

## Supporting Statement A for Information Collection Request

EPA ICR No. 2566.01, OMB Control No. 2050-New

### 1. IDENTIFICATION OF THE INFORMATION COLLECTION

#### 1(a) Title of the Information Collection:

The 2018 Clean Water Act Hazardous Substance Survey

#### 1(b) Short Characterization:

The Clean Water Act (CWA) Section 311(j)(1)(C) directs the President to issue regulations “establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of ... hazardous substances ... from onshore facilities and offshore facilities, and to contain such discharges ...” The authority to issue such regulations for onshore non-transportation related facilities has been delegated to the U.S. Environmental Protection Agency under Section 2(b)(1) of Executive Order 12777. The authority to issue such regulations for non-transportation related offshore facilities located landward of the coastline has been delegated to the U.S. Department of Interior (DOI) under Section (2)(b)(3) of Executive Order 12777, and has been further delegated by DOI to EPA (59 Fed. Reg. 34102).

EPA proposed requirements to prevent the discharge of designated Clean Water Act hazardous substances (CWA HS; [40 CFR part 116.4](#)) from facilities subject to permitting requirements under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act<sup>1</sup> in 1978 (43 Fed. Reg. 39276), but the regulations were never finalized. The proposed rule was published concurrently with the regulations under section 402 of the Act (SPCC Plans; 40 CFR Part 125, Subpart L).

On July 21, 2015, several parties filed a lawsuit against EPA for allegedly failing to establish regulations of hazardous substances under CWA 311(j)(1)(C). According to a settlement agreement reached in that case and filed with the United States District Court, Southern District of New York, on February 16, 2016, EPA is required to sign a proposed rulemaking no later than June 16, 2018.

### 2. NEED FOR AND USE OF THE COLLECTION

#### 2(a) Need/Authority for the Collection

Numerous types of facilities (e.g., chemical manufacturing, consumer products, metals industry, textiles) produce CWA hazardous substances or use them as raw materials to generate more complex chemicals and products used by industry and consumers. The EPA is considering a regulatory action to address CWA hazardous substances under CWA 311(j)(1)(C), and additional information is needed regarding procedures, methods and equipment and other requirements (e.g., best management practices) to prevent and contain discharges of CWA hazardous substances from non-transportation-related onshore and offshore facilities landward of the

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<sup>1</sup> The NPDES program is authorized under CWA section 304.

coastline. EPA seeks to supplement the available relevant data about impacts of historic CWA hazardous substances discharges (e.g., fish kills, drinking water system impacts) not captured in the USCG National Response Center (NRC) or NTSIP databases on spill impacts. The data collected with this survey is intended to inform policy options for the final rule. This information will inform the policy options and assist in the cost benefit analyses for the final rule. The survey instrument is to collect information to assist EPA in verifying and refining the universe of facilities potentially affected by a proposed regulatory action. It is also intended to collect data and information pertaining to impacts (e.g., to downstream drinking water intakes, fish kills) caused by CWA HS discharges, which are not typically collected or available sources like the NRC database.

## 2 (b) Practical Utility/Users of the Data

This collection will be used for a regulatory action for CWA HS spill prevention under CWA311(j)(1)(C). EPA expects the information to allow refining estimates of the number of potentially regulated facilities and the estimates of the potential costs and benefits of a regulatory action. EPA also intends to identify and evaluate existing state requirements that may prevent discharges of hazardous substances to surface waters, and identify facilities/equipment subject to these state requirements.

## 3. NON-DUPLICATION, CONSULTATION, & OTHER COLLECTION CRITERIA

### 3(a) Non-duplication

One of the major goals of this voluntary survey is to ensure that any regulatory action by the agency minimizes duplication of existing regulatory requirements related to prevention and control of discharges of hazardous substances to CWA 311 jurisdictional waters. As part of this effort, we are requesting information on existing spill prevention programs and spill impacts at the state level that otherwise are not available to EPA. This is intended to assist the agency in conducting analyses to help identify facilities/equipment subject to these state requirements, to assist in estimating the potentially regulated universe, and to better identify regulatory controls that may need to be addressed by the proposed rulemaking.

Much of the information requested is available only to states, tribes, and territories, and is not routinely provided to the federal government. For example, EPCRA section 304 requires follow up reports to be submitted directly to states, to provide additional information about emergency releases reported to the NRC. These reports may contain information about the impacts of CWA HS discharges, which could allow EPA to better quantify impacts from these events and, for example, improve the cost benefit analysis for the CWA 311(j)(1)(C) rulemaking.

State, tribal, and territorial agencies may have other information and reports submitted under their respective jurisdictional authorities, which would be helpful to EPA. Due to the voluntary nature of the survey and the flexibility of the survey language, states, tribes, and territories have the discretion to provide only information not already available to EPA, which would be useful to EPA in conducting the rulemaking.

### 3(b) Public Notice Required Prior to ICR submission to OMB

This ICR is being submitted to the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1995 (PRA) and the subsequent rule issued by the OMB on August 29, 1995 (60 FR 44978). In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Agency has notified the public of the proposed ICR through the Federal Register on September 21, 2017 (Federal Register / Vol. 82, No. 182) [EPA–HQ–OLEM–2017–0444; FRL–9967–75–OLEM] (Attachment 1)

At the close of the public comment period on November 20, 2017, EPA had received comments from 11 commenters, including five industry organizations, four anonymous commenters, one set of comments from a collaborative of 12 non-governmental organizations, and one set of comments from a consortium of state, tribal and local emergency response agencies.

Several commenters characterized the regulatory action that this ICR is supporting as an expansion of the SPCC program and noted that SPCC provided adequate regulatory coverage for facilities associated with oil and gas production and storage. Two commenters thought that the ICR was valuable for obtaining information that could be used to improve the regulatory process, whereas several commenters thought that the information sought on the ICR was already available to EPA and therefore the collection would be duplicative. One commenter suggested several changes to the language of the questions to ensure that information collected was characterized appropriately. Some commenters suggested that EPA should ask more questions related to state spill prevention programs.

EPA has developed written responses to the comments received (Attachment 3), and has made certain changes in response to recommendations received during the public comment period, reflected in an updated draft survey instrument (Attachment 2). These changes:

- Emphasized the list of CWA HS at 40 CFR part 116.4 and hyperlinking to the table of substances in the e-CFR;
- Added a footnote to note differences in the list of chemicals regulated under EPCRA and designated CWA HS in 40 CFR part 116;
- Noted that information about mixtures should be noted where possible;
- Added a request to include information on causes of CWA HS discharges to water, as available;
- Amended the survey to request information on CWA HS discharges to water to avoid potential for confusion associated with the term “navigable waters;”
- Ensured that requests are phrased to include tribes and territories, rather than focus on states; and
- Revised the survey to request CWA HS use and storage data for the most recent calendar year available).

### 3(c) Consultations

To estimate the respondent burden associated with this ICR, EPA contacted a random sample of seven states that have collection authority for Emergency Planning and Community Right to

Know Act (EPCRA) Tier II (“Tier II”) facility data under Section 312. The selected states (listed below) were given the proposed information collection request instrument. The complete list of state/territorial contacts are detailed at <https://www.epa.gov/epcra/state-tier-ii-reporting-requirements-and-procedures>

1. California (R9)
2. Connecticut (R2)
3. Delaware (R3)
4. Massachusetts (R1)
5. Maryland (R3)
6. North Dakota (R8)
7. Texas (R6)

Respondents had minimal comments on the survey and no changes were made to the survey as a result of the consultation process. Respondents commented on the ease with which certain information might be obtained and transmitted to EPA. A few state contacts had to research additional contacts in sister agencies within the state for information on discharge impacts (i.e., fish kills, impacts to water intakes). Some commenters were unable to provide information because state procedures prohibited sharing of the EPCRA Tier II information. See Appendix 1 of this document for details on the consultation process.

### 3(d) Effects of Less Frequent Collection

This effort reflects a one-time collection via a voluntary survey requesting that the state, territorial, or tribal agency with Tier II collection authority<sup>2</sup> respond to EPA’s information request on the number and type of Tier II facilities, the CWA HS associated with them, and the recent history of impacts from accidental discharges to surface waters. This information is critical to better understanding and quantifying the universe of potentially affected facilities that may produce, store, or use CWA HS, as well as the extent of the impacts caused by recent discharges of CWA HS to surface waters. Because this is a one-time information collection, the agency could not consider potential impacts of less frequent information collection.

### 3(e) General Guidelines

This ICR adheres to the guidelines for Federal data requestors, as provided at 5 CFR 1320.6.

### 3(f) Confidentiality

All information submitted to the agency in response to the ICR surveys will be managed in accordance with applicable laws and EPA’s regulations governing treatment of confidential business information at 40 CFR Part 2, Subpart B. Any information determined to constitute a trade secret will be protected under 18 U.S.C. § 1905.

### 3(g) Sensitive Questions

This survey does not contain any sensitive questions.<sup>4</sup>      **RESPONDENTS AND THE INFORMATION REQUESTED**

### 4(a) Identification of Potentially Affected Facilities/Respondents

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<sup>2</sup> EPCRA reporting requirements are established in 40 CFR part 370 for providing the public with important information on the hazardous chemicals in their communities.

The Agency has designated Emergency Response Commissions (ERC) for states, territories, and tribes (SERCs and TERCs) as respondents for the purposes of the ICR. A SERC is an ERC in any State of the United States, the District of Columbia, and US territories (the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Northern Marianas Islands). A TERC (or tribal SERC) is an ERC for an Indian Tribe under whose jurisdiction facilities on tribal lands must report. The chief executive officers of federally recognized Tribes appoint Tribal Emergency Response Commissions (TERCs), responsible for carrying out the provisions of EPCRA in the same manner as State Emergency Response Commissions (SERCs). In the absence of a SERC for a State or Indian Tribe, the Governor or the chief executive officer of the tribe, respectively, shall be the SERC or TERC (55 FR 30632). Alternatively, Tribal leaders can join a Tribal Coalition which functions as the TERC, or establish a Memorandum of Understanding with a state to participate under the SERC. Where there is a cooperative agreement between a state and a tribe, the SERC shall be the entity identified in the agreement. <https://www.gpo.gov/fdsys/pkg/CFR-2016-title40-vol30/pdf/CFR-2016-title40-vol30-part355-appA.pdf>

EPCRA reporting requirements are established in 40 CFR part 370 for providing the public with information on the hazardous chemicals (including all CWA HS) in their communities. EPCRA Section 312 requires SERCs and TERCs to collect and disseminate information (to the public) detailing the amounts, storage conditions, and locations of hazardous chemicals and extremely hazardous substances (EHS) from facilities that produce, store, or use these chemicals more than reportable quantities. All CWA hazardous substances in 40 CFR § 116.4 are also EHS under EPCRA (40 CFR 355 Appendices A and B), and must be reported to a SERC or TERC if reporting thresholds are exceeded.

For the purposes of this ICR, the respondent universe will consist of SERCs located in the 50 states, the District of Columbia, the five recognized U.S. territories (Puerto Rico, Guam, USVI, American Samoa, and the Marianas Islands), and 31 tribal “ERCs” for a total of 87 potential respondents.

There are currently 573 Indian tribes that are federally recognized and eligible for funding and services from the Bureau of Indian Affairs (BIA). However, it is unknown if any of these tribes have established TERCs individually, through tribal coalitions or through MOUs with states allowing SERCs to act on their behalf. Thirty-one tribes have requested that they receive information and updates periodically issued by EPA to SERCs and TERCs related to implementation of EPCRA. EPA used this number (31) to estimate the burden on tribes for response to this voluntary survey. Also, SERCs may not have direct access to spill impact information related to fish kills or drinking water intakes requested on the ICR, and may have to contact other state agencies for this information.

4(b) Information Requested: The information requested in the ICR is intended to help accomplish three objectives:

- 1) Develop an estimate of the universe of potentially affected facilities;

- 2) Develop an assessment of recent CWA hazardous substance discharge history and impacts to health and the environment; and
- 3) Develop an assessment of existing state spill prevention programs.

A majority of the information requested is expected to be readily available from existing governmental records, however, respondents may need to gather responses to various questions not contained in databases. They may also need to coordinate with other state/tribal/territorial agencies depending on where information resides, particularly information on impacts of chemical releases (e.g. water supply, fish kills), which may be available in agencies other than SERCs or TERCs.

4(c) Respondent Activities. The activities a respondent will undertake to fulfill the requirements of the information collection, and unit costs for these activities are presented in Table 1 in Section 6. These activities include:

- 1) Read survey instructions;
- 2) Respond to survey questions (1-7) about facilities and CWA HS;
- 3) Research various aspects of survey questions that may not be easily accessed through state databases; Compile requested information and respond to survey questions (1-7) about facilities and CWA HS
- 4) Review of the compiled survey responses; and
- 5) Submit information .

## 5. AGENCY ACTIVITIES, METHODS, AND INFORMATION MANAGEMENT

5(a) Agency Activities: The activities that EPA personnel and the contractor will undertake for this information collection and unit costs for these activities are presented in Table 2 in Section 6. These activities include:

- 1) Publish FR Notice on ICR and Comment Response;
- 2) Develop questionnaire;
- 3) Upload/Send Questionnaire;
- 4) Review & Analyze Responses;
- 5) Tabulate Responses & Report Out; and
- 6) Answer Respondent Questions pertaining to survey

### 5(b) Collection Methodology and Management

EPA will send the survey via email. EPA will collect responses via email or on paper, at the respondent's convenience. In collecting and analyzing the information associated with this ICR, EPA or its contractors will use personal computers, Microsoft Excel© based analysis. The EPA or its contractors, will review each submittal for accuracy, completeness, and relevance to the regulatory action, to the extent possible. If it is determined that the information submitted is incomplete, EPA or its contractors may follow-up individually with respondents (SERCs other

state agencies) to supplement missing or incomplete data, as available or note the reason for the incomplete information to ensure transparency of the information collected. The information collected pursuant to this ICR will be maintained electronically on secure EPA servers.

#### 5(c) Small Entity Flexibility

This survey will impact small entities for some territorial or tribal ERC.

#### 5(d) Collection Schedule

##### 5(d)(1) Notice of Intent

Once EPA receives OMB approval for the ICR, EPA will distribute the survey via email to respondents previously identified using the SERC/TERC listserv<sup>3</sup> and by EPA regional personnel. In the email, EPA asks potential respondents to assist EPA in contacting other state agency respondents with information regarding impacts (e.g., to downstream drinking water intakes, fish kills) caused by CWA HS discharges. EPA received excellent participation from state ERCs on this request during the consultation (all 7 state ERCs contacted their respective state agencies for fish kill and drinking water impact information), and so we are maintaining this approach as our primary method of contact. To support this approach EPA also reviewed state websites to identify potential contacts who can provide information on CWA HS discharge and impacts.

One week after the distribution of the survey via the listserv, EPA will follow up individually with state agencies that may have information or data responsive to questions 5 and 6 on drinking water impacts and fish kills. This will ensure that all potential respondents have been contacted and provided with the survey questions, and it will provide an opportunity for these agency respondents to ask clarifying questions regarding the survey.

Halfway through the survey period, EPA will send out a reminder via the listserv and state/territorial/tribal agency email lists thanking the respondents for their participation and responses received, and reminding them that there are 22 days to respond to the survey.

EPA will send out a final email reminder with one week remaining in the survey period, and will allow up to 14 days after the end of the survey period to receive information.

## 6. ESTIMATING BURDEN AND COST

### 6(a) Estimating Respondent Burden and Costs

The one-time burden estimate for reporting and recordkeeping requirements are presented below in Table 1. These numbers were derived from estimates received during consultation with states during July-August 2017. The states used a modified version of the survey, which was updated for this ICR. States provided estimates based on the staff time needed to collect, sort, and transmit the data and information required for the survey questions.

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<sup>3</sup> This listserv provides a comprehensive approach to reaching potential state, territorial and tribal respondents.

For the purposes of burden calculation associated with this ICR, EPA assumes that the SERC will facilitate contact with the appropriate state agency to get the information, and will provide it, if available. Burden estimates associated with facilitation and responses by other state agencies were collected from 3 of the 7 respondent states as part of the consultation and are incorporated into respondent burden estimates below.

EPA used labor rates (hourly salary) reported by state agency respondents during the consultation process to estimate costs. Staff with EPCRA Tier II data collection authority, as well as staff from state water programs (e.g., drinking water and fish kill investigations) were queried since they collect or have access to the data necessary to most efficiently and effectively respond to the questions in the ICR. These rates were loaded using an overhead factor of 110%, consistent with other ICRs. The resulting loaded hourly mean rates for state agency staff ranged from \$20.00 - \$26.53 (mean - \$21.65). These values were taken from the Bureau of Labor Statistics Occupational Employment Statistics Survey Web site and reflect the latest values available (May 2016). To avoid underestimation of respondent burden, the highest reported hourly labor rate by any respondent was used.

Table 1: Burden and Unit Costs for All Required Information Collection Activities from State, Tribal, and Territorial Agencies (Post-Consultation Estimate)

Activity <sup>1</sup>	Technical <sup>2</sup> \$21.65	Supervisory <sup>3</sup> \$26.53	Burden Hours per Response	Cost/Task <sup>4</sup>	Response Rate	Total Responses	Total Cost
1. Read survey instructions	0.25	0.25	0.5	\$12.04	100%	87	\$1047.48
2. Compile requested information and complete survey question 1.	1.2	0	1.2	\$25.98	78%	68	1776.64
3. Compile requested information and complete survey question 2	23	0	19.3	\$417.85	78%	68	28413.80
4. Compile requested information and complete survey question 3.	50	0	10	\$216.50	78%	68	14,722
5. Compile requested information and complete survey question 4.	19.5	0	22	\$422.18	78%	68	28708.24



6. Compile requested information and complete survey question 5	27.9	0	28	\$606.20	78%	68	41,221.60
7. Compile requested information and complete survey question 6	1	0	1	\$21.65	78%	68	1472.20
8. Compile requested information and complete survey question 7	1	0	1	\$21.65	78%	68	\$1,472.20
10. Review compiled survey responses	2	1	3	\$69.83	78%	68	4748.44
11. Submit information	1	0	1	\$21.65	78%	68	1472.20
TOTALS			87 / response	\$1,835.52		5925.5 total hours	\$125,054.80

<sup>1</sup> Responses to questions are broken out as activities since the unit time to respond to each question is highly variable depending on the availability and its format. For activity 2 and 4, it is assumed that the respondents will submit databases for further EPA analysis. Activity 3 will likely require some level of cross-referencing state databases that contain the information requested by the ICR.

<sup>2,3</sup> Respondents for this survey are state, tribal and territorial agencies with Emergency Response Commission (ERC) authority. These agencies vary from emergency management to environmental management agencies. Certain questions may need to be addressed by other agencies within a respective jurisdiction (e.g. Department of Natural Resources RE: fish kills) Based on this variability, the occupational descriptions and salaries of staff and managers vary. For state agency technical staff level positions/labor rates, the Environmental Science and Protection Technician (19-4091; \$21.43), and the Environmental Engineering Technician (17-3025; 23.97) were considered. At the supervisory level, the Environmental Engineer (17-2081; \$36.78), and the Emergency Management Director (11-9161; \$31.06) was considered representative. For the purposes of this supporting statement, the average labor rate was used for the technical staff category, since the salary range was small. All agency labor rates include a multiplier of 1.6 to account for overhead and fringe benefit costs.

<sup>4</sup> Cost per task reflects the mean cost for each task based on the mean of the salaries reported by each respondent for each survey question. The costs reported are slightly different because not all the states that were consulted responded to each question.

## 6(b) Estimating Agency Burden and Cost

Labor rates for EPA personnel were used for all public-sector personnel, including employees of state agencies. Source for EPA labor rates: Department of Personnel Management, "Salary Table 2017-GS," [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/GS_h.pdf). For the managerial labor rate, level GS-15, step 5 was used; for the technical labor rate, level GS-12, step 5 was used. All agency labor rates include a multiplier of 1.6 to account for overhead and fringe benefit costs. Contractor labor rates were assumed to be equivalent to EPA technical staff labor rates. Management hourly labor rate is \$90.08, and technical staff and contractor hourly labor rate is \$54.50.

Table 2. One-Time Burden and Unit Costs for All Required Information Collection Activities: EPA.

Survey Development Activities	Agency Burden		Contractor Hourly Wage and Hours	Total Response Hours per Activity	Total Labor Cost per Activity
	(Hourly Wage <sup>1</sup> and Hours <sup>2</sup> )				
	Technical	Managerial			
	\$54.50	\$90.08	\$54.50		
Publish FR Notice on ICR and Comment Response	30	1		31	\$1,725
Develop Questionnaire	40	1		41	\$2,270
Upload/Send Questionnaire	2	0		2	\$109
Review & Analyze Responses <sup>3</sup>	54	0	120	174	\$9,483
Tabulate Responses & Report Out	20	1		21	\$1,180
Respondent Support Activities <sup>4</sup>					
Answer Respondent Questions pertaining to survey	21.75	0		21.75	\$1,185
Total				260	\$15,952

1. Labor rates for EPA personnel were used for all public-sector personnel, including employees of State agencies. Source for EPA labor rates: Department of Personnel Management, "Salary Table 2017-GS," [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/GS\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2017/GS_h.pdf). For the managerial labor rate, level GS-15, step 5 was used; for the technical labor rate, level GS-12, step 5 was used. All agency labor rates include a multiplier of 1.6 to account for overhead and fringe benefit costs. Contractor labor rates were assumed to be equivalent to EPA technical staff labor rates.

2. For survey development activities (except survey review), management hours are assumed to be approximately 5 percent of technical hours.

3. This estimate assumes that contractors will perform approximately 80% of the analysis of survey responses, with EPA technical staff performing approximately 20%. The maximum number of surveys that EPA will receive is 87 based on survey participation from all respondents (50 states, the District of Columbia, 5 territories and 31 tribal ERCs). EPA estimates it will take approximately 2 hours per respondent to review surveys.

4. The Agency assumes that the average respondent (87 respondents) will have one question. A response to each question is estimated to require 0.25 technical hours, on average.

### 6(c) Burden Statement

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. This ICR does not include any requirements that would cause the respondents to incur either capital or start-up costs. An agency

may not conduct or sponsor, and a person is not required or requested to respond to, a collection of information request unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR part 15.

#### 6(d) Bottom Line Burden Hours and Cost Tables

The total unit estimated respondent burden hours and costs, presented above in Table 1, are calculated by summing the person-hours column and by summing the cost column. The one-time burden and cost per state/territorial or tribal agency is estimated to be 87 hours and \$1,835.00.

The aggregated estimated burden hours and costs are also presented in Table 1. The aggregated burden hours are calculated by multiplying the total number of respondents and the estimated response rate for each activity, and the total burden hours is estimated to be 5,925.5. The aggregated burden costs were calculated by multiplying the total number of respondents, the unit costs for each activity, and the estimated response rate for each activity and the total costs is estimated to be \$125,055.

The total line Agency burden and cost, presented in Table 2 of Appendix 1 is calculated in the same manner as the industry burden and cost. The estimated burden and cost is 260 hours and \$15,952.

## Appendix 1: Summary of State Consultations

EPA randomly selected 9 states for consultation; 7 states could participate in the timeframe selected for the consultation (California, Connecticut, Delaware, Massachusetts, Maryland, North Dakota, and Texas) for consultation based on best professional judgement as permitted by the ICR process (Paperwork Reduction Act) to obtain burden estimates for time and costs to respondents participating in the upcoming ICR. The participation rate for states was ~ 78%; by extension, one would expect approximately 38 states to participate in the voluntary information collection request. Tribes and U.S. territories were not selected to participate in the consultation, so the response rate for these entities is uncertain.

EPA worked with Regional EPCRA Tier II program contacts to obtain State Agency points of contact (POCs) (Appendix 3) to initiate the consultation process with states. The ICR survey questions were distributed to the states, followed by a short informational call to explain the consultation process, and answer questions prior to initiating the consultation. EPA initiated consultation with selected states on July 10, 2017 and completed information collection on August 8, 2017.

EPA received at least partial information on burden estimates for the eight ICR questions from seven states. Two states (KY and OH) declined to participate in the consultation process.

### Summary of Information Received:

#### Facilities with CWA hazardous substances

1) How many EPCRA Tier II (40 CFR Part 312) facilities in your state/territory reported having CWA HS onsite at some point throughout calendar year 2016 (or most recent year for which the state has final (QA/QC completed) data)? Which CWA HS did each facility report?

Please provide the names/address or GIS data/facility ID/CWA HS reported (i.e., chemical name, CAS, maximum weight onsite.) If possible, please provide this information by submitting a database (or URL if available via the internet), or a portion of a database with the relevant information, in electronic format (e.g., Excel)

### State Summary:

5/7 states provided burden estimates and/or data (EPCRA Tier II databases) for this question.

4/5 states just provided the data with the expectation that EPA or its contractor would perform assessment to filter out the data necessary to respond to the question. If states just provided database, a default assumed burden of 30 min (0.5 hrs.) was assumed for accessing database and sending it to EPA electronically or via mail (disk provided).

Burden Estimate:

Time – Mean = 1.2 hrs. (0.5 – 4 hrs.) \*

Cost – Mean = \$23.27/hr. (\$20.00 – \$26.53)

\*Massachusetts provided a database, but indicated that it would take approximately 30 staff hours to filter data and provide EPA with a response if done at the agency.

2). Based on the list of facilities provided in question # 1, are any of these facilities owned/operated by state or local governments?

State Summary:

6/7 states responded to this question; 2 indicated that the response would be covered by the LOE in answering question 1, whereas the other 4 states indicated that EPA would be able to obtain that information as part of the analysis for question 1 or an associated analysis

Burden Estimate:

Time and Cost covered through LOE response to #1, or borne by EPA/contractor in database filtering process.

Accident History

3) Do you have an accident reporting database that contains information about accidental discharges of CWA HS to waterways in your state or territory?

[If no, then skip to Question 5]

[If yes, then] Please provide a copy of this database and skip to question 5

[If respondent has a database and chooses not to provide it] Please provide the following information:

State Summary:

6/7 states provided burden estimates and/or data (spill databases) for this question.

3/6 states just provided the data with the expectation that EPA or its contractor would perform assessment to filter out the data necessary to respond to the question. If states just provided database, a default assumed burden of 30 min (0.5 hrs.) was assumed for accessing database and sending it to EPA electronically or via mail (disk provided).

Burden Estimate:

Time – Mean = 23 hrs. (0.5 – 60 hrs.)

Cost – Mean = \$20.93/hr. (\$20.00 – \$21.86)

4) How many discharges to water of CWA HS were reported in each calendar year for the past 10 years (2007-2016)? For all discharges please list the CWA HS(s) involved and the (estimated) amount, if documented.

State Summary:

6/7 states responded to this question; 1 state (TX) provided a burden estimate, 3 states indicated that they expected EPA/contractor would be able to obtain that information as part of the analysis for question 3 or an associated analysis, and 2 states indicated that the response would be covered by the LOE in answering question 3.

Burden Estimate:

Time – 50 hrs.

Cost – \$21.86/hr.

5) What is the number of times that a public water system intake has been affected (e.g., alert or advisory issued, shut down, etc.) in your state or territory due to a discharge of a CWA HS to surface waters? Please provide annual numbers by calendar year from 2007-2016. For each occurrence, please list the CWA HS(s) involved, the (estimated) amount, if documented, and any impacts/actions taken.

State Summary:

4/7 states provided burden estimates to this question.

Burden Estimate:

Time – Mean = 19.5 hrs. (2 – 50 hrs.) \*

Cost – Mean = \$20.93/hr. (\$20.00 – \$21.86)

6) How many fish kills have been attributed to a discharge of a CWA HS to surface waters? Please provide any reports available from 2007-2016. For all fish kills, please list the CWA HS(s) involved and the (estimated) amount, if documented.

State Summary:

6/7 states provided burden estimates to this question.

Burden Estimate:

Time – Mean = 27.9 hrs. (2 – 80 hrs.) \*

Cost – Mean = \$21.29/hr. (\$20.00 – \$22.00)

#### Regulatory Controls/Provisions

7) Does your state have regulations/provisions relating to spill prevention requirements for CWA hazardous substances? If so, please provide a citation to these requirements and a link. [If no, end survey]

#### State Summary:

1/7 states provided burden estimates to this question.

#### Burden Estimate:

Time – 1 hr.

Cost – \$21.65

8) If you have a database of facilities or equipment subject to the requirements in question 7, please provide a copy.

#### State Summary:

1/7 states provided burden estimates to this question.

#### Burden Estimate:

Time – 1 hr.

Cost – \$21.65

#### **Average Estimate Cost Method:**

To determine the most realistic estimate of burden to respondents for this survey, EPA averaged the burden estimates provided by respondents for each question. EPA also averaged responses for hourly salary to calculate an average hourly salary cost. EPA used this method particularly for questions 1-4, since over 50% of the respondents consulted informed EPA that they would provide EPA with the raw data with the expectation that EPA would do the data reduction and analysis necessary to complete the response, effectively transferring the burden to EPA.

<u>Question</u>	<u>Average (Range) Time Burden</u>	<u>Average/(Range) Hourly Salary</u>
Read Survey	0.5 hrs.	21.65

1	1.08 (0.5* – 4.0) hours	\$21.65 (\$20.00 - \$26.53)
2	0.5**	\$21.65 (No salary info provided)
3	19.3 (0.5 – 60)	\$21.65 (\$20.00 - \$21.86)
4	10 (0.5 – 60)	\$21.65 (\$21.86)
5	22 (2 – 60)	\$21.65 (\$20.00 - \$21.86)
6	28 (2 – 80)	\$21.65 (\$20.00 - \$22.00)
7	1	\$21.65 (No salary info provided)
8	1	\$21.65 (No salary info provided)

In addition, 3 hrs./respondent were allocated to internal review of the submission, and 1 hr./respondent to facilitate delivery of survey response(s) to EPA.

\* Several states provided raw data for questions 1 (4/7) and 3 (3/7). The assumed default burden for providing a database in this analysis is 0.5 hrs.

\*\* For question two, 6/7 respondents stated that the level of effort (burden) to respond to this question would be part of the burden for the response to # 1; 5/7 states responded similarly to question #4, with respect to the burden for the response being incorporated in the response to question # 3.

**Calculation of total estimated burden and cost for this ICR:**

Calculate total average estimated burden/survey: sum average time estimates recorded for each of 8 questions

$$\underline{\sum (0.5 + 1.2 + 19.3 + 10 + 22 + 28 + 1 + 1 + 3 + 1) = 87 \text{ hrs./survey}}$$

Calculate Total Estimated Burden: multiply average time/survey x total number respondents (states and territories)

$$\underline{87 \text{ hrs./survey} \times 87 \text{ respondents (50 states/Washington DC, 31 tribal ERCs and 5 territories)} = 7569 \text{ hrs.}}$$

Calculate average cost/survey: multiply total hours X average hourly cost

$$\underline{87 \text{ hrs.} \times \$21.65/\text{hr.} = \$1,883.55/\text{respondent. Round to } \$1,883.00/\text{respondent.}}$$

Calculate Total Cost: multiply average cost/survey x total number respondents (states and territories)



\$1,883/survey X 87 respondents = \$163,821.00.