

**SUPPORTING STATEMENT  
FOR**

**1625-0111**

**Landowner Defenses to Liability under the Oil Pollution Act of 1990:  
Standards and Practices for Conducting All Appropriate Inquiries**

**A. Justification**

**1. Circumstances that make the collection of information necessary.**

The information collection is required under 33 CFR 137, which specifies the requirements of conducting all appropriate inquiries for anyone engaging in a commercial property transaction involving a facility so they may later be eligible for the innocent landowner defense to liability under the Oil Pollution Act (OPA) as described in 33 U.S.C. 2703(d)(4).

**2. By whom, how, and for what purpose the information is to be used.**

The information collection could be used as evidence that all appropriate inquiries were conducted in compliance with Federal regulations should the respondent need to assert protection from OPA 90 liability in a court of law. The information collection respondents include anyone engaging in a commercial property transaction involving a facility that may desire to assert an innocent landowner defense to OPA 90. The respondents are not required to submit the documentation to any Federal agency.

**3. Consideration of the use of improved information technology.**

Respondents may use whatever method they prefer for this information collection, including using information technology to facilitate the process.

**4. Efforts to identify duplication. Why similar information cannot be used.**

We have allowed the use of the ASTM International's voluntary industry standard ASTM E 1527-05 to comply with 33 CFR §§ 137.45 through 137.85. This standard is currently in effect, and the report that is generated by respondents using it would also comply with this information collection.

**5. Methods to minimize the burden to small businesses if involved.**

This collection of information has been determined to not have a significant economic impact on a substantial number of small entities.

**6. Consequences to the Federal program if collection were not done or conducted less frequently.**

There would be no impact to Federal program or policy activities. The only impact would be to the respondents, who would not be able to document that they had conducted all appropriate inquiries in compliance with Federal regulations, thereby not being able to show that they were indeed capable of qualifying for the innocent landowner defense under OPA 90.

**7. Explain any special circumstances that would cause the information collection to be conducted in a manner inconsistent with guidelines.**

Information is collected in manner consistent with the guidelines.

**8. Consultation**

As directed by Congress, we have developed this regulation in consultation with the Environmental Protection Agency (EPA). EPA has published a Final Rule on the same subject November 1, 2005. The Coast Guard has made this regulation consistent with EPA with respect to information collection requirements. There is no report format and the information required has been determined to be readily available and not be unnecessarily burdensome for the respondent.

**9. Explain any decision to provide payment or gift to respondents.**

This information collection does not involve any payment or gift to respondents.

**10. Describe any assurance of confidentiality provided to respondents..**

No assurance of confidentiality is provided to respondents.

**11. Additional justification for any questions of a sensitive nature.**

There are no questions of a sensitive nature in this information collection requirement.

**12. Estimates of reporting and recordkeeping hour and cost burdens of the collection of information**

Based on the Notice of Proposed Rulemaking for this collection, there are estimated to be 16,602 respondents per year. This estimate represents a 5% subset of the expected 332,038 annual commercial property transactions where a Phase I Environmental Site Assessment (Phase I ESA) would be conducted.

$$332,038 \times 0.05 = 16,602 \text{ respondents}$$

It is expected that each respondent would conduct 1 collection/year. It is further estimated that the collection of information would require 1 hour per respondent.

16,602 respondents x 1 collection/year/respondent x 1 hour/collection = 16,602 hours

The labor cost associated with this information collection burden reflects a \$67/hour fully burdened labor rate. Source: Bureau of Labor Statistics, *Occupational Employment Statistics Survey by Occupation*.

16,602 hours/year x \$67/hour = \$1,112,334/year.

**13. Estimates of annualized capital and start-up costs**

No cost associated with capital and start up. No costs associated with operation, maintenance and purchase of services.

**14. Estimates of annualized Federal Government costs.**

Not applicable. There are no requirements that the information collection be submitted to the Coast Guard or any other government agency.

**15. Explain the reasons for the change in burden.**

The Oil Pollution Act in 33 U.S.C. 2703.D(4)(B) requires the promulgation and clarification of the standards and practices for making all appropriate inquiries to later establish an innocent landowner defense to liability under OPA 90. Therefore, this program change, described in 33 CFR 137, necessitates this collection.

**16. For collections of information whose results are planned to be published for statistical use, outline plans for tabulation, statistical analysis and publication.**

There is no plan to use statistical analysis or to publish this information.

**17. Approval to not display expiration date.**

We are not seeking approval to not display the expiration date for OMB approval of the information collection.

**18. Explain each exception to the certification statement.**

We request no exceptions to the certification statement.

## **B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

This information collection does not employ statistical methods.