

**RENEWAL OF INFORMATION COLLECTION REQUEST FOR THE IMPLEMENTATION
OF THE OIL POLLUTION ACT FACILITY
RESPONSE PLAN REQUIREMENTS (40 CFR PART 112)
(EPA # 1630.13)**

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1.a) Title of the Information Collection

Renewal of Information Collection Request (ICR) for the Implementation of the Oil Pollution Act Facility Response Plan Requirements (40 CFR Part 112). OMB # 2050-0135

1.b) Short Characterization

This information collection request (ICR) renewal pertains to EPA’s Facility Response Plan (FRP) requirements as codified in 40 CFR 112.20 and 112.21. This regulation implements requirements mandated by the Clean Water Act (CWA) as amended by the Oil Pollution Act (OPA) of 1990.

The FRP rule incorporates requirements of CWA section 311(j)(5), which was added by OPA section 4202. The regulation requires that owners and operators of facilities that could cause “substantial harm” to the environment by discharging oil into or on the navigable waters or adjoining shorelines prepare plans for responding, to the maximum extent practicable, to a worst case discharge of oil, and to a substantial threat of such a discharge. Each FRP must be submitted to the appropriate EPA Regional office. EPA reviews these plans to determine if the facility could cause significant and substantial harm by discharging oil into or on navigable waters or adjoining shorelines per 40 CFR part 112.20(f)(3). In accordance with CWA statutory requirements, if a facility is deemed a significant and substantial harm facility, then the FRP is subject to approval and periodic review.

While EPA’s FRP rule addresses preparedness requirements for non-transportation facilities, the U.S. Coast Guard (USCG) has authority to establish requirements to prevent and contain discharges of oil from vessels and marine transportation-related (MTR) facilities, and the Department of Transportation (DOT) Office of Pipeline Safety, which is part of the Pipeline and Hazardous Materials Safety Administration (PHMSA), regulates many onshore pipelines and breakout facilities. Some facilities must meet the requirements of two or more federal agencies, because they engage in activities that fall under the jurisdiction of those agencies and are identified as complex facilities.

Since the last ICR renewal, EPA has continued to review information regarding facilities that have submitted an FRP to their respective EPA Regional office. The information was collected from each of EPA’s ten regions and compiled into a national inventory of FRP-regulated facilities. The

inventory was updated in January 2018 and reflects the number of active plan holders; this universe is estimated to be 3,803. Information available from EPA's internal national database shows that about 81 FRP facilities were owned and operated by the federal government (e.g., military installations). These federal facilities are excluded from the burden estimate analysis given that they are not considered "persons" under the Paperwork Reduction Act.

For the last ICR renewal, EPA estimated the national inventory of FRP plan holders would be 4,454 facilities by December 2016. For these prior FRP universe estimates, EPA projected that between 2010 and 2012, approximately 307 new facilities would become subject to FRP requirements over the three-year period, or approximately 102 new facilities each year. This estimate was based on annual industry-specific growth rates used to project the number of new SPCC facilities. These 102 new FRP facilities represent approximately 0.5 percent of new facilities subject to the SPCC regulation annually. The remaining 99.5 percent of the estimated number of new SPCC facilities (18,444 facilities) would only complete a certification form (Attachment C-II in Appendix C of 40 CFR part 112), because they do not meet the substantial harm criteria.

Since the last ICR renewal, EPA has observed a substantial number of facility closures and reductions in oil storage capacities at certain facilities whereby the facilities are no longer subject to the FRP regulation. As a result, EPA now has an active plan holder universe of about 3,803 facilities, a reduction of 651 facilities or 15% and as such, the burden estimates for this ICR renewal have substantially been adjusted to reflect the reduction in plan holder universe. Accounting for the 81 governmental planholders, the estimated non-governmental plan holder universe is 3,722 facilities.

The total burden on the entire FRP regulated community over a three-year period is estimated to be 1,136,483 hours (adjusted for burden attributable to compliance with other Federal regulations and burden that overlaps with State-level response planning requirements).¹ The total burden is estimated to result in approximately \$10,065 in capital costs and \$48,049,502 in total costs (including labor costs associated with facility and contractor personnel). EPA does not anticipate that FRP facilities will incur operating and maintenance (O&M) costs, since there are no anticipated substantive costs associated with hard copy or electronic document storage.

¹ See section 6(d) for further details.

2. NEED FOR AND USE OF THE COLLECTION

2.a) Need/Authority for the Collection

In 1990, Congress enacted the Oil Pollution Act (OPA, Public Law 101-380) to help prevent major oil spills and ensure efficient, effective responses to spills when they occur. OPA contained significant modifications to many provisions of section 311 of the Clean Water Act (CWA). OPA section 4202(a)(6) added CWA section 311(j)(5) to require the owner or operator of a facility to prepare and submit “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...” This requirement applied to any onshore facility that, “because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.”² Certain offshore facilities are also affected by the OPA amendments to the CWA.

EPA incorporated CWA facility response planning requirements into an existing regulation, 40 CFR part 112 as §§112.20 and 112.21 and Appendices C through F on July 1, 1994 (see 59 FR 34070). Subparts A through C of the regulation establishes procedures for the preparation and implementation of SPCC Plans to help “minimize the potential for oil discharges.” Owners and operators of a subset of facilities that meet the FRP applicability criteria must also prepare FRPs. EPA amended the FRP rule on June 30, 2000, to modify the requirements for an owner or operator of a facility storing, processing, refining, or transferring animal fat or vegetable oil (see 65 FR 40775).

The FRP requirements enhance EPA’s ability to protect navigable waters, adjoining shorelines, fish and wildlife, and sensitive environments when oil discharges occur and reduce the cost of oil discharges to the regulated community and society. Response planning efforts reduce such costs by ensuring that discharges are controlled and cleaned up quickly and efficiently. Facilities that are prepared to respond to an oil discharge to navigable waters are more effective in containing the oil and mitigating the effects of a spill on the environment. A 2007 GAO report emphasized the importance of preparedness by noting that the effectiveness of spill response preparedness can impact the cost of spill cleanup: “The longer it takes to assemble and conduct the spill response, the more likely it is that the oil

² The President has delegated the authority to regulate non-transportation-related onshore facilities under sections 311(j)(1)(C) and 311(j)(5) of the CWA to EPA. (See Executive Order (E.O.) 12777, section 2(b)(1), 56 FR 54757 (October 22, 1991), superseding E.O. 11735, 38 FR 21243.) By this same E.O., the President has delegated similar authority over transportation-related onshore facilities, deepwater ports, and vessels to the U.S. Department of Transportation (DOT), and authority over other offshore facilities, including associated pipelines, to the U.S. Department of the Interior (DOI). A 1994 Memorandum of Understanding (MOU) among EPA, DOI, and DOT has redelegated the responsibility to regulate certain offshore facilities located in and along the Great Lakes, rivers, coastal wetlands, and the Gulf Coast barrier islands from DOI to EPA. Coast Guard vessels and marine transportation-related facility activities have been moved to the Department of Homeland Security (DHS).

will move with changing tides and currents and affect a greater area, which can increase costs. Some officials also stated that the level of experience of those involved in the incident command is critical to the effectiveness of spill response, and they can greatly affect spill costs. For example, poor decision making during a spill response could lead to the deployment of unnecessary response equipment, or worse, not enough equipment to respond to a spill."³

Per 40 CFR part 112.20(f)(1), facilities are determined to be substantial harm facilities if one or both of the following criteria are met:

- (1) The facility has a total oil storage capacity greater than or equal to 42,000 gallons and transfers oil over water to or from vessels.
- (2) The facility's total oil storage capacity is greater than or equal to 1 million gallons, and any of the following is true:
 - The facility lacks adequate secondary containment for any aboveground storage tank area.
 - The facility is located at a distance (as calculated using the appropriate formula in Appendix C of 40 CFR part 112 or a comparable formula) such that a discharge from the facility could cause injury to fish and wildlife and sensitive environments, as described in Appendices I, II, and III of the Department of Commerce's "Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments" (59 FR 14713, March 29, 1994) and the applicable Area Contingency Plan (ACP).
 - The facility is located at a distance (as calculated using the appropriate formula in Appendix C of 40 CFR part 112 or a comparable formula) such that a discharge from the facility would shut down a public drinking water intake.
 - The facility has experienced a reportable oil spill in an amount greater than or equal to 10,000 gallons within the last five years.

Under the FRP rule, the Agency requires the preparation and submittal of facility-specific response plans by substantial harm facilities. EPA reviews these plans to determine if the facility could cause significant and substantial harm by discharging oil into or on navigable waters or adjoining shorelines per 40 CFR part 112.20(f)(3). If a facility is deemed a significant and substantial harm facility, then the FRP is subject to approval and periodic review.

2.b) Practical Utility/Users of the Data

The FRP facility owners and operators are the primary users of the data collected under this ICR. Facility-specific FRPs help facility owners and operators develop an internal response organization and

³ GAO report number GAO-07-1085: "Maritime Transportation: Major Oil Spills Occur Infrequently, but Risks to the Federal Oil Spill Fund Remain", September 7, 2007, page 27.

identify the necessary resources, either internal or external (or both) to adequately respond to an oil spill in a timely manner. FRPs must include: 1) identification of small, medium and worst case discharge scenarios and strategies to respond to each scenario; 2) development of a hazard evaluation and a vulnerability analysis that addresses affected fish and wildlife and sensitive environments as well as affected residential areas, businesses, hospitals, and transportation routes; and identification and provision of resources necessary to respond to each scenario per Appendix E of 40 CFR part 112. Appendix F contains a model FRP that lists the minimum essential elements for a compliant FRP.

EPA reviews all FRPs submitted under 40 CFR part 112. Additionally, EPA reviews *and approves* response plans for those facilities whose discharges may cause significant and substantial harm to the environment in order to ensure that facilities believed to pose the highest risk have adequate resources and procedures in place to respond to a spill. EPA may also use the facility-specific information provided in the response plans to update ACPs as required by the CWA. Certain plan information, such as provisions for adequate response capability to respond to a worst case discharge, help inform EPA and other government agencies about the distribution of personnel and equipment of the spill response industry to evaluate private-sector oil spill response capacity.

Regional, State, and local response authorities also benefit from information contained in FRPs. The CWA requires that FRPs be consistent with the requirements of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and applicable ACPs. Area Committees, which are established by CWA section 1321, make use of the FRPs in preparing and updating ACPs. Local Emergency Planning Committees (LEPCs) under the direction of the State Emergency Planning Committee (SEPCs) also use facility-specific information to help develop local contingency plans required under SARA Title III Community Right-to-Know provisions. The rule requires that a planholder provide a copy of the FRP to the LEPC or SEPC, if requested. This information allows local and regional response authorities to better understand the potential hazards and response capabilities in their area to improve preparedness.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3.a) Nonduplication

A substantial number of facilities that handle, store, or transport hazardous substances are subject to emergency planning requirements under the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Occupational Safety and

Health Act (OSHA), other Federal statutes, and state requirements. FRPs are intended to supplement, not duplicate, these other plans by focusing on oil. EPA coordinated with USCG, DOT, and DOI throughout the 1994 and 2000 rulemakings to promote consistency with response plan requirements mandated by other Federal agencies. EPA continues to coordinate with these agencies through participation in an interagency workgroup on the National Preparedness for Response Exercise Program (PREP) as well as participation in area exercises that involve FRP planholders to improve preparedness.

EPA is committed to minimizing regulatory overlap and allows facility owners and operators to build upon, or draw from, the format and content of other response plans to develop their FRPs under 40 CFR part 112. For example, owners and operators of onshore facilities that have both transportation-related and non-transportation-related components (i.e., complex facilities) are permitted to prepare one response plan with separate sections that address each component. Integrated Contingency Plans (ICPs) prepared in accordance with the notice published on June 5, 1996 provide an acceptable format for such consolidation (see 61 FR 28642). Owners or operators of facilities that are subject to more than one CWA jurisdiction, for example transportation-related and non-transportation related onshore facilities that are part of the same complex, may satisfy all requirements by submitting a copy of the ICP to each program in the agency that has review authority for specific regulations. In addition to related federal planning requirements, numerous States and the District of Columbia have regulations that require varying degrees of response planning. Because EPA is flexible on the format of the required FRPs, owners or operators of certain facilities may be able to modify versions of their existing FRPs to comply with the FRP rule. However, if another response plan is used, it must meet the requirements of the FRP rule and must be cross-referenced to the format included in Appendix F to 40 CFR part 112, and include a self-contained Emergency Response Action Plan (ERAP).

3.b) Public Notice Required to Prior Submission to OMB

Pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), EPA notified the public in a *Federal Register* notice of this renewal ICR (see 83 FR 1238, March 21, 2018) and solicited public comment concerning the burden estimates for respondents. EPA requested comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. EPA received 27 comments posted to Docket ID No. EPA-HQ-OLEM-2018-0105. Twenty-six comments were outside the scope of this ICR renewal. One commenter requested that EPA enact the FRP regulation; EPA does not intend to amend the FRP regulation at this time. EPA received one substantive inquiry during the comment period which resulted in a comment submission after the comment period closed. The commenter requested that EPA clarify whether public drinking water wells are included in

the reference to public drinking water intakes in Section 4(b)(ii) of this supporting statement; this clarification was included.

3.c) Consultations

Under 5 CFR 1320.8(d)(1), OMB requires agencies to consult with potential ICR respondents and data users about specific aspects of the ICRs before submitting an original or renewal ICR to OMB for review and approval. EPA did not pursue consultations with interested parties during the development of the renewal of this collection.

3.d) Effects of Less Frequent Collection

Initial FRP preparation and submission is a one-time event. After FRPs are prepared and submitted to EPA, CWA section 311 requires that they be reviewed periodically and be consistent with the applicable ACP and NCP. Per 40 CFR part 112.20(g)(2), a planholder is required to review the NCP and the applicable ACP annually and revise their FRP to ensure consistency. Additionally, a planholder must resubmit revised portions of the plan to EPA after each material change that could affect the response to a worst case discharge of oil within 60 days. Examples of material changes include: changes in the amount or location of oil storage; changes in the facility's spill prevention and response equipment and capabilities; changes in the capabilities of any contracted oil spill removal organizations response equipment and personnel that affect their ability to respond as per the plan; and other changes that could materially affect the implementation of the plan. Additionally, 40 CFR part 112.20(g)(3) requires the planholder to review and update their FRP periodically to reflect changes at the facility. Less frequent collection of this information would not meet statutory and regulatory requirements and could affect a facility owner's or operator's ability to respond appropriately to a worst case discharge of oil.

3.e) General Guidelines

The information collection activities discussed in this ICR comply with Paperwork Reduction Act regulatory guidelines (5 CFR 1320.6), with the exception that the retention period for records extends beyond three years. According to 40 CFR 112.20(h)(8), planholders are required to retain records of training, drills/exercises, and inspections, and per Appendix F, Section 1.8.1, these records must be maintained for a period of five years. For facilities classified as significant and substantial harm facilities, the EPA Regional Administrator (RA) reviews and approves these plans, and then periodically reviews these plans on a schedule established by the RA, provided that the period between plan reviews does not exceed five years [see 40 CFR part 112.20(c)(4)]. Therefore, the records related to this information collection must be retained for at least five years.

Certain FRP facilities must meet the response planning requirements of two or more federal agencies (i.e., complex facilities), because they engage in activities that fall under the jurisdiction of those agencies. If a facility owner or operator is required to submit an FRP to fulfill EPA requirements and the requirements of another agency, this plan would be subject to the inspection and exercise requirements of both agencies. For example, a plan that fulfills both the EPA's FRP requirements and the USCG's response planning requirements would be subject to Coast Guard review. In an effort to maintain consistency with the USCG requirements, EPA generally plans periodic reviews on a schedule similar to the USCG's five-year review. Therefore, as indicated above, the records related to this information collection must be retained for at least five years. Additionally, EPA Regions routinely coordinate with their respective USCG sectors to ensure that facilities are not subjected to duplicative inspections or exercises.

3.f) Confidentiality

None of the information collected under the FRP rule is believed to be confidential. One of the criteria necessary for information to be classified as confidential (40 CFR 2.208) is that a business must show that it has previously taken reasonable measures to protect the confidentiality of the information and that it intends to continue to take such measures. EPA has provided no assurances of confidentiality to facility owners or operators when they file their FRPs.

3.g) Sensitive Questions

The information collection activities discussed in this document do not involve any sensitive questions.

4. THE RESPONDENTS AND THE CHANGE IN INFORMATION REQUESTED

4.a) Respondents/NAICS Codes

The industries that are likely to be affected by the requirements in the FRP regulation fall into many North American Industry Classification System (NAICS) categories, including those associated with petroleum production, processing (refining), distribution and marketing, and consumption as well as animal fat and vegetable oil processing, distribution and marketing.

The FRP rule requires that all SPCC-regulated facility representatives conduct an initial screen using the flowchart (Attachment C-I) in Appendix C of 40 CFR part 112 as a guide to determine whether their facility is subject to the FRP requirements. EPA has found that only a small percentage of the

approximately 18,500 new facilities that EPA estimates become regulated under the SPCC rule each year may meet the screening criteria and as a result must develop an FRP. The six industrial categories containing the greatest number of respondents required to develop and submit an FRP to EPA are presented in Exhibit 1. The estimate of the total number of facility representatives required to prepare response plans is presented in section 6(a).

EXHIBIT 1
Primary Industry Sectors and NAICS Codes
Covered by the FRP Regulation

CATEGORY	NAICS Codes
Petroleum and Petroleum Products Wholesalers	4227
Electric Power Generation, Transmission, and Distribution	2211
Petroleum and coal products manufacturing	3241
Other Commercial Facilities	miscellaneous
Heating Oil Dealers	454311
Manufacturing	31-33

4.b) Information Requested

(i) Data Items, Including Recordkeeping Requirements

Facilities that could cause substantial harm to the environment as a result of a discharge of oil must prepare and submit response plans. As required by section 311(j)(5)(D) of the CWA, the response plan shall:

- Be consistent with the requirements of the NCP and ACPs.
- Identify the qualified individual (QI) having full authority to implement removal actions and require immediate communications with Federal officials and other response personnel.
- Identify, and ensure by contract or other means, private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of such a discharge.
- Describe the training, equipment testing, periodic unannounced drills, and response actions of persons at the facility under the plan.
- Be updated periodically.
- Be resubmitted for approval for each significant change.

In order to fulfill the above requirements, the regulation requires that the response plan include, amongst other information, the following elements per 40 CFR part 112.20(h):

- An emergency response action plan (ERAP) that consists of the information most pertinent to conducting an actual response, such as contact and equipment lists [§112.20(h)(1)].
- Information about the facility's location, owner, operator, and qualified individual having full authority to implement removal actions [§112.20(h)(2)].
- Information about emergency response, including: notification procedures, equipment, personnel, evacuation plans, and duties of the qualified individual [§112.20(h)(3)].
- Evidence of availability of private personnel and equipment necessary to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of such a discharge [§112.20(h)(3)(i) and (ii)].
- An evaluation of potential oil spill hazards at the facility [§112.20(h)(4)].
- A discussion of specific oil spill scenarios and the steps facility personnel would follow to mitigate and respond to the spill described in each scenario [§112.20(h)(5)].
- Descriptions of the discharge detection systems, human or automated, in use at the facility [§112.20(h)(6)].
- Information on plan implementation, including response actions to be carried out by facility or contracted personnel, disposal plans for contaminated cleanup materials, and measures to provide adequate containment and drainage of spilled oil [§112.20(h)(7)].
- Information on facility self-inspection, drills/exercises, and response training, including descriptions of training and drill/exercise programs and documentation of tank inspections, equipment inspections, training meetings, training sessions, and drills/exercises [§112.20(h)(8)].
- Diagrams, including the site plan and the drainage plan [§112.20(h)(9)].
- A description of facility security systems [§112.20(h)(10)].
- Response plan cover sheet with certification that submitted information is true, accurate and complete [§112.20(h)(11)].

EPA included a model response plan in Appendix F to 40 CFR part 112 that discusses the above required elements in more detail. The model response plan was developed with the input of EPA's On-Scene Coordinators (OSCs) and others actively engaged in oil spill response and covers elements judged critical to an effective response. The model response plan was based on Hazardous Materials Emergency Planning Guides NRT-1 and NRT-1A and the Handbook of Chemical Hazardous and Analysis

Procedures. The model plan provides a depiction of the level of detail and organization for an effective FRP and provides sufficient flexibility to include certain items that are required by the CWA as amended by the OPA, the Oil Pollution Prevention regulation, and other Federal regulations. As noted, certain facilities may be regulated by more than one Federal agency (i.e., USCG and EPA). As discussed in section 3(a), owners or operators may avoid duplicating the work required under other regulations by preparing one response plan that covers the entire facility and includes a cross-reference that illustrates which sections meet the regulatory requirements of each agency.

(ii) *Respondent Activities*

As discussed, owners or operators of all facilities subject to the Oil Pollution Prevention regulation must determine whether their facility meets the substantial harm criteria by reviewing the flowchart in Attachment C-I in 40 CFR part 112, Appendix C. This flowchart helps guide owners or operators of facilities to complete the substantial harm certification form, Attachment C-II, provided in Appendix C to 40 CFR part 112. For facilities that are not required to prepare an FRP, this form is required to be maintained in the SPCC plan.

Owners or operators of facilities that do meet the substantial harm criteria must complete Attachment C-II and then prepare and submit a response plan, which involves the following steps:

- Understanding the rule by reading and interpreting the rule, as well as reviewing available guidance on preparing response plans;
- Collecting the required information to complete the required elements, including: calculating a volume of the worst case discharge and a planning distance for discharged oil downstream of the facility; completing a hazard evaluation and vulnerability analysis; developing spill scenarios; consulting the applicable area contingency plan; and ensuring the capability to respond to a worst case discharge;
- Completing the response plan in a format consistent with the model plan included in Appendix F of 40 CFR part 112 to complete the response plan;
- Submitting the response plan to EPA and correcting any identified plan deficiencies;
- Implementing the response plan, including a personnel training and drill/exercise program per the response plan;
- Reviewing and updating the response plan periodically; and
- Maintaining the required records for five years.

In preparing an FRP, facility personnel must gather background information such as the location, quantities, and types of oil stored, a geographic description of the site (maps, schematic diagrams, and latitude and longitude), dates and types of substantial expansions, and location of wellhead protection areas. A wellhead protection area includes surface and subsurface water wells or wellheads; the owner/operator is required to identify these areas that could be impacted by an oil discharge that is reasonably likely to move toward and reach a water well or wellfield. Much of this information should already exist in the facility's SPCC Plan. Such information will be used in the development of oil discharge hazard assessments and response strategies. The FRP must include a discussion of oil discharge detection and notification procedures at the facility as well as a list of facility-owned response equipment. The facility owner/operator is required by OPA and the FRP regulation to designate a QI who will have full authority to implement response actions and commit company resources to respond to a worst case discharge of oil; QI contact information must be provided in the FRP. Roles and responsibilities of other members of the response team or incident management team (both facility responders and outside parties) must also be clearly established. A facility owner or operator typically enters into an arrangement with an outside response contractor or multiple contractors to meet the required response resource requirements outlined in 40 CFR part 112, Appendix E. Each contractor's role during a spill response must be identified.

As discussed, the facility owner or operator must perform a hazard evaluation, which involves identifying potential hazards based on facility-specific information, and must determine the vulnerability of fish and wildlife and sensitive environments (as defined in 40 CFR part 112.2) and water intakes (drinking, cooling or other) as well as surrounding residential and business/medical areas plus transportation routes given the hazards, and assessing the risk of an oil discharge. The results of the hazard evaluation and vulnerability analysis will then be used to inform the response actions to the identified oil discharge scenarios (small, medium and worst case discharge scenarios). For the worst case scenario, the facility owner or operator is required to calculate the volume of a worst case discharge in accordance with 40 CFR part 112, Appendix D and identify the means to implement an effective response to this discharge planning level as well as the small and medium discharge planning levels per 40 CFR part 112, Appendix E. All aspects of the planned response must be included in the FRP, including containment, countermeasures, and mitigation procedures for the identified incidents, and provisions for proper cleanup and disposal of contaminated material. The FRP is typically a written document sent to EPA and also kept at the facility. Once a plan is developed, it must be exercised on a regular basis through a facility program of self-inspections, drills or exercises, and personnel training that follows PREP or an equivalent approved by EPA [see 40 CFR part 112.21(c)]. For more information on

PREP, see <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/2016-national-preparedness-response-exercise>.

5. THE INFORMATION COLLECTED - AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5.a) Agency Activities

Agency activities related to review of submitted FRPs are as follows:

- Log submitted response plans into a national tracking database, send postcards, emails or letters acknowledging receipt, and store the plans at Regional offices.
- Review the FRPs to identify any deficiencies and to determine whether the facility warrants a “substantial harm” or a “significant and substantial harm” designation. Notify owner/operators of significant and substantial harm facilities of this determination.
- Review all submitted response plans and provide a list of deficiencies to those facility owners and operators whose plans do not meet the regulatory requirements.
- Approve response plans for significant and substantial harm facilities and notify facilities of plan approval. Periodically review response plans for these facilities.
- Inspect or exercise these facilities periodically to verify compliance. The exercise is unannounced and designed to evaluate the planholder’s ability to respond to a small discharge scenario identified in the response plan. Bring non-compliant facilities into compliance.

5.b) Collection Methodology and Management

As noted, the primary beneficiaries of the FRP’s are the facility owners or operators. EPA estimates that representatives from 99.5 percent of SPCC-regulated facilities have determined that their facility “could not reasonably be expected to cause substantial harm” based on the criteria outlined in the flowchart in Attachment C-I of 40 CFR part 112. Consequently, the owners or operators of these facilities do not need to prepare and submit response plans. On average, the owners or operators of an estimated 18,500 newly SPCC-regulated facilities will be required to perform the initial screening process using the above-referenced flowchart each year. Of these newly regulated SPCC facilities, approximately 49 (or approximately 0.3 percent of 18,500) facilities are expected to meet the substantial harm criteria and be required to prepare and submit an FRP.

FRPs, submitted by the owners or operators who determined that their facilities meet the substantial harm criteria, are sent to the appropriate EPA Regional office for Agency review. A copy of the FRP is kept at the facility to be used in the event of an oil spill response or drill.

All submitted FRPs are reviewed by the EPA Regional office. FRPs for facilities that meet the significant and substantial harm criteria must be approved by the EPA Regional office. The response plan review and approval process is directed by EPA's RAs based on national criteria and local conditions and considerations. EPA regional offices notify each owner or operator directly of the status of the facility's response plan (i.e., approved or deficient). For deficient response plans (both substantial harm plans and significant and substantial harm plans), a list of the deficiencies is sent to the facility to be addressed. The status of all FRPs (compliant for substantial harm plans or approved for significant and substantial harm plans) is tracked by each EPA Regional office.

5.c) Small Entity Flexibility

Based on the Regulatory Flexibility Analysis presented in the Regulatory Impact Analysis to the 1994 FRP rulemaking, small facilities generally do not meet the substantial harm criteria and, therefore, generally are not required to prepare and submit response plans, except at the discretion of the RA [see 40 CFR part 112.20(b)(1)].

5.d) Collection Schedule

The FRP regulation currently does not require a specific collection schedule. Preparation and submission of FRPs by owners or operators of facilities that have the potential to cause substantial harm is a one-time event. However, facility owners or operators are required to review and update their FRPs periodically to reflect changes at the facility. Certain facility changes that materially affect the response to a worst case discharge require revisions to the response plan and resubmittal of the affected sections to EPA for review and incorporation into the FRPs on file with the Agency. The Agency reviews all plans and plan revisions when they are submitted and periodically reviews plans for significant and substantial harm facilities.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6.a) Respondent Burden

This section presents estimates of the burden respondents incur when they undertake the information collection activities contained in the FRP rule. The burden to regulated facilities is estimated in terms of the time (in hours) spent by facility personnel to review the FRP regulation and complete a

certification form or to prepare an FRP and maintain the plan on an annual basis. Data from EPA regional offices were used to determine the number of facilities that are currently subject to the FRP requirements as well as estimates for facilities that are expected to meet the substantial harm screening criteria over the three-year ICR period.

As section 3(c) explains, the current ICR, which expires on August 31, 2018, estimates the time it takes owners or operators of facilities to complete the compliance activities based on consultations with facility engineers familiar with Oil Pollution Prevention program, and EPA Regional staff involved in the implementation of the program. Interviews conducted to support the ICR approved in 2011 revealed that burden estimates were comparable (within the same order of magnitude) as estimated in the prior renewal in 2008. Consultations conducted in 2011 did not reveal any significant sources of new burden not captured in prior ICR renewal requests (such as unaccounted for recordkeeping costs or other time-consuming tasks associated with FRP regulatory compliance). EPA recognizes that the information from interviews with a limited number of individuals is not statistically representative of the burden experienced by all FRP facilities. Nevertheless, the results of the consultations conducted in 2007 and in 2011 suggest that EPA's burden estimates appear to adequately capture industry practices. Therefore, this renewal ICR does not change the hour or capital cost burden estimates used in the prior ICR renewal request.

Classification of Respondent Facilities Subject to the Information Collection

FRP-regulated facilities are a subset of the SPCC facility universe. As required by the FRP rule, owners or operators of facilities that are not subject to the rule are required to complete and maintain the Attachment C-II form in Appendix C. Owners or operators that are subject to the rule are required to prepare and submit FRPs to EPA and maintain these plans. The regulatory criteria for a facility to be considered a substantial harm facility and thus subject to the rule were discussed in Section 2(a). Because the costs of compliance activities associated with FRPs depend largely on the physical and operating characteristics of the facility, the 2011 FRP renewal ICR supporting statement included burden and cost estimates based on a representative facility approach that classifies facilities by size (storage capacity in gallons) and facility type. This ICR renewal supporting statement follows the same approach. Three FRP facility size categories were defined as follows:

- Facilities having total storage capacity greater than 1,320 gallons, but less than 42,000 gallons.
- Facilities having total storage capacity greater than or equal to 42,000 gallons, but less than one million gallons.

- Facilities having total storage capacity equal to or greater than one million gallons.

Because FRP regulations apply only to facilities with an oil storage capacity of 42,000 gallons or greater and transfer oil over water to or from vessels, or to facilities with a storage capacity of one million gallons or greater (and meeting one or more of the substantial harm factors), or, the FRP burden analysis of preparing, submitting and maintaining FRPs only considers facilities in the second and third facility categories.

The FRP facility type categories were based on how oil is used at the facility. Facilities were classified as using oil in one of three ways:

- Storage/consumption facilities: consumption of oil as a raw material or end-use product
- Storage/distribution facilities: marketing and distribution of oil as a wholesale or retail product
- Production facilities: extracting oil from the ground as part of exploration or production activities

Based on these size and type characteristics, a total of six FRP model facilities were defined.

For purposes of this burden analysis, the universe of regulated facilities is also divided into existing and new facilities, to reflect the differences in compliance activities among these two groups. Existing FRP-regulated facilities include facilities that initiated operations prior to this ICR renewal request. This analysis focuses on existing facilities for which owners or operators have prepared FRPs and are assumed to have incurred burden and costs associated with the initially preparing and submitting their FRPs, but are expected to incur annual maintenance burden and costs including occasional major revisions.⁴ New FRP facilities include those facilities that will initiate operations during the ICR approval period or prepare an FRP for the first time. New facility owners or operators are required to review the FRP rule, make a determination, and complete the Attachment C-II certification only or prepare and submit an FRP. New facility owners or operators required to prepare FRPs will incur first-year burden for plan preparation and submission as well as subsequent-year burden for maintaining FRPs.

Based on EPA's internal oil database that includes information provided by EPA's Regional offices, the current inventory of FRP-subject facilities that have submitted and are currently maintaining an FRP as of January 2018 is approximately 3,803 facilities nationally, inclusive of governmental facilities. Information available about individual planholders shows that 81 FRP facilities were owned

⁴ Note that facilities may downsize their oil storage capacity and effectively "drop-out" of the FRP regulations. EPA does not attempt to characterize the number of existing facilities that will downsize over this renewal ICR period.

and operated by the federal government (e.g., military installations). These federal facilities are excluded from the burden estimate analysis given that they are not considered “persons” under the Paperwork Reduction Act. In the last ICR renewal, EPA accounted for modest growth in the FRP universe (about 102 new FRP facilities each year) and estimated the plan holder universe would be 4,454 facilities by the end of 2016. This estimate represents approximately 0.5 percent of new facilities subject to the SPCC regulation annually. The remaining 99.5 percent of the estimated number of new SPCC facilities (18,444 facilities) would only complete a certification form (Attachment C-II in Appendix C of 40 CFR part 112), because they do not meet the substantial harm criteria.

The burden analysis for this ICR renewal uses 3,722 planholders (3,803 total plan holder universe less 81 governmental plan holders) as the number of existing non-governmental facilities that are maintaining an FRP as of January 2018. This number represents less than one percent of the estimate of facilities regulated under the SPCC rule (540,000 facilities).⁵ Using annual industry-specific growth rates, EPA estimates that approximately 18,496 new SPCC facilities per year are not subject to FRP requirements and will complete the Attachment C-II certification form indicating that they are not substantial harm facilities, EPA estimates the total number of respondents (as a three-year average) to be 22,274, of which 3,746 (3,734 plus 12 from Exhibit 15) facilities are FRP-regulated and 18,528 facilities are not subject to FRP requirements. The Agency identified state and local government owned entities based on the facility description available for individual FRP holders. As a result, EPA estimates approximately 22,209 private and 65 state/local respondents.

Exhibit 2 provides estimates of the number of existing and new facilities subject to FRP requirements over the three-year period covered by the ICR. Exhibit 3 presents the distribution of regulated facilities by category. The number of facilities in each cross-tabulated category reflects the estimated total number of existing facilities, apportioned to each category based on assumptions used in prior ICRs regarding the proportions of facilities within each industry sector and size category within the overall universe of facilities as well as facility-level data as of January 2018 in EPA’s internal oil database.

⁵ Based on latest SPCC ICR Renewal, EPA ICR No. 0328.17, OMB No. 2050-0021, June 2016.

EXHIBIT 2
Estimate of Existing and New Facilities Subject
to the FRP Rule¹

Facility Type/ Year	FRP Facilities
Year 1 (2018)	
Existing Facilities	3,722
New Facilities ²	12
Year 2 (2019)	
Existing Facilities	3,734
New Facilities ²	12
Year 3 (2020)	
Existing Facilities	3,746
New Facilities ²	12

¹ Numbers exclude 81 facilities owned and operated by the Federal government.

² The number of new facilities or existing facilities newly subject to the FRP regulations.

Source: EPA inventory of FRP facilities compiled from regional data.

EXHIBIT 3
Number of Facilities By Category Subject to the FRP Requirements by the end of 2018

MODEL FACILITY CATEGORY	FACILITY SIZE			TOTAL ²
	SMALL ¹	MEDIUM	LARGE	
Storage/Consumption	0	118	1,301	1,419
Storage/Distribution	0	225	1,725	1,950
Production	0	351	14	365
TOTAL	0	694	3,040	3,734

¹ EPA assumes that no small facilities currently regulated under 40 CFR part 112 are affected by response planning requirements.

² The total includes facilities existing at the start of 2018 and facilities that become FRP-regulated over the course of the year (3,722 + 12 = 3,734 end of year total as presented in Exhibit 2).

Source: EPA inventory of FRP facilities compiled from regional data.

Estimated Annual Burden per Respondent

The owners or operators of all SPCC-regulated facilities must determine whether they are subject to FRP requirements based on the substantial harm flowchart presented in Attachment C-I in Appendix C to 40 CFR part 112. EPA assumes that the owners or operators of all existing SPCC-regulated facilities have completed the screening and that only new facilities will need to review the substantial harm

flowchart and completed the certification form, Attachment C-II in Appendix C. Owners or operators at facilities that meet the substantial harm criteria will need to prepare and submit FRPs. Facility owners or operators that already have prepared an FRP will be required to maintain their plans.

The total burden of the information collection on the regulated community is determined by combining average per-facility (“unit”) burden estimated for each facility category with the total number of affected facilities in that category. Unit burdens are based on estimates of the labor required to adequately perform the necessary activities. Unit burden estimates include facility personnel in the following labor categories: management, technical, clerical, foreman, and laborer.

As discussed previously, EPA assumes that the owners or operators of all new SPCC-regulated facilities will only review the substantial harm flowchart to determine and certify that they are not subject to the requirements of the FRP rule. Unit burden estimates for these new facilities not subject to the FRP regulation are presented in Exhibit 4 for small, medium, and large facilities. Owners or operators of SPCC-regulated facilities that are not required to prepare a response plan will have a minimal rule familiarization burden since the information considered in the flowchart is readily available in the facility’s SPCC Plan. Owners or operators of facilities that fall below the two total oil storage capacity substantial harm thresholds (i.e., below 42,000 gallons and facility transfers oil over water to and from vessels, or below 1 million gallons and facility does not transfer oil over water to and from vessels) will need only to review the flowchart and prepare a certification form, requiring, on average, an estimated 15 minutes of management time.⁶ The certification form will be retained at the facility with the SPCC Plan. Owners or operators of larger facilities that have an aggregate oil storage capacity of 42,000 gallons or more and transfer oil over water to and from a vessel or an aggregate oil storage capacity of one million gallons or more in oil storage capacity will have to examine the substantial harm factors in greater detail to make the determination of whether they need to prepare an FRP; this determination is estimated to require 1.5 and 6.5 hours, respectively.

For new FRP-subject facilities, unit burden and cost estimates for preparing FRPs are based on a model-facility approach. The response plan requirements include both a first-year burden to prepare the plan and a smaller, subsequent-year burden to maintain the plan. Response plans must ensure that facility owners or operators have the equipment, personnel, information, and procedures needed to respond to a worst-case oil discharge as well as small and medium oil discharges. Compliance activities to prepare the FRP consist of personnel time to collect and organize information about the facility and its operations; develop scenarios and response strategies; and implement the measures described in the plan. In subsequent years for plan maintenance, owners or operators of facilities may need update the response

⁶ EPA views this burden estimate, which was used in the 2011 renewal ICR supporting statement, to be reasonable.

plan to reflect changes at the facility and are required to keep logs of response training and exercises and records of inspections of secondary containment, containers, and facility-owned response equipment. EPA assumes that the owners or operators of existing facilities currently subject to FRP rule requirements have already developed FRPs (i.e., they have already incurred the initial burden of plan preparation) and are now maintaining those plans, since the majority of facilities were in existence prior to August 30, 1994 (effective date of the FRP rule) or July 31, 2000 for facilities storing, processing, or transferring animal fats and/or vegetable oils.

EPA estimates that owners and operators of 3,722 existing facilities will be required to maintain FRPs as of the start of 2018 (see Exhibit 2). EPA estimates that owners or operators of an additional 36 facilities will be required to develop and maintain plans over a three-year period ending December 2020, mainly due to the identification of facilities by EPA that meet the substantial harm criteria, but have not filed an FRP with EPA. Unit burden and cost estimates for plan development and maintenance (unadjusted for overlap with other Federal and State requirements) are shown in Exhibits 5 and 6 for new and existing facilities, respectively.

The first-year burdens of a new substantial harm facility for rule familiarization and preparation of an FRP are shown in Exhibit 5 for facilities in each of the six model facility categories. EPA estimates that a consumption, distribution, or production facility with between 42,000 gallons and less than one million gallons in oil storage capacity (and which transfers oil over water to and from vessels) will need 429, 476, or 378 hours of labor (including facility and contractor labor), respectively, to prepare an FRP. EPA assumes that response planning for a consumption, distribution, or production facility with one million gallons or more in total oil storage capacity (and that meets one or more of the substantial harm factors) will require 842, 991, or 746 hours, respectively.

The subsequent-year burdens for existing substantial harm facilities for plan maintenance are shown in Exhibit 6 for each of the five model facility categories (medium and large consumption and distribution facilities; medium production facilities). EPA estimates that a consumption, distribution, or production facility with between 42,000 gallons and less than one million gallons in oil storage capacity will need 54, 55, or 54 hours of labor, respectively, to maintain an FRP. EPA assumes that response planning for a consumption, distribution, or production facility with one million gallons or more in oil storage capacity will require 154, 171, or 154 hours, respectively. These labor-hour estimates include facility and contractor labor hours.

EXHIBIT 4

Burdens and Costs of Rule Familiarization and Certification for SPCC Facilities Not Required to Prepare FRPs

Size Category of Facility	Hours Required to Read Rule, Make Determination, and Complete Certification				Unit Cost	Number of Facilities				Total Burden (hours)	Total Cost
	Management	Technical	Clerical	Total		Year 1	Year 2	Year 3	3-Year Total		
Small	0.25	0	0	0.25	\$17	13,485	16,015	19,593	49,093	12,273	\$842,909
Medium	1	0	0.5	1.5	\$79	1,698	2,017	2,469	6,184	9,275	\$489,474
Large	2	4	0.5	6.5	\$347	83	100	124	307	1,995	\$106,527
TOTAL						15,266	18,132	22,186	55,584	23,543	\$1,438,910

Note: Annualized total burden of 23,543 hours = 7,848 hours (for Exhibit 15)

EXHIBIT 5

Estimated Total Burden and Total Cost for New Facilities Required to Prepare FRPs

Size	Model Facility Category	Unit Burden (hours)	Facility Labor Cost	O&M Costs	Capital Cost	Total Unit Cost	Number of Facilities			Total Burden (hours)	Total O&M Costs	Total Capital Cost	Total Cost
							Year 1	Year 2	Year 3				
Medium	Consumption	429	\$20,261	\$0	\$245	\$20,866	2	2	2	2,576 ¹	\$0.00	\$1,470	\$125,194
	Distribution	476	\$23,020	\$0	\$250	\$23,270	2	2	2	2,855	\$0.00	\$1,500	\$139,621
	Production	378	\$18,180	\$0	\$240	\$18,420	1	1	1	1,135	\$0.00	\$720	\$55,259
Large	Consumption	842	\$39,777	\$0	\$452	\$40,299	3	3	3	7,576	\$0.00	\$4,068	\$362,060
	Distribution	991	\$47,271	\$0	\$463	\$47,734	3	3	3	8,917	\$0.00	\$4,167	\$429,605
	Production	746	\$35,202	\$0	\$443	\$35,645	1	1	1	2,237	\$0.00	\$1,328	\$106,936
TOTAL							12	12	12	25,294	\$0.00	\$13,253	\$1,218,674

¹ Values presented in this table and other tables of this document are calculated based on the estimated number of facilities and burden hours, before rounding. Values in the tables, however, show rounded results. Estimating the total burden using rounded values presented in the table may not correspond to the total reported.

EXHIBIT 6

Estimated Burden and Unit Cost for Existing Facilities Required to Maintain FRPs

Size	Model Facility Category	Unit Burden (hours)	Facility Labor Cost	O&M Costs	Capital Cost	Total Unit Cost	Number of Facilities			Total Burden (hours)	Total O&M Costs	Total Capital Cost	Total Cost
							Year 1	Year 2	Year 3				
Medium	Consumption	54	\$2,372	\$0	\$0	\$2,372	116	118	120	19,145	\$0.00	\$0.00	\$840,844
	Distribution	55	\$2,421	\$0	\$0	\$2,421	223	225	227	37,169	\$0.00	\$0.00	\$1,636,419
	Production	54	\$2,372	\$0	\$0	\$2,372	350	351	352	56,862	\$0.00	\$0.00	\$2,497,346
Large	Consumption	154	\$6,367	\$0	\$0	\$6,367	1,297	1,300	1,303	600,824	\$0.00	\$0.00	\$24,840,007
	Distribution	171	\$7,193	\$0	\$0	\$7,193	1,721	1,724	1,727	884,668	\$0.00	\$0.00	\$37,215,370
	Production	154	\$6,367	\$0	\$0	\$6,367	13	14	15	6,652	\$0.00	\$0.00	\$275,033
TOTAL							3,722	3,734	3,746	1,605,321	\$0.00	\$0.00	\$67,305,020

6.b) Estimating Respondent Costs

(i) Estimating Facility Labor Costs

To determine the per-facility costs for typical new and existing respondents in each size category, the unit time estimates for compliance activities are multiplied by the hourly wage rates for the appropriate categories of labor conducting these activities. The labor wage rates for private industry were derived from the May 2013 U.S. Department of Labor’s Employment Cost Indexes and Levels.⁷ The 2013 wage rates include wages and salaries; benefit costs, including paid leave, supplemental pay, insurance, retirement and savings, legally required benefits, severance pay, and supplemental unemployment benefits. These wage rates reflect private industry averages, which were estimated by the Bureau of Labor Statistics (BLS) based on a survey of 35,600 occupations within 8,200 establishments in the private sector. These wage rates reflect industry averages, which may under- or overestimate the actual wages received by some FRP regulated facility personnel. EPA further adjusted these rates to reflect overhead costs of 17 percent.⁸ Average wage rates could underestimate the actual wage rates received by some FRP-regulated facility personnel, but may overestimate the actual wage rate received by other facility personnel. The estimated wage rates used in this analysis are:

(ii) Facility Total Compensation Hourly Wage Rates

Management:	\$68.68
Technical:	\$49.80
Clerical:	\$20.95
Foreman:	\$35.86
Laborer:	\$33.43

Multiplying these wage rates by the corresponding unit time estimates yields the total facility labor unit cost for each facility in each model category presented in Exhibits 4, 5, and 6.

The BLS data provides generally accepted information on industry base wage rates and fringe benefits. Overhead rates can be calculated using various formulas. The reasons for using a 17 percent overhead rate are described in Footnote Error: Reference source not found. EPA has also evaluated the

⁷ United States Department of Labor, Bureau of Labor Statistics, Employer Costs for Employee Compensation, May 2016.

⁸ Overhead costs were computed separately from BLS data and were assumed to be an additional 17 percent of the total wage rate, which is composed of direct wages and salaries and employee benefits, as reported by BLS.

impact of alternative overhead loading rate assumptions on the total costs of this ICR. Specifically, EPA considered recommendations in an EPA document entitled *Estimating Costs for the Economic Benefits of RCRA Noncompliance* (September 1997). This document suggests that labor overhead and profit can be estimated at 50 to 100 percent of the base salary and fringe benefit costs. EPA estimated that raising the overhead rate to 50 percent would increase the wages listed above by 28 percent. If a 100-percent overhead rate were used, these wages would increase by 71 percent. The 50 percent and 100 percent alternatives may be high because the rates include profit as well as overhead. Nevertheless, EPA reports the impact of these alternative rates in section 6(d), under the discussion of total respondent costs.

(iii) *Estimating Costs of Operating and Maintenance (O&M)*

In prior ICR renewal requests, EPA assumed that O&M costs were negligible, as was confirmed by consultations with facility representatives in prior ICR renewals, which indicated that planholders incurred no additional cost due to hard copy storage (e.g., in existing file cabinets) or electronic storage (e.g., on a facility's computer network). This renewal ICR assumes O&M costs continue to be negligible.

(iv) *Estimating Capital/Startup Costs*

In addition to labor costs, facilities are expected to incur additional capital costs and direct costs including expenses for telephone calls, postage, photocopying, and other direct costs for FRP preparation. These costs are one-time startup costs required to prepare and submit an FRP, and as such are included with capital costs. Costs vary by model facility category and are also presented in Exhibits 5 and 6. The estimated capital costs to maintain FRPs are negligible.

Adding O&M costs and capital costs to the labor costs for facility personnel yields the total annual compliance cost per model facility, as presented in Exhibits 5 and 6. As shown in Exhibit 5, preparation of an FRP for a consumption, distribution, or production facility with an aggregate oil storage capacity between 42,000 gallons and less than one million gallons in total oil storage capacity is expected to cost \$8,196, \$9,085, or \$7,178, respectively. EPA estimates that the total cost to a consumption/production or distribution/production facility having an aggregate oil storage capacity of one million gallons or greater in total oil storage capacity will be \$16,217, \$18,472, or \$14,342,

respectively.⁹ As shown in Exhibit 6, EPA estimates the cost for maintaining plans at smaller capacity facilities to be \$2,372, \$2,421, or \$2,372 annually, and for the larger capacity facilities \$6,367, \$7,193, or \$6,367, annually.

6.c) Estimating Agency Burden and Costs

This section summarizes the estimated burden and cost of the revised ICR to the Agency. Burden estimates are based on input from EPA regional staff involved directly with the implementation of 40 CFR part 112. EPA will incur burdens and costs to receive, process, review, and approve submitted response plans. The number of response plans for existing facilities at the end of the last ICR renewal period (2016) was estimated to be 4,535 (all planholders); however, EPA has updated the active plan holder universe as of January 2018 to be 3,803 (all plan holders). Processing submitted FRPs includes entering information into EPA's tracking system, filing the plan for review or for use during an unannounced exercise, and review for required elements per Appendix F. EPA must also approve plans from facilities which are deemed as of significant and substantial harm facilities per 40 CFR part 112.20(f)(3).

Exhibit 7 shows the unit burden and labor cost to EPA for processing FRPs and for reviewing for approval response plans. Based on program experience, processing submitted plans is estimated to consist of approximately 20 minutes of technical time. A substantial amount of government resources is required to comprehensively evaluate the adequacy of each response plan submitted by a facility representative.¹⁰ Program staff estimate that reviewing and approving a response plan, including a site visit when necessary, requires 38 hours of technical EPA staff time and two hours of management time.

For this revised ICR, Agency labor costs are based on the 2018 General Schedule (GS) pay schedule. EPA estimates an average hourly labor cost (labor plus overhead) of \$66.90 for managerial staff (GS-13, Step-5), and \$46.90 for technical staff (GS-11, Step-5). To derive hourly estimates, EPA divided annual compensation estimates by 2,080, which is the number of hours in the Federal work year. EPA then multiplied hourly rates by the standard government overhead factor of 1.6. Unit costs are unit time estimates multiplied by the hourly labor rates for EPA personnel. For example, the labor burden to

⁹ These estimates include the burden of copying and submitting a plan to EPA. EPA estimated burden time required to reproduce the Plan and submit it to EPA at one-half hour of clerical and one-half hour of managerial time. Source: Regulatory Impact Analysis of proposed revisions to the Oil Pollution Prevention Regulation (40 CFR Part 112), February 1993. Additionally, EPA assumed that an owner/operator of an average medium size facility spends approximately \$50 on compiling, copying, and postage fees and that the owner/operator of an average large size facility spends about \$100. Source: Facility Response Plans: Information Collection Request Burden Study. December 2003.

¹⁰ For previous ICRs, a survey of EPA regional offices was conducted to estimate the average burden (per plan) required to receive, process, review, and approve submitted response plans.

EPA for review and approval of each FRP is estimated to require one hour of management time (1 hour x \$66.90/hour) and 40 hours of technical time (40 hours x \$46.90/hour = \$1,876) for a total of 41 hours per plan at a cost of approximately \$1,942.90 each.¹¹

EXHIBIT 7
Estimated Unit Burden and Cost to EPA (2018)

ACTIVITY	UNIT BURDEN (hours)				UNIT COST
	Managerial	Technical	Clerical	Total	
Process and Store Submitted Response Plans	0	0.5	0	1.5	\$23
Review and Approve Response Plans	1	40	0	42	\$1,945

6.d) Estimating the Respondent Universe and Total Burden and Costs

(i) Estimated Total Annual Burden and Costs for All Respondents

The total burden of the information collection is the combined total burdens of rule familiarization, completion of the substantial harm certification form, and development and submittal of the FRP. Total burden is calculated by multiplying unit burden estimates by the number of facilities affected. Total cost is derived in a similar manner.

The total burden and costs associated with the development of FRPs shown in Exhibits 5 and 6 must be adjusted to reflect both prior compliance with similar State regulations, since data collection efforts for compliance with similar State regulations may be useful in developing an FRP. Numerous States have regulations requiring varying degrees of response planning. To the extent that these response plan requirements overlap with EPA’s FRP rule provisions, facility owners or operators may use the information already prepared for the State in their FRPs. Consequently, facility owners or operators that already have prepared response plans under State regulations may not incur all costs and burdens estimated in Exhibits 5 and 6. State regulations vary significantly both in terms of the level of response planning required and the type of facilities covered. EPA evaluated the extent of commonality between State response planning requirements and those in the FRP rule to arrive at an estimated adjustment of 14 percent for State-related burden overlap.

In addition, certain facility owners or operators may be required to prepare response plans pursuant to the regulations of more than one Federal agency as a result of the nature of their facilities. The owners or operators of these jointly regulated facilities are likely to prepare one response plan that

¹¹ A fraction of these plans will be judged inadequate and require revision before being approved. The estimated cost to EPA reflects this possibility.

fulfills the requirements of all Federal response planning regulations affecting them. Certain response planning activities and sections of the plan will be the same under all regulations and therefore, the costs associated with these activities are appropriately considered shared costs and are not attributed to any single regulation. For purposes of this ICR revision, the total burden and costs have been adjusted to reflect that only one-half of all shared costs are attributed to EPA’s FRP rule.

(ii) Adjustment to Reflect Overlap with Other Federal Requirements

It is estimated that based on the presence of other Federal requirements, the following percentages of response planning burdens, by model facility category, are not attributable to the FRP rule:¹²

FIRST YEAR

Medium consumption	0.0%
Medium distribution	18.4%
Medium production	12.5%
Large consumption/production	0.0%
Large distribution/production	23.4%

SUBSEQUENT YEARS

Medium consumption	0.0%
Medium distribution	44.5%
Medium production	24.9%
Large consumption	0.0%
Large distribution	32.6%

The burdens and costs to facility owners or operators that prepare and maintain FRPs (presented in Exhibits 5 and 6) were adjusted to reflect State or other Federal requirements to obtain the estimates presented in Exhibits 8 and 9. Percentage reductions were applied for prior State compliance and overlapping Federal regulations, as appropriate, for each model facility category. For example, the total burden to prepare an FRP for a production facility having between 42,000 gallons and less than one million gallons (medium category) in total oil storage capacity, which is 145.25 hours, was adjusted by

¹² The methodologies for determining the extent of overlap with other Federal regulations as well as the percentage of prior compliance with State regulations are described in more detail in Chapter 4 of the Regulatory Impact Analysis supporting the 1994 FRP final rule.

24.7 percent [$1 - (1 - 0.14)(1 - 0.125)$ where (1-0.14) accounts for the state-related burden overlap of 14 percent discussed in Section 6(d)(i) and (1-0.125) accounts for the overlap with other federal requirements as listed above, yielding an adjusted burden of 109.4 hours]. Adjustment factors for other model facility categories were similarly calculated using the 14 percent state-related burden overlap and the estimated burden overlap with other federal requirement listed above for each facility category.

The total burden and O&M and capital costs to the entire regulated community are presented in Exhibit 10. The burdens and costs over three years are taken from Exhibits 4, 8, and 9. The total adjusted burden on the regulated community over three years is estimated to be 1,148,047 hours. The total adjusted O&M costs for the three-year period is \$0 and the total adjusted capital cost is \$10,065 (see Exhibit 10).

EXHIBIT 8

Adjusted Burden and Unit Cost for New Facilities Required to Prepare FRPs¹

Size	Model Facility Category	Adjusted Unit Burden (hours)	Facility Labor Cost	O&M Costs	Capital Cost	Total Unit Cost	Number of Facilities			Total Burden (hours)	Total O&M Costs	Total Capital Costs	Total Cost
							Year 1	Year 2	Year 3				
Medium	Consumption	369	\$17,734	\$0	\$211	\$17,944	2	2	2	2,215	\$0	\$1,264	\$107,667
	Distribution	334	\$16,160	\$0	\$176	\$16,336	2	2	2	2,004	\$0	\$1,053	\$98,014
	Production	285	\$13,689	\$0	\$181	\$13,870	1	1	1	854	\$0	\$542	\$41,610
Large	Consumption	724	\$34,208	\$0	\$389	\$34,597	3	3	3	6,515	\$0	\$3,498	\$311,372
	Distribution	653	\$31,152	\$0	\$305	\$31,457	3	3	3	5,876	\$0	\$2,746	\$283,110
	Production	539	\$25,461	\$0	\$320	\$25,782	1	1	1	1,618	\$0	\$961	\$77,345
TOTAL							12	12	12	19,082	\$0	\$10,065	\$919,117

Note: Annualized total burden of 19,082 hours = 6,361 hours (for Exhibit 15)

¹ Burdens and costs are adjusted to reflect prior compliance with State Regulations and overlapping Federal regulations (see Section 6(d)(ii)).

EXHIBIT 9

Adjusted Burden and Unit Cost for Existing Facilities Required to Maintain FRPs¹

Size	Model Facility Category	Adjusted Unit Burden (hours)	Facility Labor Cost	O&M Costs	Capital Cost	Total Unit Cost	Number of Facilities			Total Burden (hours)	Total O&M Costs	Total Capital Costs	Total Cost
							Year 1	Year 2	Year 3				
Medium	Consumption	46	\$2,040	\$0	\$0	\$2,040	116	118	120	16,465	\$0	\$0	\$723,126
	Distribution	26	\$1,155	\$0	\$0	\$1,155	223	225	227	17,730	\$0	\$0	\$780,572
	Production	35	\$1,532	\$0	\$0	\$1,532	350	351	352	36,733	\$0	\$0	\$1,613,285
Large	Consumption	132	\$5,475	\$0	\$0	\$5,475	1,297	1,300	1,303	516,709	\$0	\$0	\$21,362,406
	Distribution	99	\$4,172	\$0	\$0	\$4,172	1,721	1,724	1,727	513,107	\$0	\$0	\$21,584,915
	Production	108	\$4,477	\$0	\$0	\$4,477	13	14	15	4,677	\$0	\$0	\$193,382
TOTAL							3,722	3,734	3,746	1,105,421	\$0	\$0	\$46,257,687

Note: Annualized burden of 1,105,421 hours = 368,474 hours (for Exhibit 15)

¹ Burden and costs are adjusted to reflect prior compliance with State Regulations and overlapping Federal regulations. (See Section 6(d)(ii))

EXHIBIT 10

Total Burden and Costs Over Three Years

Activity	YEAR 1			YEAR 2			YEAR 3			TOTAL		
	Burden (hours)	O&M Cost	Capital Cost	Burden (hours)	O&M Cost	Capital Cost	Burden (hours)	O&M Cost	Capital Cost	Burden (hours)	O&M Cost	Capital Cost
Certification ¹	6,458	\$0	\$0	7,679	\$0	\$0	9,407	\$0	\$0	23,544	\$0	\$0
Preparation	6,361	\$0	\$3,355	6,361	\$0	\$3,355	6,361	\$0	\$3,355	19,082	\$0	\$10,065
Maintenance	367,490	\$0	\$0	368,474	\$0	\$0	369,457	\$0	\$0	1,105,421	\$0	\$0
TOTAL	380,309	\$0	\$3,355	382,514	\$0	\$3,355	385,225	\$0	\$3,355	1,148,047	\$0	\$10,065

Note: Annualized total burden of 1,148,047 hours = 382,682 hours (for Exhibit 15).

¹According to 40 CFR 112, Appendix C, Section 3.0, owners or operators of facilities that do not meet the “substantial harm” criteria must complete and maintain at the facility the certification form provided in Appendix C to 40 CFR part 112, Attachment C-II.

EPA also calculated costs based on alternative overhead loading rates on wages. Exhibit 11 shows a comparison of the annualized total cost for the rule using the selected 17 percent overhead loading rate on wages and costs based on two alternative overhead loading rate assumptions: 50 percent (Alternative 1) and 100 percent (Alternative 2). Alternative 1 yields 28 percent higher total costs, while Alternative 2 increases total costs by 71 percent.

EXHIBIT 11
Alternative Total Cost Measures

	Labor	Capital	O&M	Total
17% Overhead	\$16,201,883	\$3,355	\$0	\$16,205,238
50% Overhead	\$20,738,410	\$3,355	\$0	\$20,741,765
100% Overhead	\$27,705,220	\$3,355	\$0	\$27,708,575

(iii) *Estimated Total Annual Burden and Cost to EPA*

The total annual burden and cost to EPA are presented in Exhibit 12. Total burden and costs are determined by multiplying the unit burden and cost to EPA for each activity (see Exhibit 7) by the number of plans processed, reviewed, and approved (shown in the second column in Exhibit 12). EPA assumes it will receive on average of approximately 12 new FRPs each year. EPA estimates that the burden and cost for processing new FRPs will be approximately 6 hours and \$282 in labor costs per year. EPA also estimates that the burden and cost of reviewing the new FRPs of substantial harm facilities, as well as reviewing and approving the new FRPs of significant and substantial harm facilities, will average approximately 492 hours and \$23,334 in labor costs per year.

EPA will also incur costs in subsequent years to review and approve response plans from facilities that undertake a major modification to their FRP.¹³ For example, EPA estimates that of the 3,803 existing facilities with FRPs, approximately 20% or about 744 planholders will amend their FRPs triggering the need for EPA review and approval.¹⁴ The annualized burden and cost to review and approve existing response plans are estimated to be 30,613 hours and \$1,451,906 in labor costs.

Total cost to EPA for processing, reviewing, and approving new and existing plans are estimated at 93,334 hours and \$4,426,566 in labor costs over three years. There are no significant capital or O&M

¹³ Actions such as personnel or title changes, phone number or contact address changes are not considered major modifications and do not require further EPA review.

¹⁴ EPA believes this is a conservative estimate of the number of facilities in a region with a large number of facilities that undergo a major FRP modification. Some regional EPA personnel have stated that the owners or operators of as few as 5% of facilities in their region undertake a major FRP modification annually, while others in regions with fewer facilities or different types of facilities stated that approximately half of the FRP revisions over a seven-month period could be considered major.

costs to the Agency for this ICR. The annualized burden and cost to EPA over three years are 31,111 hours and \$1,475,522.

EXHIBIT 12
Estimated Total Burdens and Costs to EPA

ACTIVITY	YEAR ONE			YEAR TWO			YEAR THREE			TOTAL		
	Number of Plans	Burden (Hours)	Cost	Number of Plans	Burden (Hours)	Cost	Number of Plans	Burden (Hours)	Cost	Burden (Hours)	Cost	Annualized Cost
Process and Store Newly Submitted Response Plans	12	6	\$282	12	6	\$282	12	6	\$282	18	\$845	\$282
Review and Approve New Response Plans	12	492	\$23,334	12	492	\$23,334	12	492	\$23,334	1,476	\$70,003	\$23,334
Review and Approve Existing Response Plans	744	30,504	\$1,446,721	747	30,627	\$1,452,554	749	30,709	\$1,456,443	91,840	\$4,355,719	\$1,451,906 (on 30,613 hrs)
Total	756	31,102	\$1,470,337	759	31,125	\$1,476,170	761	31,207	\$1,480,059	93,334	\$4,426,566	\$1,475,522 (on 31,111 hrs)

Source: EPA regional personnel estimate.

6.e) Bottom Line Burden and Cost Tables

Exhibit 10 summarizes the total estimated burden hours and cost incurred by all respondents (existing and new facilities) to comply with the FRP information collection requirements. The estimated burden hour and costs incurred by EPA are summarized in Exhibit 12. Exhibit 13 below summarizes the total burden and cost incurred by both respondent facilities and government. The average annual burden to respondents is 382,682 hours, there are no annualized O&M costs, and the annualized capital cost is \$3,355.

**EXHIBIT 13
Total Burden and Cost Estimates**

	Facilities			EPA		Total	
	Burden (hours)	Non-Labor Total Cost		Burden (hours)	Total Non-Labor Cost	Burden (hours)	Total Non-Labor Cost
		O&M Cost	Capital Cost				
Year 1	380,309	\$0.00	\$3,355	31,002	\$0.00	411,311	\$3,355
Year 2	382,514	\$0.00	\$3,355	31,125	\$0.00	413,639	\$3,355
Year 3	385,225	\$0.00	\$3,355	31,207	\$0.00	416,432	\$3,355
Total	1,148,047	\$0	\$10,065	93,334	\$0.00	1,241,381	\$10,065
Annualized for respondents	382,682		\$3,355				

6.f) Reasons for the Change in Burden

Differences in burden and costs from the previous ICR are attributed to *adjustment* changes. Adjustments are caused by updating information (e.g., number of affected facilities, burden estimates, and labor rates) in the absence of changes to the FRP regulatory requirements. *Program changes*, burden and cost effects directly associated with revisions to the FRP rule are not applicable to this renewal ICR.

The prior ICR renewal reflected only a slight change in the number of affected facilities, as the number of planholders did not increase at the projected rate estimated over time. This current ICR renewal reflects a substantial reduction in the plan holder universe, mainly due to facility closures. A small number of owner/operators have elected to reduce storage capacities below the FRP capacity thresholds, so these facilities are no longer subject to FRP requirements.

For the prior ICR renewal, EPA estimated that the non-governmental universe would be approximately 4,535 FRP facilities at the end of 2016. The current non-governmental FRP universe is estimated to be 3,722 facilities, a reduction of 813 facilities or about 18%. In total, the burden hours presented in the last renewal ICR decreased substantially to the current OMB inventory (see Exhibit 14). The burden estimate showed an annualized decrease of 80,737 hours due to adjustments in the estimated number of affected facilities since the last ICR approval (August 12, 2015) as explained above.

EXHIBIT 14
Estimated Annualized Burden and Costs Comparison

	Annualized Burden (hours)	Annualized Capital and O&M Costs
Prior OMB Burden Inventory	455,743	\$14,763
Change in Burden	(73,061)	(\$11,408)
Current Burden Estimate	382,682	\$3,355

6.g) Burden Statement

The public reporting and recordkeeping burden to all respondents are presented in Exhibit 15. These burdens include the time required to review instructions, search existing data sources, gather and maintain the data needed, estimate the information required and complete and review the collection of information. The average public reporting and recordkeeping burdens to a newly regulated facility where the owners or operators are not required to prepare FRPs (i.e., facilities where the owner or operators certify that they do not meet the substantial harm criteria) are estimated at 0.4 hours per year. The average annual reporting and recordkeeping burdens to a newly regulated facility where the owners or operators are required to prepare FRPs (i.e., first-year costs for plan development) are estimated at 208.8 hours per year. The average annual reporting and recordkeeping burdens to a facility where the owners or operators maintain FRPs (i.e., subsequent year costs for annual plan maintenance) are estimated at 98.7 hours.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required

to respond to, a collection of information 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 chapter 15.

EXHIBIT 15

Recordkeeping and Reporting Burden for Affected Facilities

	Total Average Annual Burden (hours)	Number of Facilities per Year (Respondents)	Average Annual Burden per Respondent (hours)
Certification¹	7,848	18,528	0.4
Preparation	6,361	12	530.1
Maintenance	368,474	3,734	98.7

¹According to 40 CFR 112, Appendix C, Section 3.0, owners or operators of facilities that do not meet the “substantial harm” criteria must complete and maintain at the facility the certification form, Attachment C-II.

To receive comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA established a public docket for this ICR under Docket ID No. EPA-HQ-OLEM-2018-0105, which is available for online viewing at www.regulations.gov, or in person viewing at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA’s public docket, visit <http://www.epa.gov/dockets>.