



Regulatory Context

Module 2

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Module Objective

- By the end of the module participants will:
 - Understand the federal regulations and guidance governing oil spill prevention, preparedness, and emergency response in the U.S.
 - Be aware of the need to ensure Facility Response Plans are consistent with the EPA Region 8 oil spill contingency plans.



Agenda

- Topic 1: Regulatory Context
 - Clean Water Act, as amended by the Oil Pollution Act of 1990
 - National Oil and Hazardous Substances Pollution Contingency Plan (NCP)
 - SPCC and FRP Regulations (40 CFR 112)
 - Navigable Waters / Waters of the U.S. (WOTUS)

- Topic 2: FRP Consistency with EPA Oil Spill Contingency Plans
 - Regional/Area Contingency Plan
 - subArea Contingency Plans
 - Facility Response Plan and Emergency Response Action Plans

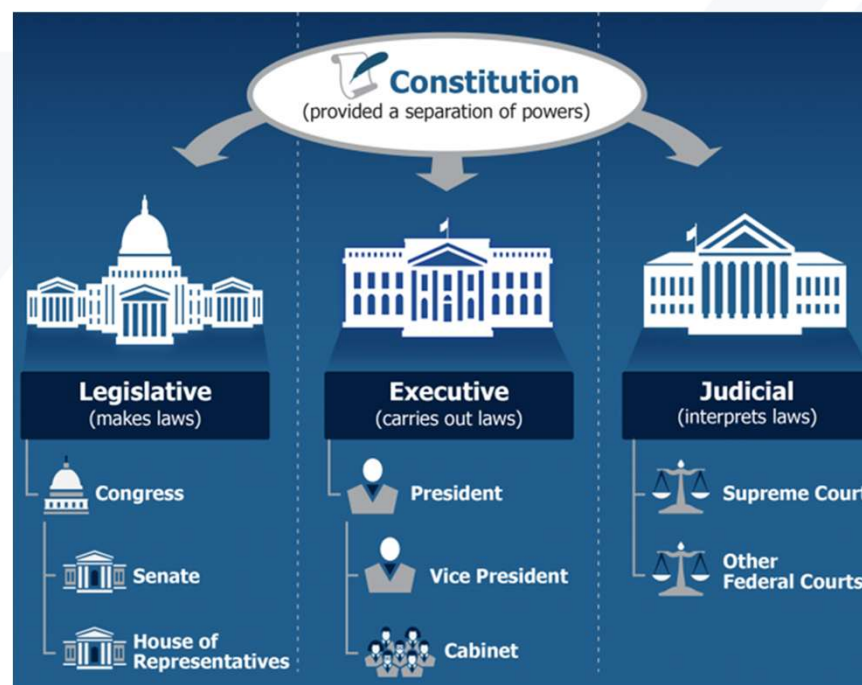


Oil Spill Prevention, Preparedness, and Response Regulations



Civics Refresher – The Rule of Law

- “The very definition of a Republic is “an empire of laws, and not of men.” ~John Adams
- Representative government based upon the Constitution
- Separation of powers between the legislative, judiciary, and the executive branch



Oil Spill Response Laws and Regulations

Laws/Acts (Legislative)

- Clean Water Act
 - 33 U.S.C. §1251 et seq. (1972)
 - Section 311
- Oil Pollution Act
 - 33 U.S.C. §2701 et seq. (1990)

Rules/Regulations (Executive)

- National Oil and Hazardous Substances Pollution Contingency Plan (NCP)
 - 40 CFR Part 300, et seq.
- Spill Prevention, Control and Countermeasure (SPCC) Rule
 - 40 CFR Part 112, Subparts A-C
- Facility Response Plan (FRP) Rule
 - 40 CFR Part 112, Subpart D



National Oil and Hazardous Substances Pollution Contingency Plan (NCP)

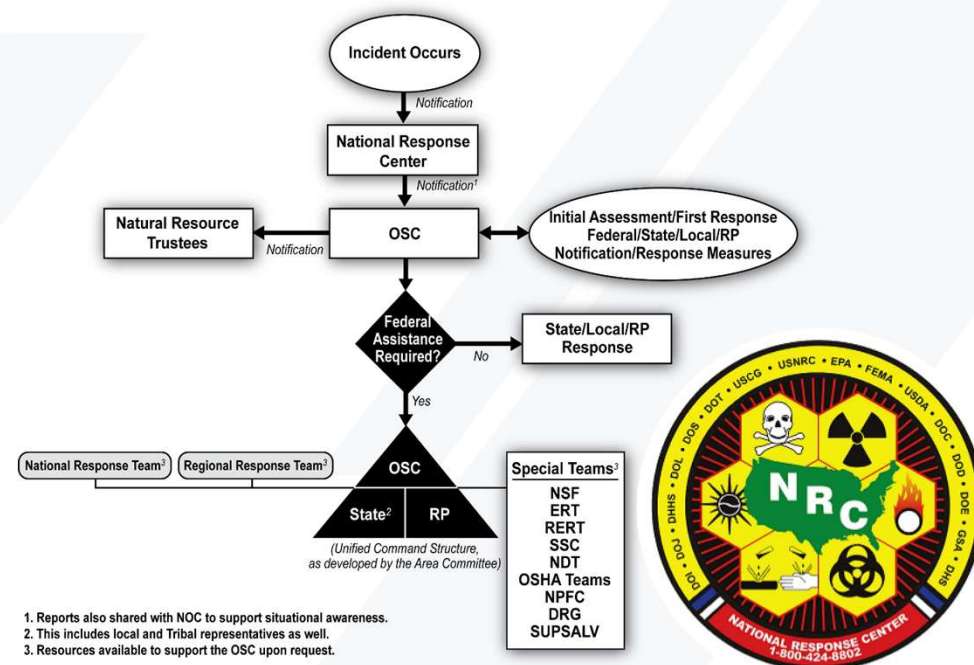


<https://www.bbc.com/news/uk-england-39223308>

- SS Torrey Canyon Oil Spill
 - March 18, 1967
 - Near Cornwall, England
 - 37 million gallons of crude oil spilled into the North Atlantic
- Provides organizational structure and procedures for preparing for and responding to discharges of oil and releases of hazardous substances

National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR 300)

- EPA and USCG have federal response authority to respond to and remove oil spills
- Requires discharge, or threat of discharge, to navigable waters
- Federal response to oil spill is not discretionary
- Established the National Response System (NRS) and the National Response Center (NRC)
- Requires oil spill contingency plans to be developed



National Response System (NRS) Overview



■ National Response System Components:

- National Response Team (NRT)
- 13 Regional Response Teams (RRTs)
- National Response Center (NRC)
- Special Teams
- Federal On-Scene Coordinators (OSCs)
- Area Committees
- State/Local Governments
- Joint Response Teams with Canada and Mexico
- Regulated Industry

National Response Team (NRT)

- Comprised of 15 federal agencies, same as the Regional Response Teams
- EPA Chair, USCG Co-Chair
- National-level planning, policy, and coordinating body; not command and control
- Provides advice and assistance to the OSC and RRT during a response



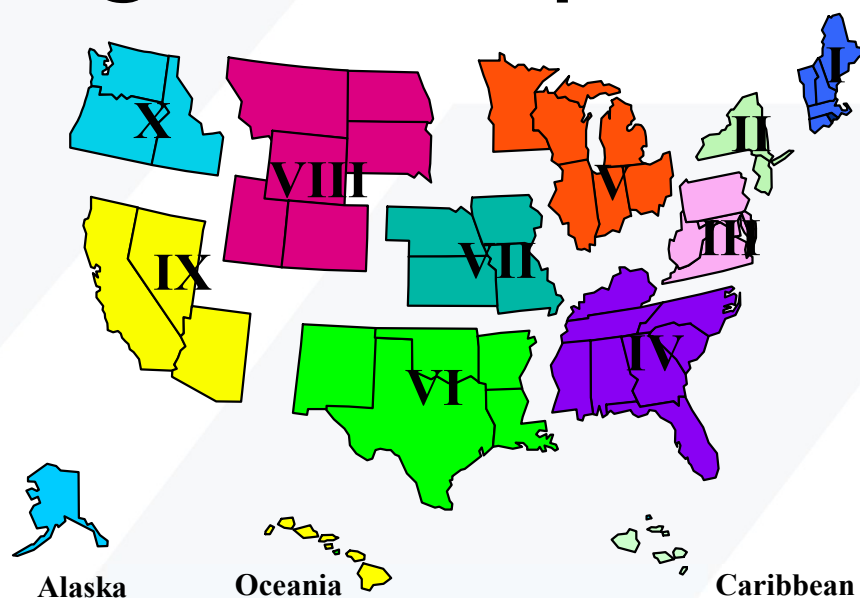
Chair



Co-Chair



Regional Response Teams (RRTs)



- Provide technical support and resources to the OSC during a response, as requested
- 13 RRTs comprised of same 15 Federal agencies plus State representatives
- Engage in planning and preparedness activities
- Coordinate decision making process for alternative cleanup operations

National Response Center (NRC)

- Notifies Federal and State OSCs of incidents
- Concurrently notifies DHS/NOC & EPA/USCG Headquarters
- Satisfies “immediate notification” requirements and helps alert resource trustees and some county and local entities with jurisdiction
- Preparedness role – supports NRS planning activities and can be used for drills/exercises

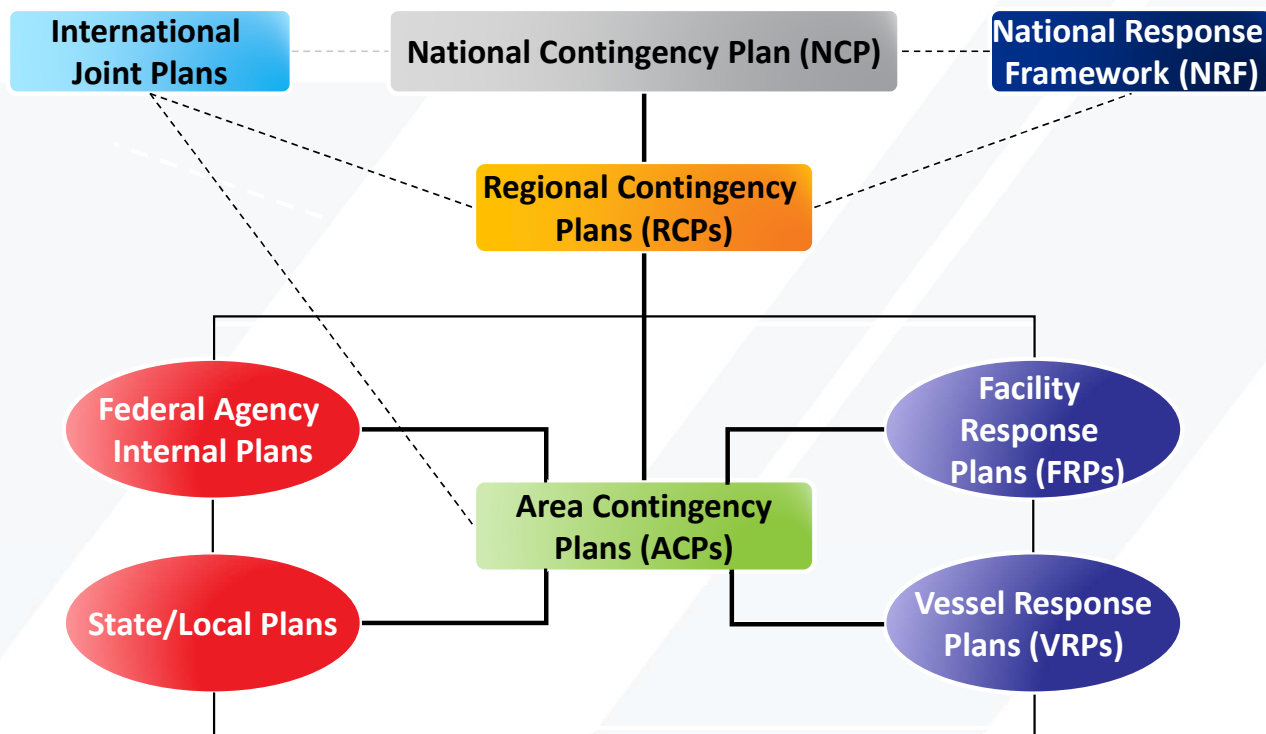


State and Local Preparedness



- Emergency Planning and Community Right-to-Know Act (EPCRA) (or SARA Title III)
 - Established federal/state/local integration with the NRS
 - Assigned preparedness responsibilities at all levels of government
 - Resulted in 50 State Emergency Response Commissions (SERCs) and over 2,000 Local Emergency Planning Committees (LEPCs)
 - Requires the development of local emergency response plans - for worst case scenario at selected facilities

Preparedness Components and Plans



Clean Water Act, as amended by the Oil Pollution Act (OPA) of 1990

- Exxon Valdez Spill
 - March 24, 1989
 - Prince William Sound, Alaska
 - 11 million gallons spilled into
- Amended the Clean Water Act to require some oil storage facilities to prepare Facility Response Plans (FRP).
- Also required agencies to develop Area Contingency Plans to effectively respond to oil spills on a regional scale.



<https://www.theguardian.com/environment/exxon-valdez-oil-spill-disaster-arctic>

Oil Spill Liability Trust Fund

- Tax on Oil Production/Import
- OSLTF Emergency Fund established to provide funding for:
 - Emergency response actions to protect public health, safety and environment
 - Natural Resource Damage Assessments (NRDA) initiation
 - Compensation for claimants who demonstrate that oil pollution caused damages

- As authorized by the OPA, uses of the OSLTF include:
 - Response costs incurred by the USCG or EPA
 - State access for response activities
 - Payments to federal, state, and Indian tribe trustees to conduct natural resource damage assessments and restorations
 - Payment of claims for uncompensated response costs and damages
 - Research and development
 - Other specific appropriations



Spill Prevention, Control and Countermeasure (SPCC) Rule (40 CFR 112.1 through 112.12)

- Originally published in 1973 using §311 Clean Water Act authority
- Regulation intended to **prevent oil from reaching navigable waters** and adjoining shorelines, and to **contain discharges of oil**.
- Requires facilities with >1,320 gallons of stored oil to develop and implement Spill Prevention, Control, and Countermeasure (SPCC) Plans
- Establishes procedures, methods, and equipment requirements (Subparts A, B, and C) for preventing oil pollution



Facility Response Plan (FRP) Rule (40 CFR 112.20-112.21 & Appendices D, E, F)

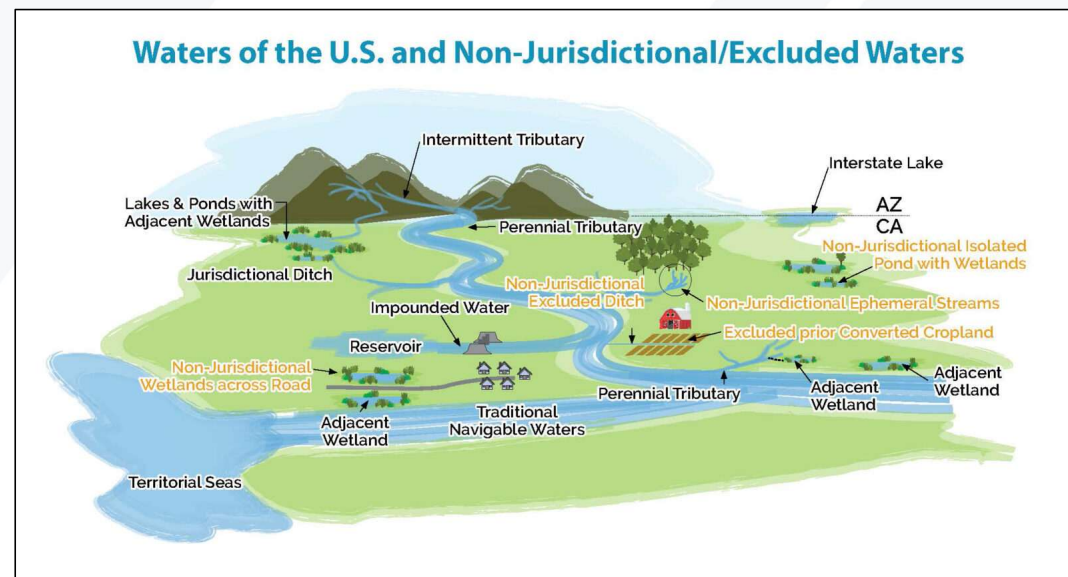
Subpart	Section(s)	Regulations
A	112.1 General Applicability	SPCC
	112.2 Definitions	
	112.3 – 112.7	
B	112.8 – 112.11	FRP
C	112.12	
D	112.20 – 112.21	FRP
Appendices	A – DOT/EPA MOU	
	B – DOI/DOI/EPA MOU	
	C – Sub. Harm Criteria	
	D – Worst Case Discharge	
	E – Response Resources	
	F – Model FRP	
	G – Tier I Template	

Note that Section 3.0 of Appendix C requires an SPCC-regulated facility owner/operator to complete and maintain a copy of Attachment C-II at the facility when the facility does not meet the substantial harm criteria outlined in Attachment C-I of the appendix.

- Following OPA 90, on July 1, 1994, EPA finalized rules directing industry to prepare and submit Facility Response Plans
- The FRP rule requires facilities with > 1M gallons of stored oil to prepare and submit an FRP, building on the SPCC requirements
- An FRP ensures a facility's preparedness to **respond to a worst-case oil discharge o navigable waters outside containment**

Waters of the United States (WOTUS)

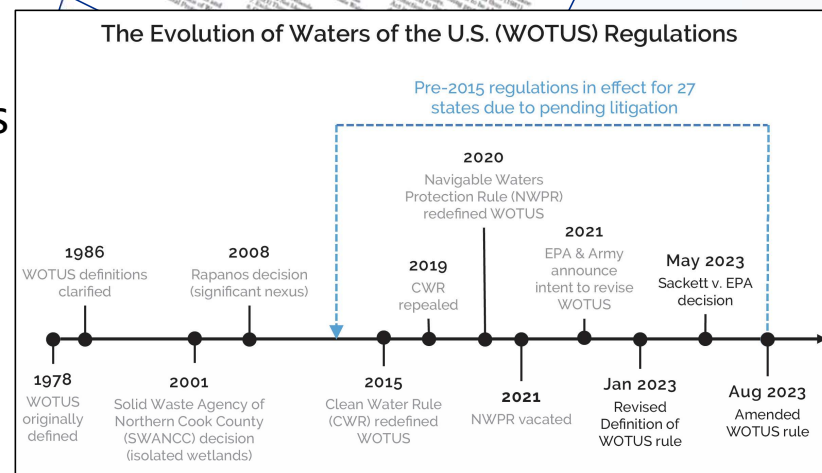
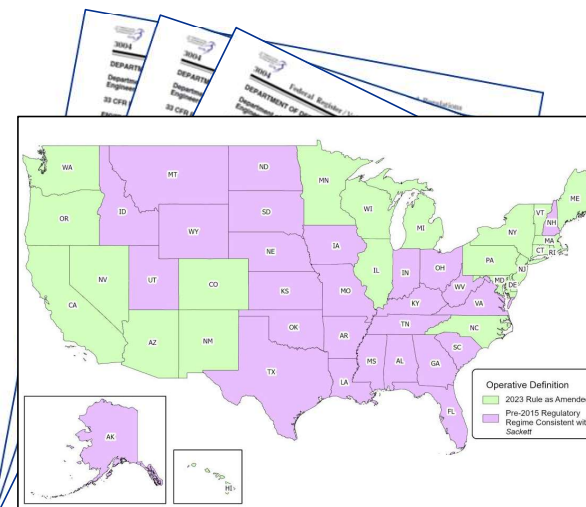
- 1972 Amendments to the Clean Water Act established federal jurisdiction over “navigable waters,” defined in the Act as the “waters of the United States”



Revised Definition of WOTUS by EPA/USACE

- Pre-2015 WOTUS in Effect Now in 27 states
- Conforming 2023 Rule based on SCOTUS *Sackett* Decision, effective Sept. 8, 2023, in rest of states, DC and territories
- Tests: “relatively permanent” and continuous surface connection to traditional navigable waters
- Exclusions remain same as Jan. 2023 rule
- Approved USACE Jurisdictional Determinations map:
 - <https://watersgeo.epa.gov/cwa/CWA-JDs/>
 - www.epa.gov/WOTUS

See Handout 2-1



Slide 20

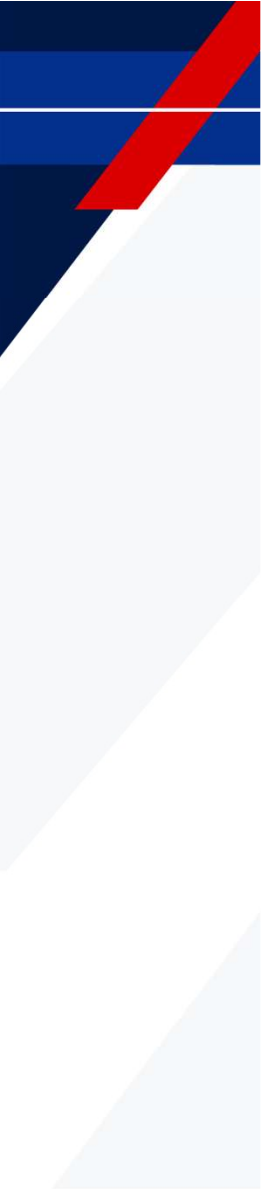
SM1 Replace and include new rulemaking discussion.
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Case Study: Strawberry River Oil Spill, Duchesne, UT – September 24, 2010



Slide 21

SM1 Consider removing Case Study.
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Starvation Reservoir

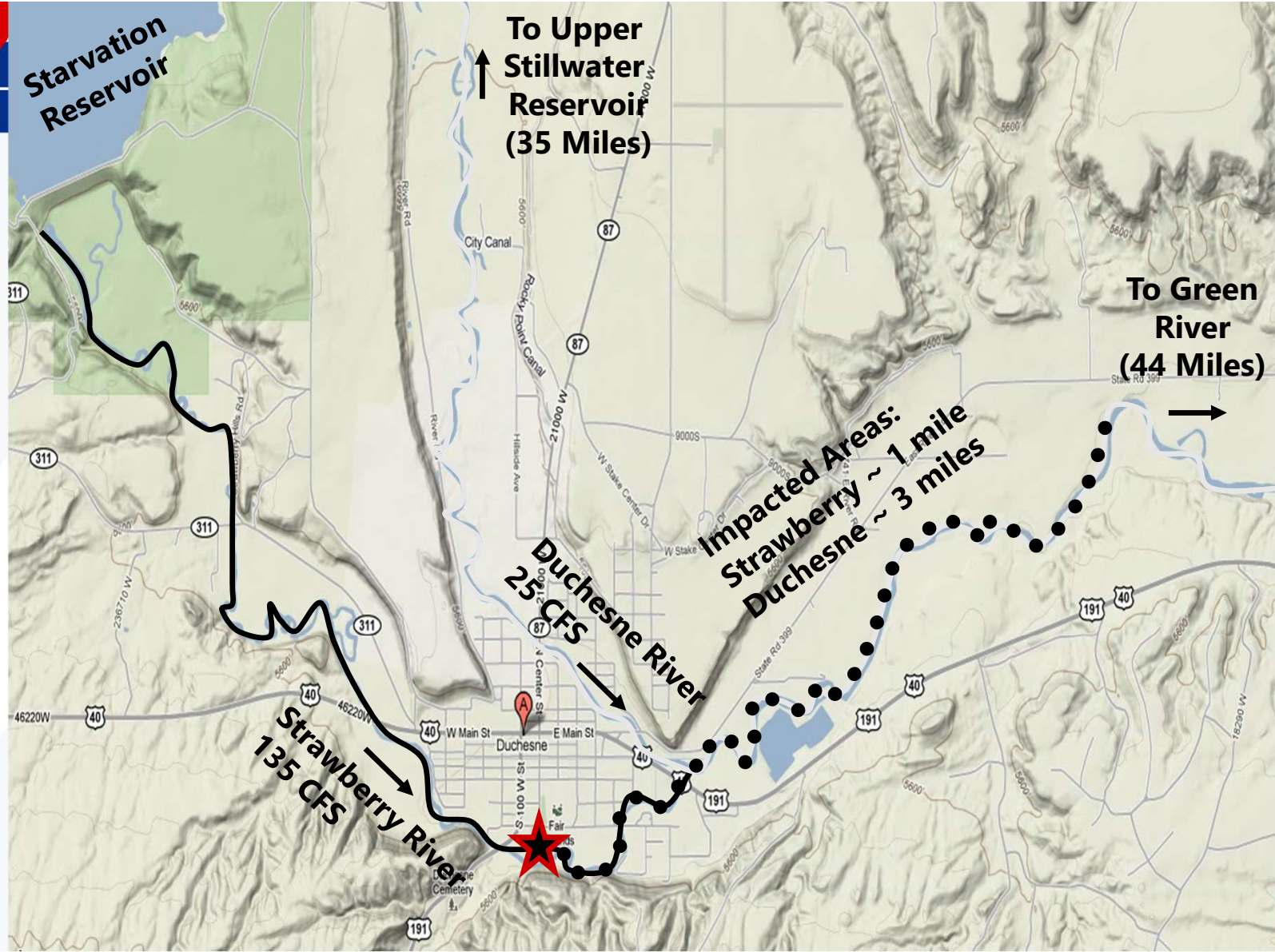
To Upper Stillwater Reservoir (35 Miles)

To Green River (44 Miles)

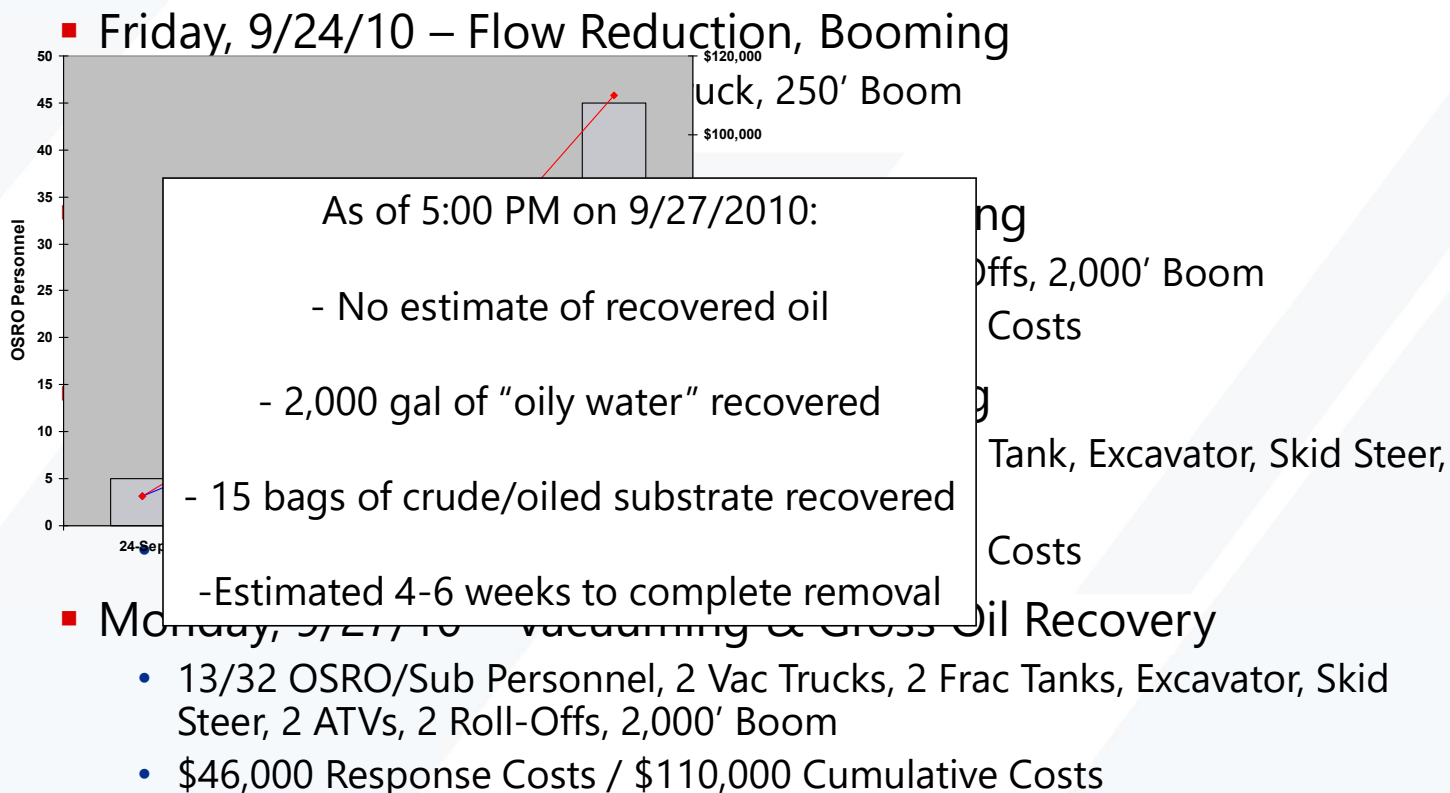
**Impacted Areas:
Strawberry ~ 1 mile
Duchesne ~ 3 miles**

**Duchesne River
25 CFS**

**Strawberry River
135 CFS**

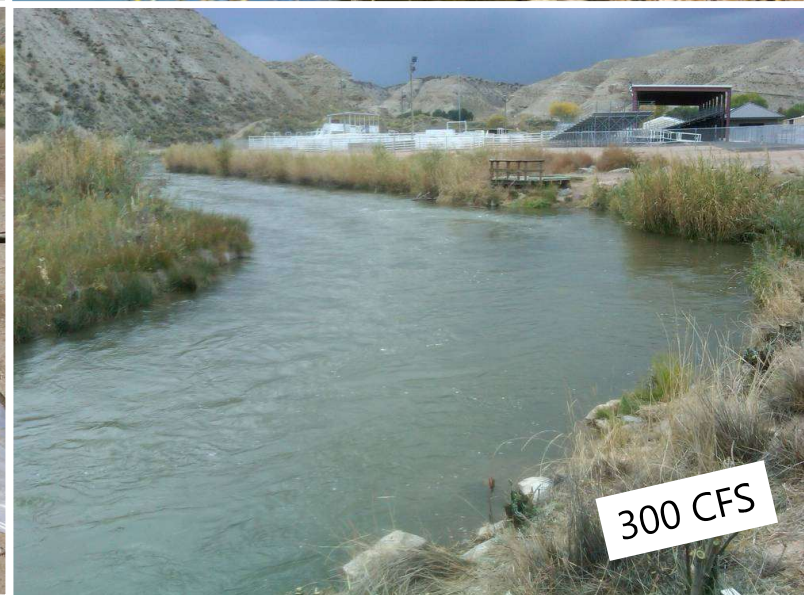


Initial Response & OSRO Escalation







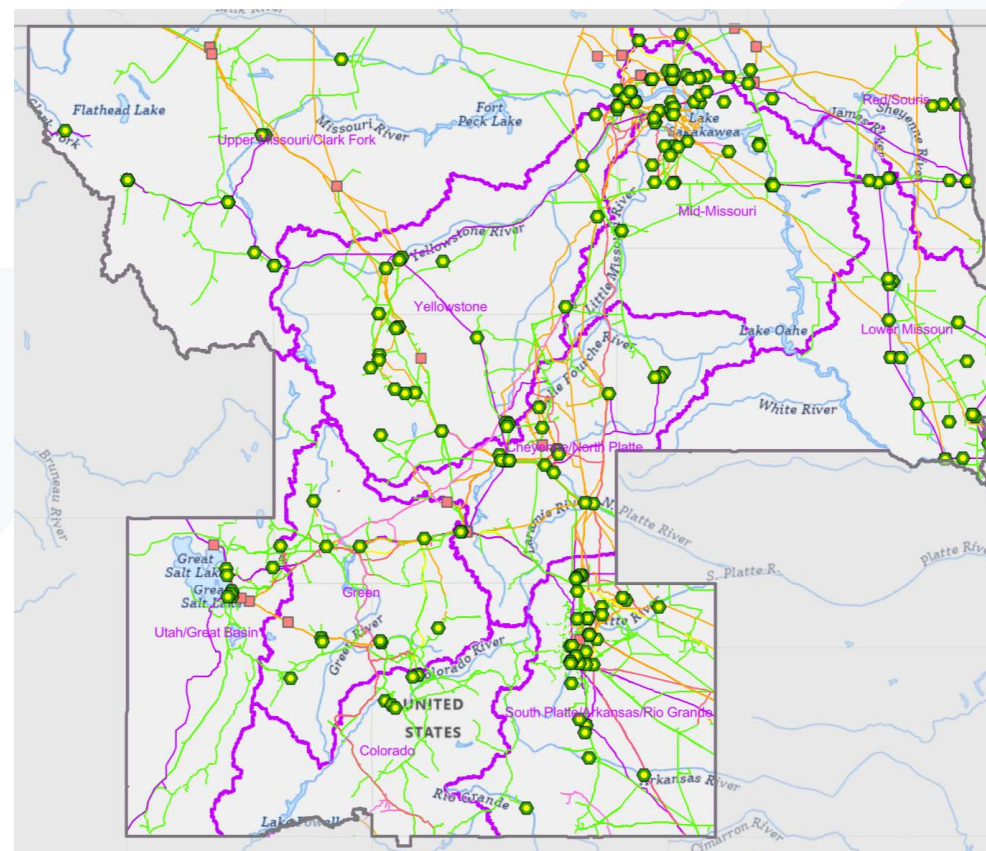


FRP Consistency with EPA Oil Spill Contingency Plans



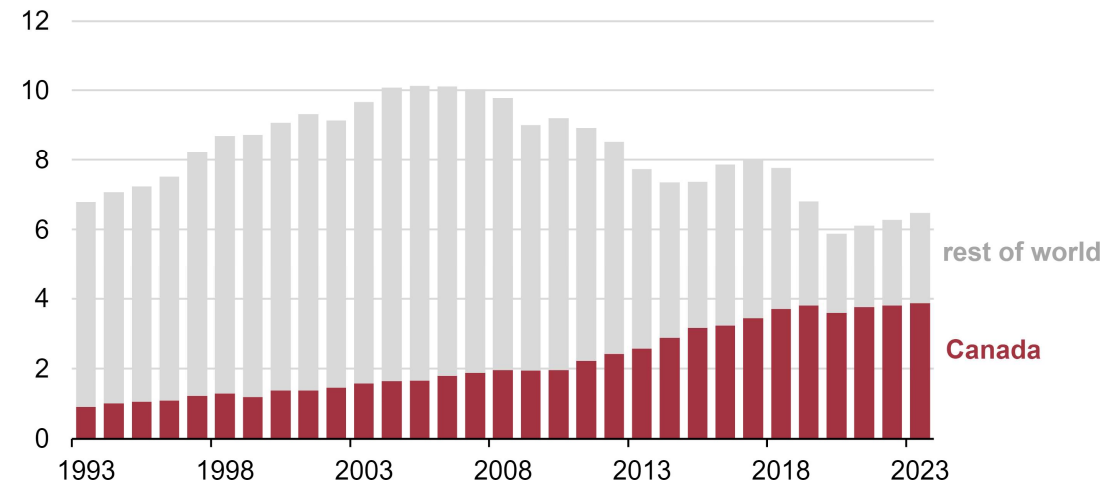
Oil Focus in Region 8

- Oil Production Areas:
 - Bakken Formation (ND & MT)
 - Niobrara / Denver-Julesburg Basin (CO)
 - Uinta Basin (UT)
- Petroleum Refinery Centers:
 - Salt Lake City, UT
 - Billings, MT
 - Bismarck/Mandan, ND
 - Denver, CO/Cheyenne, WY
- Major Pipelines:
 - Dakota Access Pipeline
 - Keystone
 - Express/Platte
 - Glacier

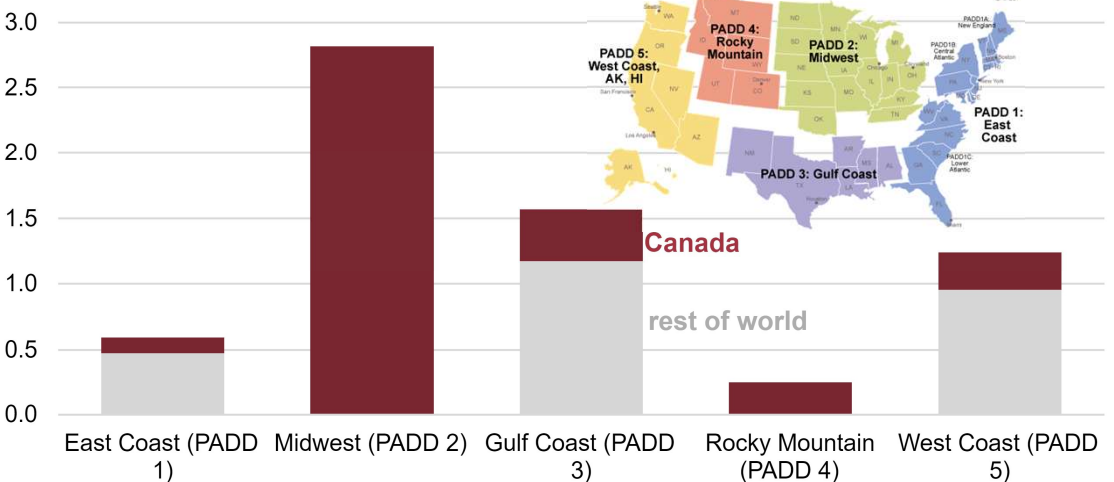


Region 8 Crude Oil Production/Transport

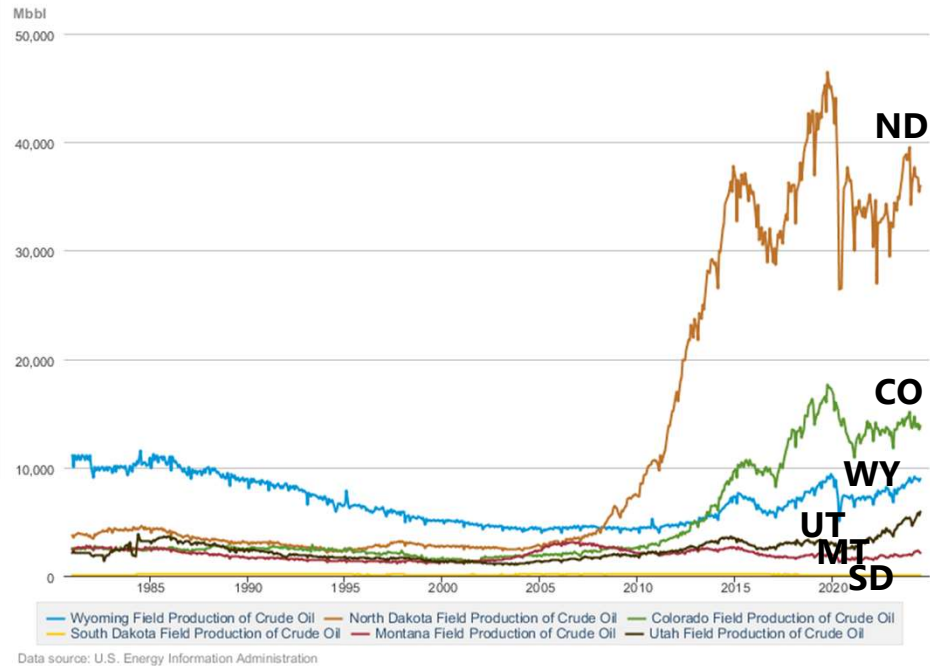
Annual U.S. crude oil imports from Canada and rest of the world (1993–2023)
million barrels per day



U.S. crude oil PADD imports by origin (2023)
million barrels per day



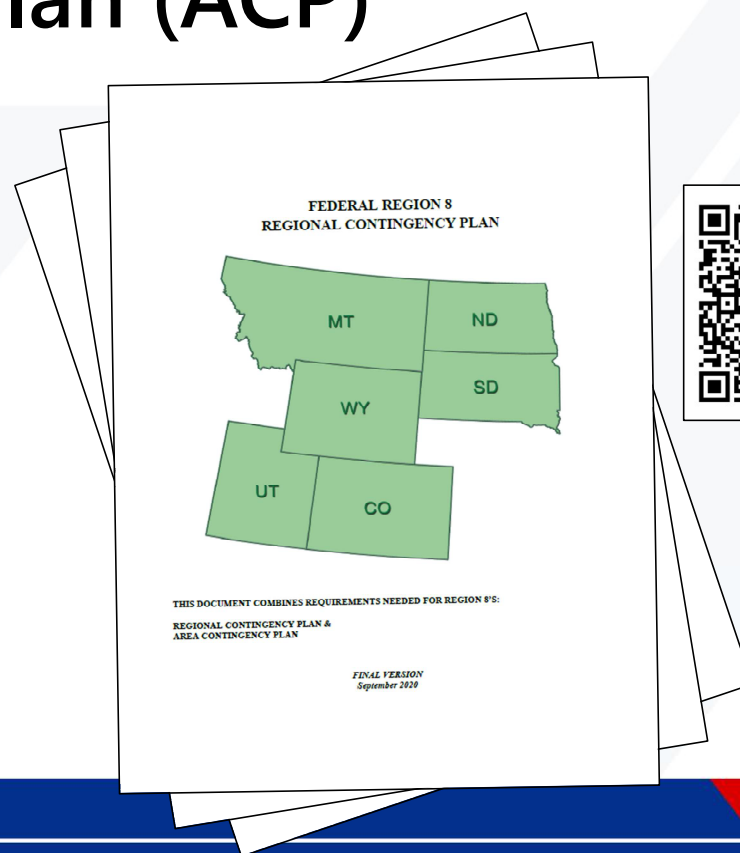
Crude Oil Production



EPA Region 8 Regional Contingency Plan (RCP) and Area Contingency Plan (ACP)

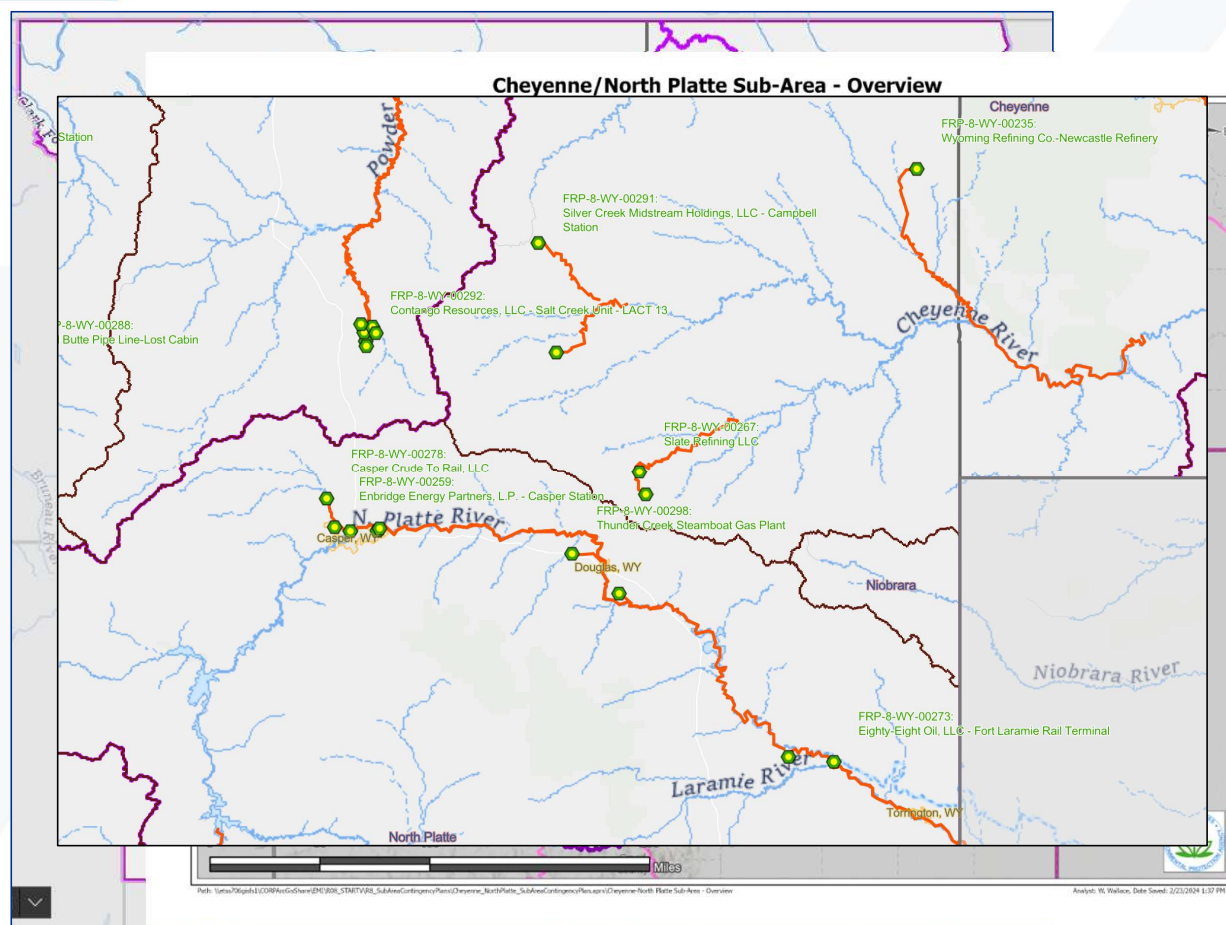
Contains:

- Description of area covered
- Responsibilities of operators and agencies in removing a discharge
- List of response resources
- Scientific support to inform use of chemical countermeasures
- Integration with other plans



EPA Region 8 subArea Contingency Plans (sACPs)

- 10 subAreas in EPA Region 8
- 1 FRP Coordinator and Oil OSC Each
- Worst-Case Discharge Analysis



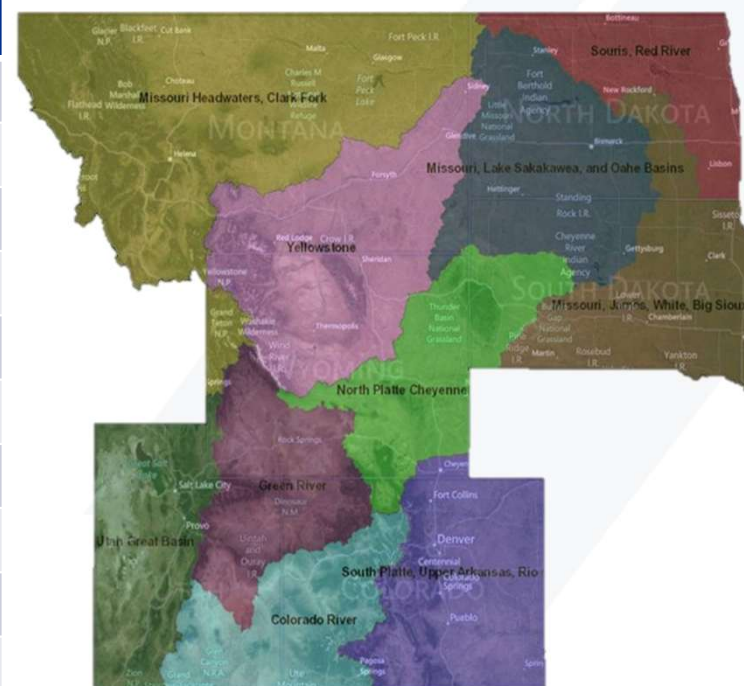


EPA Region 8 sACP Contents

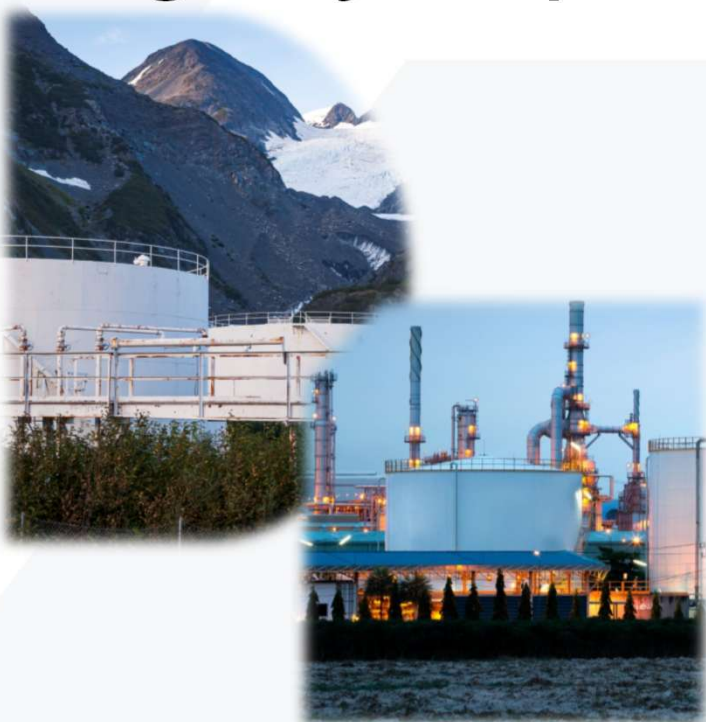
- Worst-Case Discharge Analyses
 - Pipelines
 - EPA FRPs (Terminals/Refineries)
 - Railroad Transport
 - Truck Transport
- Resources at Risk
 - Critical Infrastructure
 - Sensitive Environments
 - Economic Resources
 - T&E Species
- Response to a Worst-Case Discharge
 - Roles and Responsibilities
 - Notification Procedures and Contacts
 - Response Resources Available
 - Key Control Points/Strategies
- Plan Integration
 - NCP
 - Region 8 RCP/ACP
 - SERC/LEPC Response Plans
 - Facility Response Plans

Region 8 subArea Contingency Plan Contacts

subArea	FRP Coordinator	Oil OSC
Colorado (CO/UT)	Mike Porter	Gary Mitchler
Green (WY/CO/UT)	Mike Porter	Brian Croft
Utah/Great Basin (UT)	Angie Villa	Brian Croft
S. Platte (CO)	Mike Porter	Gary Mitchler
Cheyenne/N. Platte (WY/SD)	Angie Villa	Deb King
Red/Souris (ND)	Angie Villa	Kyle Corcoran
Upper Missouri (MT)	Mike Porter	Eric Sandusky
Mid-Missouri (ND/SD)	Angie Villa	Deb King
Lower Missouri (SD)	Angie Villa	Kyle Corcoran
Yellowstone (MT/WY)	Mike Porter	Eric Sandusky



Facility Response Plans (FRPs) and Emergency Response Action Plans (ERAPs)



- Ensure FRPs & ERAPs are consistent with local, regional, and national contingency plans:
 - Timely and complete notifications
 - Consulting with resource trustees (DOI/USFWS)
 - Coordination with EPA for using chemical countermeasures or in-situ burning
 - **Mitigating impacts to the public, fish, wildlife, and sensitive environments**
 - Proper disposal of oil and debris

SM1 Make less busy or remove.
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Connecting the Dots

- The FRP and the QI are essential to mounting an effective response to a worst-case discharge
- Knowing the FRP, practicing timely notifications, and training/exercising response personnel can reduce impacts from a worst-case discharge
- Reviewing relevant portions of the NCP and applicable Area Contingency Plans annually and, if necessary, revising the FRPs/ERAPS to ensure consistency with these plans



Module Objective

- By the end of the module participants will:
 - Understand the federal regulations and guidance governing oil spill prevention, preparedness, and emergency response in the U.S.
 - Be aware of the need to ensure Facility Response Plans are consistent with the EPA Region 8 oil spill contingency plans.



Check on Learning

- After check on learning transition to next module.