



INTRODUCTION AND BACKGROUND TO THE OIL POLLUTION PREVENTION REGULATION

USEPA OIL PROGRAM'S OUTREACH TO THE REGULATED COMMUNITY

The United States Environmental Protection Agency (EPA), Oil Program has prepared a series of guides to help facilities gain an understanding of and compliance with the Federal Oil Pollution Prevention Regulation, Title 40 Code of Federal Regulations (CFR) Part 112, which includes the Spill Prevention Control and Countermeasures (SPCC) Plan requirements and the Facility Response Plan (FRP) requirements. Under the EPA Oil Program, a workgroup composed of representatives from each EPA regional office and EPA headquarters compiled these materials.

EPA has produced outreach materials for selected industries that demonstrate how the Federal Oil Pollution Prevention Regulation specifically applies to different industries. These guides are for bulk storage facilities, electrical utilities, marinas and other waterside fueling facilities, mines and quarries, farms and ranches, vehicle service facilities, and oil drilling and production facilities. To obtain copies of these publications, facilities should contact any one of the EPA offices listed at the end of this guide.

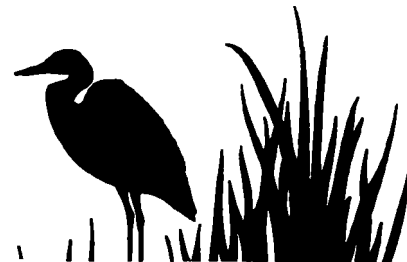
Safeguarding Human Health and Ecology

Oil discharges can have a severe impact on human drinking water resources located in inland lakes and reservoirs. Spills also create the potential for explosion and fires which, in turn, may lead to more equipment failures, more spills, and endangerment to humans and wildlife.

Moreover, oil pollution seriously damages the terrestrial and aquatic environment and marine ecosystems. It does not take a spill of catastrophic magnitude to have a serious impact on an aquatic habitat. The complex food chain or web, from microorganisms and plants to shellfish, mammals and birds, is affected by even small spills. In fact, a single *pint* of oil released into the water can cover *one acre* of water surface area. Ecosystems may take years to recover or may never recover from spills.

Economic Ramifications of Oil Spills

The cost of doing business should not include the cost of responding to accidents after the fact, but rather should include instituting spill prevention through proper



operations, maintenance, and training for employees and managers.

What is an Oil?

Oils are defined under several statutes including the Clean Water Act (CWA) and the Oil Pollution Act of 1990 (OPA). As a result, overlapping regulatory interpretations exist. For this reason, the U.S. EPA and the U.S. Coast Guard are currently developing a nationally consistent program policy and methodology for facilities to determine whether a given substance is considered an oil under the existing CWA.

Under the CWA, the definition of oil includes oil of any kind and any form, such as petroleum and nonpetroleum oils. Generally, oils fall into the following categories: crude oil and refined petroleum products, edible animal and vegetable oil, other oils of animal or vegetable origin, and other nonpetroleum oils.

Many substances are easily recognizable as oils (e.g., gasoline, diesel, jet fuel, kerosene, and crude oil). Under the CWA definition, many other substances are considered oils which may not be easily recognizable by industry, including mineral oil, the oils of vegetable and animal origin and other nonpetroleum oils. Therefore, facilities should work closely with the EPA and USCG (if applicable) to make determinations for the substances they store, transfer, and refine.

The regulations are in place primarily to require that facilities implement measures that will prevent and control oil spills that may result due to human operational error or equipment failure. Facilities that are in full compliance reduce the number and severity of discharges and do not face the high costs of environmental cleanup or additional permitting requirements that could be imposed in the event of a discharge.

Facilities that are not in compliance are at greater risk to experience an oil spill that may result in a discharge into a navigable waterway or adjoining shoreline. The cost of cleanup would not only include repairing the damage to the facility (e.g., soil removal or equipment repair) but could extend beyond the facility's boundary to affected offsite areas. Regulators and permitting agencies may require modifications to operations or revisions to plans.



Heavy fines and penalties are often associated with oil discharges, especially when negligence can be proven.

Incentives for compliance with SPCC

- ✓ Human health concerns
- ✓ Legal liability
- ✓ Protection of surface water quality and ecology
- ✓ Oil pollution cleanup costs
- ✓ Positive public image
- ✓ Property values protected

APPLICABILITY OF THE SPCC REQUIREMENTS

EPA's SPCC requirements (40 CFR 112.1 through 112.7) apply to nontransportation-related fixed facilities that could reasonably be expected to discharge oil into or upon the navigable waters of the United States or adjoining shorelines, and that have (1) an aboveground oil storage capacity of more than 660 gallons in a single container; or (2) a total aboveground oil storage capacity of more than 1,320 gallons, or (3) a total

underground buried storage capacity of more than 42,000 gallons. The requirements apply specifically to a facility's storage capacity, regardless of whether the tanks are completely filled. Some transportation-related facilities or activities may have components considered to be "fixed" under 40 CFR Part 112 (e.g., certain tanks at a pipeline facility, trucks containing product stationed within a fixed facility).

Other facilities may not be regulated if, due to their location, they could not reasonably be expected to discharge oil into or upon the navigable waters of the U.S. or adjoining shorelines. This determination is made without consideration of man-made structures. The majority of facilities in the U.S. have the potential to discharge to navigable waters.

The facilities subject to 40 CFR Parts 112.1 through 112.7 are required to prepare an SPCC Plan and conduct an initial screening to determine whether they are required to develop an FRP. SPCC-regulated facilities must also comply with other federal, state, or local laws, some of which may be more stringent.

Those facilities that could cause "substantial harm" to the environment must prepare and submit an FRP to EPA for review.

As outlined in 40 CFR 112.20(f)(1), a facility has the potential to cause substantial harm if:

- ◆ The facility transfers oil over water to or from vessels and has a total oil storage capacity, including both aboveground storage tanks (ASTs) and underground storage tanks (USTs), greater than or equal to 42,000 gallons; or

- ◆ The facility's total oil storage capacity, including both ASTs and USTs, is greater than or equal to one million gallons and one of the following is true:

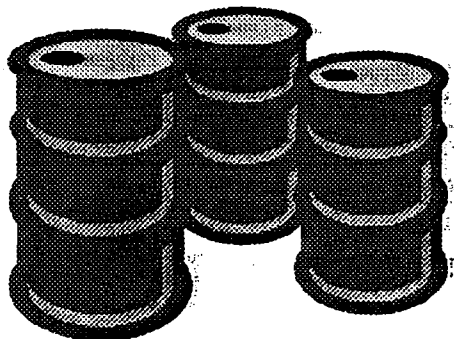
- ⇒ The facility does not have secondary containment for each aboveground storage area sufficient to contain the capacity of the largest AST within each storage area plus freeboard to allow for precipitation;
- ⇒ The facility is located at a distance such that a discharge could cause injury to an environmentally sensitive area;
- ⇒ The facility is located at a distance such that a discharge would shut down a public drinking-water intake; or
- ⇒ The facility has had a reportable spill greater than or equal to 10,000 gallons within the last five years.

OVERVIEW OF THE SPCC AND FRP REQUIREMENTS

The SPCC requirements (40 CFR 112.1 through 112.7) apply to facilities that meet the minimum applicability standards to prevent oil spills from reaching the navigable waters of the U.S. or adjoining shorelines. The SPCC Plan must describe discharge prevention structures such as secondary containment, proper operation and maintenance at the facility, and adequate training of facility personnel.

In 1990, Congress passed the Oil Pollution Act which amended Section 311 of the Clean Water Act to require "substantial harm" facilities to develop and implement FRPs. Under the FRP requirements, codified at 40 CFR 112.20 and 112.21, owners and operators of facilities that could

cause "substantial harm" to the environment by discharging oil into navigable water bodies or adjoining shorelines must prepare and implement plans, training, and drills for responding to a worst case discharge of oil, to a substantial threat of such a discharge, and to discharges smaller than worst case discharges.



EPA-regulated facilities are required to submit their FRPs and certification of response resources to implement the plan to EPA for review. The Agency reviews and approves plans from facilities identified as having the potential to cause "significant and substantial harm" to the environment from oil discharges. Other regulated facilities that do not meet the "substantial harm" criteria and are not required to prepare an FRP are required to document their determination. This determination should be kept with the facility's SPCC Plan.

GENERAL SPCC REQUIREMENTS

The owner or operator of a regulated facility is required to have an SPCC Plan, which is a written site-specific description detailing how a facility's operation complies with 40 CFR Part 112. In order to comply with 40 CFR Part 112, the SPCC Plan must be fully prepared and implemented.

Regulated facilities in existence at the time the regulation went into effect, on January 10, 1974, were required to have a

Plan prepared within six months of the effective date of the regulation and to have fully implemented the Plan within one year of the effective date of the regulation.

Currently, newly constructed facilities must prepare an SPCC Plan within six months of the date they commence operations and fully implement the Plan as soon thereafter as possible, but not later than one year after the date operations commence. Facility owners or operators who are unable to implement an SPCC Plan within this time frame due to circumstances beyond their control may make a written request for an extension from the EPA Regional Administrator (RA) by following the procedure explained in 40 CFR 112.3(f).

Owners or operators of mobile or portable facilities, such as drilling or workover rigs, may prepare a general SPCC Plan that need not be site-specific. However, SPCC Plans for these facilities must satisfy all other requirements of 40 CFR 112. When the portable or mobile facility is moved, it must be located and installed using the practices outlined in the SPCC Plan for the facility. The SPCC Plan shall only apply while the facility is in a fixed, nontransportation operating mode; however, no mobile or portable facility subject to this regulation may operate in a fixed mode unless the SPCC Plan has been implemented (40 CFR 112.3(c)).

While each SPCC Plan is unique, certain elements must be included in order for the SPCC Plan to comply with the provisions of 40 CFR Part 112. If a section does not apply to the facility, this must be stated. These elements include, but are not limited to, the following:

Professional Engineer (PE) Certification

The SPCC Plan must be reviewed and certified by a Registered Professional Engineer (PE) who is familiar with the facility and with 40 CFR Part 112. The engineer's name, registration number and state of registration must be included as part of the SPCC Plan. The engineer's seal should be affixed to the Plan as part of the certification.

By certifying the Plan, the engineer is attesting that he or she is familiar with the facility, its SPCC Plan and the SPCC requirements, and that the Plan has been prepared in accordance with good engineering practices.

In order to satisfy the requirements of 40 CFR 112.5, all subsequent amendments must also be certified by a Professional Engineer, as described above.

SPCC Plan Kept Onsite

If the facility is manned at least eight hours a day, the owner or operator is required to maintain a complete copy of the SPCC Plan onsite. If the facility is not manned at least eight hours a day, the Plan must be kept at the nearest field office that is.

The Plan must be made available for review by the EPA Regional Administrator (RA) or his or her representative during normal business hours.

Management Approval

The SPCC Plan should be approved by a level of management with the authority to commit those resources necessary to implement the Plan. The appropriate manager's signature should be included in the SPCC Plan.

Plan Sequence Follows 40 CFR Part 112

The SPCC Plan must include a complete discussion of the facility's conformance with all applicable SPCC requirements and shall follow the sequence of 40 CFR 112.7. To help facilities in preparing and reviewing SPCC Plans, the EPA Oil Program developed a sample Plan, which can be obtained from any one of the EPA offices listed at the end of this guide.

All spill prevention practices used at a facility must be addressed and a complete and accurate description of them must be included in the Plan. It is possible that some items in 40 CFR Part 112 are not applicable to a facility. For example, under facility transfer operations, the first item requires that buried piping be protectively wrapped or cathodically protected. Some facilities may not have any buried piping. For these cases, the SPCC Plan should indicate that there is no buried piping at the facility. Every item must be addressed in the Plan, even though probably not every item will apply to a facility.

Spill History

A facility that has experienced one or more spill events since January 10, 1974, should include in the SPCC Plan a written description of each spill, corrective actions taken, and plans for preventing recurrence.

Spill Prediction

Where industry experience indicates a reasonable potential for equipment failure, the SPCC Plan should include a prediction of direction, rate of flow, and total quantity of oil that could be discharged from the facility as a result of each major type of failure mode.

Examples of major failure modes to be discussed in the Plan include, but are not limited to, tank failure due to overflow, rupture or leakage; pipeline failure due to rupture or corrosion; leaking flanges, gaskets, expansion joints, valves, or catch pans; spills from bulk oil loading or unloading operations; and leaks due to other causes, such as failure of wastewater or stormwater treatment or disposal systems.

Topographic maps are often useful for predicting and illustrating the direction of flow and bodies of water which might be affected by a spill.

Plan Review

The SPCC Plan must be amended whenever there is a change in facility design, construction, operation or maintenance which materially affects the facility's potential to discharge oil into or upon navigable waters.

In addition, owners or operators of regulated facilities are required to review and evaluate the SPCC Plan at least once every three years from the time the facility becomes subject to the SPCC requirements. Within six months after this review and evaluation, the owner or operator must amend the SPCC Plan to include more effective prevention and control technology

- if such technology will significantly reduce the likelihood of a spill event from the facility, and
- if the technology has been field-proven at the time of the review.

In order to satisfy the requirements of 40 CFR 112.5, all such amendments must be certified by a Professional Engineer, as described earlier in this section.

Examples of facility modifications that could necessitate amending the SPCC Plan:

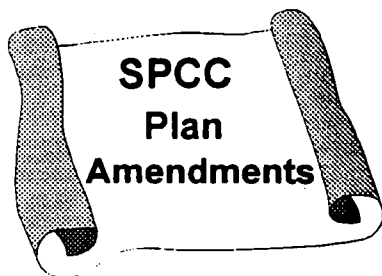
- ◆ the addition or removal of any oil storage tanks
- ◆ change in spill control technology
- ◆ change in service status of tanks, flowlines or other equipment
- ◆ modification or addition of dikes or other containment structures
- ◆ changes to facility stormwater runoff control systems
- ◆ modifications to, or additions of, loading or unloading racks
- ◆ changes in method or frequency of equipment inspections or associated record keeping
- ◆ any other significant changes

Amendment by Regional Administrator

After review of the SPCC Plan and any other information submitted, the RA may require the owner or operator to amend the SPCC Plan if it does not meet the SPCC requirements or if such amendment is necessary to prevent or contain future discharges from the facility. The RA will consider any recommendations made by the state agency in charge of water pollution control during this process.

If the RA proposes that the SPCC Plan be amended, the Administrator shall provide written notification specifying the terms of the proposed amendment to the facility owner or operator. Upon receipt of this notification, the facility owner or operator will

then have 30 days in which to respond, in writing, to the proposal, and offer any additional information, arguments or counterproposals.



The RA will then review all available information and notify the facility owner or operator of any amendment required or rescind the original notice.

Usually, if an amendment is required, it must be made part of the SPCC Plan within 30 days after the final notice and implemented as soon as possible, but not later than six months after the amendment becomes part of the Plan, unless the RA specifies another date.

The owner or operator may appeal a decision made by the RA regarding an amendment. Such an appeal must be made in writing to the Administrator of the EPA within 30 days of receipt of the final notice from the RA. A copy of the appeal must also be sent to the RA.

Secondary Containment or Contingency Plans

The owner or operator of a facility is required to install appropriate containment and diversionary structures or equipment, such as dikes, berms, and retaining walls, as described in 40 CFR 112.7, to prevent discharged oil from reaching navigable water, unless it can be clearly demonstrated that installation of such structures or equipment is not practical or practicable.

What are Navigable Waters of the U.S.?

The legal definition for navigable waters is defined generally under Clean Water Act (CWA) Section 502(7). EPA's regulatory definition can be found at 40 CFR 110.1.

For the purposes of 40 CFR Part 112, the term *navigable waters* means the waters of the United States, including the territorial seas, and includes:

- All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide.
- All interstate waters, including interstate wetlands, mudflats, and sandflats;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), wetlands, mudflats, sandflats, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which could affect interstate or foreign commerce including any waters that could be used for recreational purposes, or from which fish or shellfish could be taken and sold in interstate or foreign commerce; or that are used or could be used for industrial purposes by industries in interstate commerce.

The CWA has been interpreted to cover all surface waters, including any waterway within the U.S. Also included are normally dry creeks through which water may flow and ultimately end up in public waters, such as a river, stream, tributary to a river or stream, lake, reservoir, bay, gulf, sea, or ocean within or adjacent to the U.S. The CWA's jurisdictional reach may also include groundwater if it is directly connected hydrologically with surface waters.

Impracticability pertains primarily to those cases where severe space limitations or other physical constraints may preclude installation of structures or equipment to prevent oil from reaching navigable water. Demonstrating impracticability on the basis of economic considerations alone is not acceptable.

In the event that such impracticability can be demonstrated, the owner or operator must provide the following in place of containment structures or equipment:

- A strong oil spill contingency plan following the provisions of 40 CFR Part 109, and
- A written commitment of manpower, equipment and materials required to expeditiously control and remove any harmful quantity of oil discharged.

FRPs developed by "substantial harm" facilities can meet the above requirements for a strong oil contingency plan.

Spill Reporting

Whenever a regulated facility experiences a single discharge of more than 1,000 gallons of oil or discharges oil in harmful quantities into or upon navigable waters in two reportable spill events during any twelve-month period, the owner or operator must submit in writing the following information to the RA within 60 days:

- Name of the facility;
- Name(s) of the owner or operator of the facility;
- Location of the facility;
- Date and year of initial facility operation;
- Maximum storage or handling capacity of the facility and normal daily throughput;
- Description of the facility, including maps, flow diagrams and topographical maps;

- The cause(s) of such spill(s), including a failure analysis of the system or subsystem in which the failure occurred;
- Corrective actions and/or countermeasures taken, including a complete description of equipment repairs or replacements; and
- A copy of the SPCC Plan and any other information pertinent to the Plan or the spill(s).

A complete copy of all information sent to the RA must also be sent to the state agency in charge of water pollution control activities.

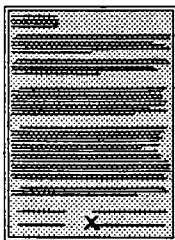
Performance-Based SPCC Requirements

In addition to general requirements, the SPCC rule also has performance-based requirements in 40 CFR 112.7 for drainage control, bulk storage tanks, transfer operations (e.g., intrafacility piping), tank car and truck loading and unloading racks, various onshore and offshore production facility operations, onshore and offshore oil drilling, production and workover facilities, security and training. These specific requirements are discussed in detail for the operations at bulk oil storage facilities and other regulated facilities in separate guides (refer to the list at the end of this guide).

GENERAL FRP REQUIREMENTS

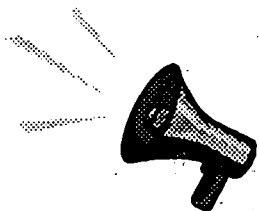
Initial Screening and Certification: Determination Of Response Plan Applicability

SPCC-regulated facilities that could cause "substantial harm" to the environment must prepare and submit response plans to the appropriate EPA Regional Office.



Owners or operators of all facilities subject to the Oil Pollution Prevention Regulation must familiarize themselves with the rule to determine whether their facility meets the "substantial harm" criteria described at the beginning of this guide. Under 40 CFR 112.20(e), facilities that do not meet the "substantial harm" criteria (i.e., answer "no" to all five questions) must document this determination by completing the "Certification of the Applicability of the Substantial Harm Criteria Checklist," provided as Attachment C-II in Appendix C of 40 CFR 112. This certification should be maintained with the facility's SPCC Plan. Facilities that meet the "substantial harm" criteria must submit this certification to EPA with their FRP. These "substantial harm" facilities must certify to EPA that they have a contractor or other means to implement their response plan.

The 1994 FRP rule added more specific requirements for oil spill response training and response drills and exercises for facilities, which are codified at 40 CFR 112.21. Under Sec. 112.20(h)(8), Facility Response Plans must include information about self-inspection, drills, exercises, and



response training, including descriptions and logs of training and drill or exercise programs and documentation of tank inspections, equipment inspections, response training meetings, response training sessions, and drills and exercises. Consequently, Facility Response Plans may be revised based on evaluations of the drills and exercises. A program that follows the National Preparedness for Response Exercise Program (PREP) will meet EPA's exercise requirements.

Key elements of a model Facility Response Plan:

- ✓ Emergency Response Action Plan (an easily accessible stand-alone section of the overall plan).
- ✓ Facility name, type, location, owner, and operator information.
- ✓ Diagrams of facility and surrounding layout, topography, and evacuation paths.
- ✓ Emergency notification, equipment, personnel, and evacuation information.
- ✓ Identification and evaluation of potential spill hazards and previous spills.
- ✓ Identification of small, medium, and worst case discharge scenarios and response actions.
- ✓ Description of discharge detection procedures and equipment.
- ✓ Detailed implementation plan for containment and disposal.
- ✓ Facility and response resource self-inspection; training, exercises and drills; and meeting logs.
- ✓ Security (fences, lighting alarms, guards, emergency cut-off valves and locks, etc.)

EPA has developed an outreach guide, titled *Facility Response Planning*, which contains more specific information regarding the FRP requirements and response training, drills and exercises.

The PREP guidelines: USCG-X0191 and the Training Reference for Oil Spill Response: USCG-X0188 are available by mail or fax.

TASC Department Warehouse
3341Q 75th Avenue
Landover, MD 20785
FAX: (301) 386-5394

When requesting copies, please indicate the document name and publication numbers.

OTHER COMPLIANCE ASSISTANCE GUIDES

EPA has prepared several guides, including industry-specific guides, for compliance assistance with the Federal Oil Pollution Prevention Regulation:

- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Bulk Oil Storage Facilities
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Oil Production and Oil Drilling/Workover Facilities
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Farms and Ranches
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Mines and Quarries

- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Electrical Utilities
- ◆ SPCC Requirements and Oil Pollution Prevention Practices for Vehicle Service Facilities
- ◆ Spill Prevention Requirements for Facilities Conducting Large Volume Transfer Operations
- ◆ Spill Prevention and Control for Marinas and Other Waterside Fueling Facilities
- ◆ Sample SPCC Plan and Sample Containment Volume Calculations
- ◆ Facility Response Planning
- ◆ Oil Spill Notification, Response, and Recovery
- ◆ Other Regulatory Programs Relating to Oil Pollution Prevention
- ◆ Who's Who: Federal Agency Roles and Responsibilities for Oil Spill Prevention and Response
- ◆ What to Expect During an SPCC/FRP Inspection
- ◆ List of Acronyms and Glossary Relating to Oil Pollution Prevention
- ◆ Full Text of the Regulations

Visit the Oil Program at
<http://www.epa.gov/oilspill>

To report oil and chemical
spills, call
1-800-424-8802

FEDERAL AGENCY CONTACT INFORMATION

EPA's Oil Pollution Prevention Regulation

David Lopez, MS 5203G, U.S. EPA
401 M Street, SW, Washington, DC 20460
(703) 603-8707 or
EPCRA/RCRA/Superfund Hotline at (800) 424-9346.

U.S. Coast Guard's Facility Response Plan Regulation

LCDR Mark Hamilton, U.S. Coast Guard, Commandant (G-MOR),
2100 2nd Street, SW, Washington, DC 20593,
(202) 267-1983 (E-mail M.Hamilton/G-M03@CGSMTP.uscg.mil)

DOT/RSPA's Pipeline Response Plan Regulation

Jim Taylor, U.S. Department of Transportation, Room 2335,
400 7th Street, SW, Washington, DC 20590
(202) 366-8860 (E-mail OPATEAM@RSPA.DOT.GOV)

OSHA Regulations

Contact either your Regional or Area OSHA office by calling directory service or the
OSHA National Information Line at (800) 326-2577

DOI/MMS Facility Response Plan Regulation

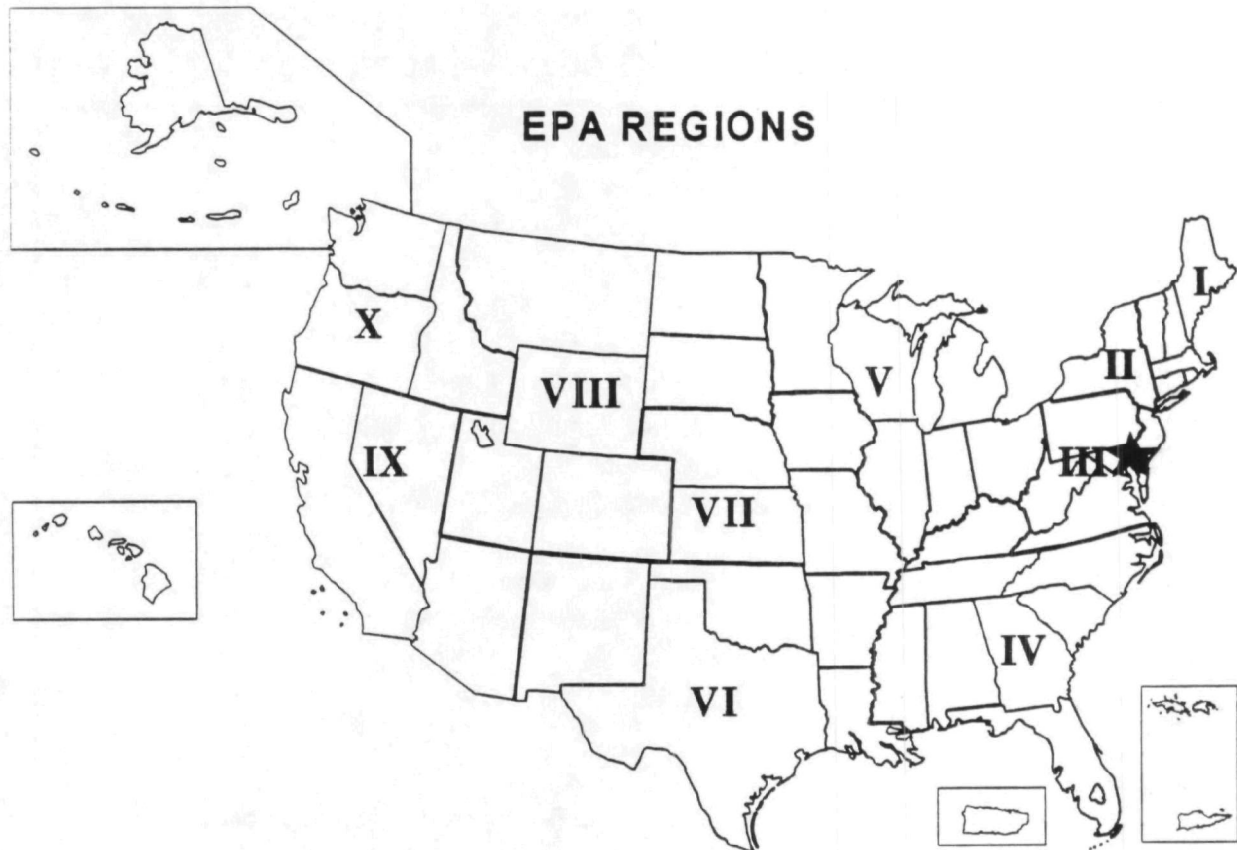
Larry Ake, U.S. Department of the Interior-- Minerals Management Service, MS 4700,
381 Elden Street, Herndon, VA 22070-4817
(703) 787-1567 (E-mail Larry__ Ake@SMTP.MMS.GOV)

EPA's Risk Management Program Regulation

William Finan, U.S. EPA, Mail Code 5101,
401 M Street, SW, Washington, DC 20460,
(202) 260-0030 (E-mail homepage.ceppo@epamail.epa.gov)

RCRA's Contingency Planning Requirements

Contact the EPCRA/RCRA/Superfund Hotline at (800) 424-9346



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