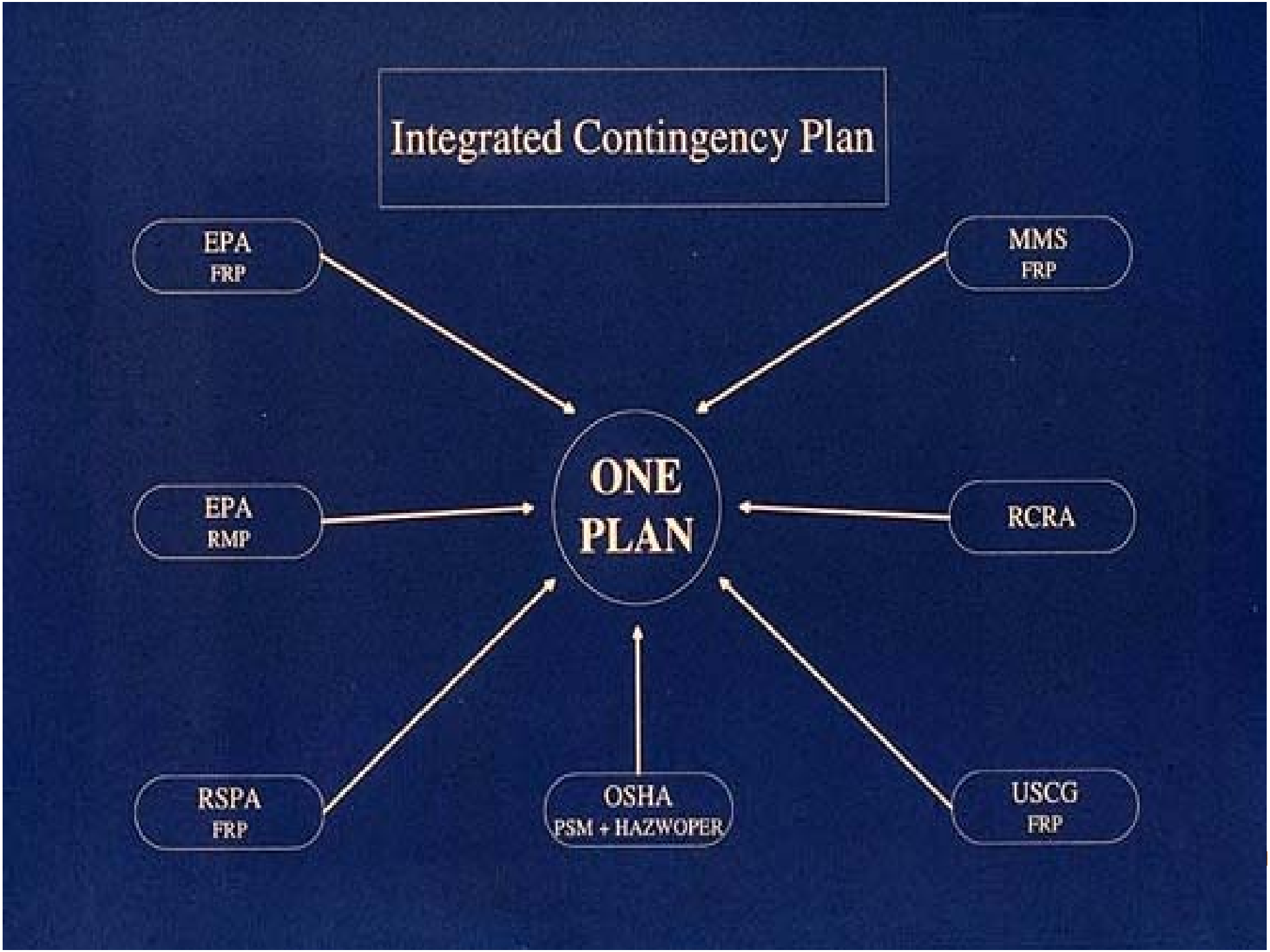
# ICP Requirements

- The ICP or “One Plan” concept, was developed to help consolidate multiple planning requirements.

- The ICP guidance document addresses the OPA FRP requirements of EPA, MMS, RSPA, and USCG, among other Federal regulations.

# ICP Requirements (cont.)

- The ICP guidance includes:
  - A plan outline or table of contents that provides a suggested structure for a facility contingency plan; and
  - Matrices with cross-references to specific regulatory requirements.


Integrated Contingency Plan
EPA
FRP
MMS
FRP
ONE
PLAN
EPA
RMP
RCRA
RSPA
FRP
OSHA
PSM + HAZWOPER
USCG
FRP

# ICP Requirements (cont.)

- If a facility's management develops an ICP and submits it to EPA as their FRP, they must:
  - Ensure that all applicable requirements of 40 CFR 112.20 and 21 are addressed in the plan; **and**
  - Provide a cross-reference to EPA's regulatory requirements.

# ICP Requirements (cont.)

- A series of matrices are included in the ICP guidance to assist plan drafters and reviewers.
- The ICP guidance provides flexibility to include certain prevention-related requirements in the plan.

# Benefits of an ICP

- Allows the development of a *single*, comprehensive document.
- Reduces the need for multiple reviews of several different documents.
- Reduces the potential for inaccurate information.
- Easier to use one document.

# Benefits of an ICP (cont.)

- May be used to meet requirements of:
  - DOI/MMS' FRP (30 CFR part 254);
  - DOT/RSPA's FRP (49 CFR part 194);
  - DOT/USCG's FRP (33 CFR 154, subpart F);
  - EPA's FRP (40 CFR 112.20 and 112.21);
  - EPA's Risk Management Plan (40 CFR part 68);

# Benefits of an ICP (cont.)

- EPA's RCRA Contingency Plan (40 CFR 264.52);
- EPA's RCRA Contingency Plan (40 CFR 265.52);
- EPA's RCRA Contingency Plan (40 CFR 279.52);

# Benefits of an ICP (cont.)

- DOL/OSHA's Emergency Action Plan (29 CFR 1910.38[a]);
- DOL/OSHA's Process Safety Standard (29CFR 1910.119); **and**
- DOL/OSHA's Hazwoper Regulation (29 CFR 1910.120).

# Limitations of an ICP

- The ICP guidance does not address 40 CFR 112.7 requirements, even though it indicates that it does.
- When used as an FRP, the plan may require approval of four different agencies.
- Approval of an ICP by one agency does not necessarily mean approval by all agencies or acceptance by other departments of the same agency.

# Limitations of an ICP

- The ICP guidance can be misleading when applied to SPCC Plan and FRP requirements.
- “The ICP guidance does not change the existing regulatory requirements; rather, it provides a format for organizing….”

# Preparing Facility Response Plans

# Required Elements of a Facility Response Plan*

- Emergency Response Action Plan
- Facility Information
- Emergency Response Information
- Hazard Evaluation
- Response Planning Levels
- Discharge Detection Systems
- Plan Implementation
- Self Inspection, Drills/Exercises, and Response Training
- Diagrams
- Security Systems
- Response Plan Cover Sheet

* Detailed Requirements given in 40 CFR 112, Appendix F

# FRP Preparation (Short Version)

- Prepare FRP in accordance with the outline / checklist provided in Part 112 Appendix F
- Address EVERY item
- If an item doesn't apply to your facility, say so, and briefly explain why (e.g.: "N/A - No USTs at the Facility")

# Initial FRP Review/Approval Process

- FRP received
- Agency reviews FRP
- Results of Agency review sent to Facility
- Facility must revise FRP in accordance with comments and resubmit
- Agency reviews revised FRP
- Agency approves FRP or returns it for further revisions

# 5 Year Review

- Agency reviews FRP
- Results of Agency review sent to Facility
- Facility has 60 days to revise FRP in accordance with comments and resubmit
- Agency reviews revised FRP
- Agency determines if FRP meets Regulatory Requirements

# Unapproved FRPs

Facilities with unapproved FRPs are subject to Enforcement Actions up to $27,500 per day per violation

Facilities must report changes that materially affect the implementation of the response plan (112(d)(v))

- Shutting down a facility
- Selling a facility
- Decomissioning tanks

# 40 CFR § 112.20 (d) (1)

The owner/operator of a facility for which a response plan is required under this part, shall revise and resubmit portions of the response plan with in 60 days of each facility that materially may affect the response to a worst case discharge; including:

(i) A change in the facility's configuration that materially alters the information included in the response plan

(ii) A change in the type of oil handled, stored, or transferred that materially alters the required response resources

# 40 CFR § 112.20 (d) (1)

(iii) A material change in capabilities of the oil spill removal organization(s) that provide equipment and personnel to respond to discharges of oil described in paragraph (h)(5) of this section

(iv) A material change in a facilities spill prevention and response equipment or emergency response procedures

(v) Any other changes that materially affects the implementation of the response plan

# Inspections

# Onsite Inspections

- The Purpose of an Onsite Inspection is to:
  - Verify information in the FRP and
  - Evaluate a Facility's actual preparedness to respond to a discharge

# Onsite Inspections

Factors considered in selecting facilities for inspection:

- Problem Facilities
- Geographic Area
- Population Centers
- Environmentally Sensitive Areas
- Impacts on Wildlife
- Unannounced Exercises

# Inspection Activities - Common Deficiencies

- Common deficiencies found during an FRP interview and site inspection include:
  - The FRP is poorly written, but the facility is well-prepared for spill response;
  - The FRP is well written, but has not been implemented;

# Inspection Activities - Common Deficiencies - cont.

- Common deficiencies found during an FRP interview and site inspection include:
  - Some facilities do not adhere to oil industry standards, leaving tanks and equipment in questionable condition;
  - Facilities do not believe that a catastrophic event or a worst case discharge could happen to them;

# Inspection Activities - Common Deficiencies

- Common deficiencies found during an FRP interview and site inspection include:
  - Failure to recognize that a worst case discharge will move off site;
  - Failure to determine where and how a large spill will travel and who else will be affected; **and**
  - Failure to consider interaction with the larger community around them.

# Contact Information

**Alexander C. Tzallas**
**FRP Coordinator**
**Mailcode SE-5J**
**U.S. EPA Region 5**
**77 W. Jackson Boulevard**
**Chicago, IL 60604-3666**

**Telephone: (312) 886-0622**
**Fax: (312) 353-9176**
**E-mail: tzallas.alexander@epa.gov**

**Additional Information on EPA's OPA Web Site:**
**http://www.epa.gov/region5/oil/plan/frp.html**