

US EPA ARCHIVE DOCUMENT



Facility Response Plans

Overview of EPA's Regulations and Program
Implementation

Freshwater Spill Symposium 2009

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Arlene Anderson, OSC and Region 2 FRP Coordinator

Regulatory History

- 1990 Oil Pollution Act: Congress amends Section 311(j)(5) of the Clean Water Act
 - “The President shall issue regulations which require an owner or operator of a tank vessel or facility [...] to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.”
- February 17, 1993: EPA proposes amendments to 40 CFR part 112 to require Facility Response Plans
- July 1, 1994: Final Rule published in the *Federal Register*
- June 30, 2000: EPA promulgates a Final Rule amending FRP requirements for facilities that handle, store or transport animal fats and vegetable oils (AFVOs)
 - Sets different factors calculating on-water and onshore recovery capabilities for worst-case discharge of AFVOs

FRP Statutory Requirements

- A Facility Response Plan shall:
 - (i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;
 - (ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);
 - (iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;
 - (iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;
 - (v) be updated periodically; and
 - (vi) be resubmitted for approval of each significant change.

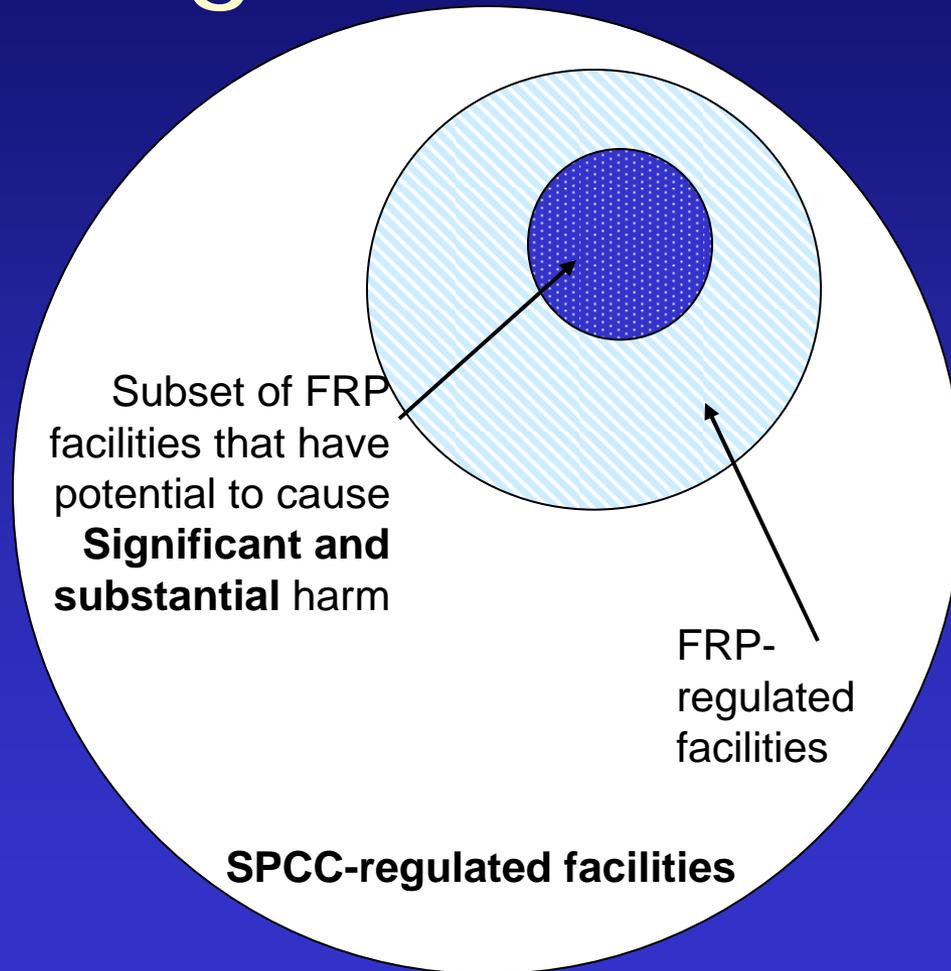
Section 311(j)(5) of CWA, as amended by OPA 1990

Overview of Applicability

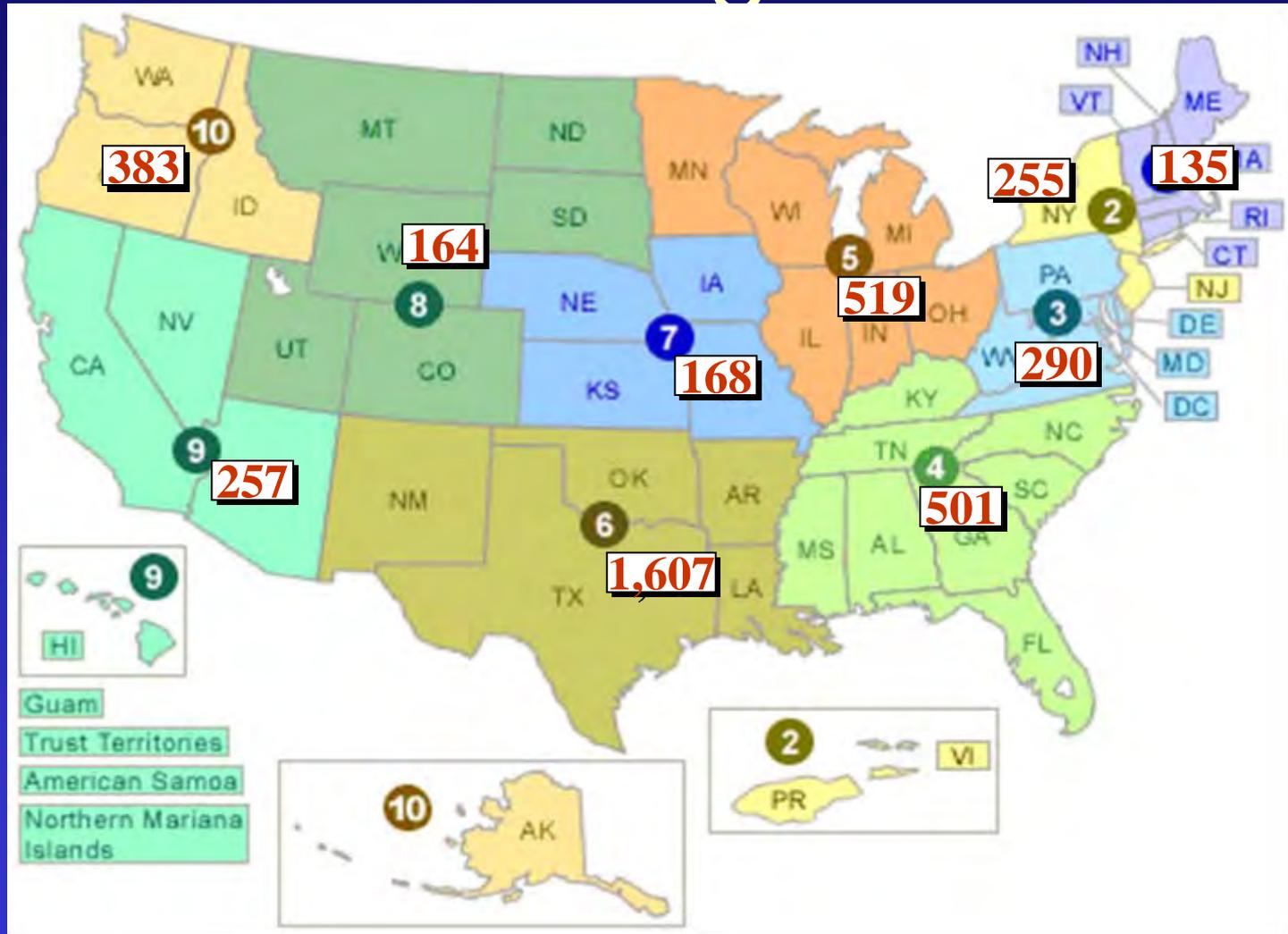


- FRPs are required for a subset of SPCC facilities that could, because of their location, cause **substantial harm** to the environment by discharging oil
 - Applicability factors include storage capacity, adequacy of secondary containment, type of transfer activities, proximity to environmentally sensitive areas, proximity to drinking water intakes, etc.
- All SPCC facilities must fill out and maintain the FRP applicability determination form
 - See Attachment C-II

Relationship between FRP and SPCC-regulated Facilities



Number of FRP Facilities by EPA Region



FRP Rule Outline

- Section 112.20
 - Applicability
 - Determination by owner/operator
 - Determination by EPA Regional Administrator (RA)
 - Categories of FRP facilities
 - Substantial harm
 - Significant and substantial harm
 - Planning requirements and FRP format, including ERAP
 - Plan review
 - Appeals of EPA RA determination
- Section 112.21
 - Facility response training and drills/exercises

FRP-Specific Appendices

- C – Substantial Harm Criteria
 - Applicability criteria flowchart
 - Template for Certification Form (Attachment C-II)
 - Calculation of planning distance, oil transport on moving water, still water or tidal waters, plus overland transport
- D – Worst Case Discharge Planning Volume
 - Onshore storage or production facilities with single or multiple tanks
- E – Required Response Resources for FRPs
 - Considers oil group (petroleum, animal fats and vegetable oils, etc.) and operating environment (rivers and canals, inland, Great Lakes, Ocean)
- F – Model Facility Specific Response Plan

Substantial Harm Criteria

- Total storage capacity **greater than 42,000 gallons** and over-water transfers of oil to/from vessels.
- Total storage capacity **greater than 1 million gallons** and at least one of the following:
 - Lacks adequate secondary containment for any aboveground storage area.
 - Oil discharge could shut down a public drinking-water intake.
 - Oil discharge could cause injury to fish and wildlife and sensitive environments, including cooling water intakes and irrigation intakes
 - Experienced reportable oil discharge of 10,000 gallons or more in the last five years.
- Facility could also be significant and substantial harm facility

112.20(f)(1) and (f)(2)

FRP Submission and Review Process

- Owners and operators of substantial harm facilities must prepare and submit an FRP to the RA *[112.20(a)]*
- RA promptly reviews the FRP *[112.20(b)(2)]*
- If facility is determined to have the potential to cause “significant and substantial harm”...
 - RA notifies the facility in writing *[112.20(c)]*
 - RA reviews and approves the Plan (after requesting amendments to the Plan if necessary to meet the rule requirements) *[112.20(c)(2) and (c)(3)]*
 - RA reviews plan periodically thereafter - at least once every 5 years *[112.20(c)(4)]*

Response Planning Levels to be addressed

- Plan is required to discuss specific planning scenarios for:
 - Worst case discharge
 - Medium discharge
 - Small discharge



- For complexes, planning quantities must be the larger of the amounts calculated for each component of the facility

*112.20(h)(5)
Appendix F, Sec 1.5
Appendix D*

Key component of FRP: Facility Drills and Exercises

- Facilities either use the **Preparedness and Response Exercise Program (PREP)** guidelines or equivalent
 - Combination of internal and external exercises
 - Range of exercises cover all aspects of the FRP over a 3-year cycle
 - RA must approve program if not based on PREP guidelines
- Facility receives credit for Area or Facility-specific exercises for actual response to a spill if:
 - Plan was utilized for response
 - Objectives were met
 - The response was properly evaluated, documented, and self-certified

PREP Components

Element	Frequency	Initiating Authority	Additional Notes
QI Notification Exercises	Quarterly	Facility owner or operator	
Emergency Procedures Exercises	Quarterly	Facility owner or operator	<i>Optional</i>
Spill Management Team Tabletop Exercise	Annually	Facility owner or operator	At least one exercise every 3 years must involve a worst-case discharge scenario.
Equipment Deployment Exercises	Semiannually	Facility owner or operator	If OSRO-owned equipment is identified in the Plan, the OSRO equipment must also be deployed and operated. OSRO must provide documentation to facility owner or operator.
Government-Initiated Unannounced Exercises	Triennially	EPA	If successfully completed, the facility can only be subject to a GIUE once every 3 years.

EPA FRP Program Implementation

- Plan reviews
- Facility Inspections
- Unannounced Exercises (small discharge scenario)

