

1 SPILL PREVENTION, CONTROL AND COUNTERMEASURE (SPCC) PLANS

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection

Spill Prevention, Control, and Countermeasure (SPCC) Plans (Renewal).
(EPA ICR No. 0328.18, OMB No. 2050-0021)

1(b) Short Characterization

The Oil Pollution Prevention regulation, 40 CFR part 112, requires and establishes procedures for the preparation and implementation of Spill Prevention, Control, and Countermeasure (SPCC) Plans. SPCC Plans help minimize the potential for oil discharges (spills) from non-transportation-related onshore and offshore facilities which, due to their location, could reasonably be expected to discharge oil in quantities that may be harmful, as described in the Discharge of Oil regulation, 40 CFR part 110, into or upon the navigable waters of the United States or adjoining shorelines.

Owners and operators of regulated facilities must prepare SPCC Plans in accordance with good engineering practices and sound industry practices. The plans either must be certified by a Professional Engineer (PE) or self-certified in the case of qualified facilities and approved by a person with the authority to commit the resources necessary to implement the SPCC Plan. SPCC Plans address the following three areas: (1) operating procedures that prevent oil spills; (2) control measures to prevent a spill from reaching navigable waters or adjoining shorelines; and (3) countermeasures to discover, contain, clean-up, and mitigate the effects of an oil discharge that could reach navigable waters. While each SPCC Plan is unique to the facility it covers, Plans must include certain standard elements to ensure compliance with the regulations.

This Information Collection Request (ICR) renewal covers all provisions of 40 CFR part 112 relating to SPCC Plans.

This supporting statement estimates paperwork-related burden for the ICR period, which covers the three-year period of 2019 through 2021. The U.S. Environmental Protection Agency (EPA) estimates that approximately 550,900 facilities will be covered by the SPCC regulations in 2019 and may incur paperwork-related burden in the first year of this ICR.¹ EPA estimates a total reporting and recordkeeping burden for all regulated facilities of approximately 6.3 million hours in each year of this ICR.

2. NEED FOR AND USE OF THE COLLECTION

¹ The paperwork burden incurred by facilities covered by the rule varies depending on whether the facility is newly regulated, or an existing facility. While new facilities will incur significant paperwork-related burden by taking certain actions in the first year of the ICR, such as preparing an SPCC Plan, existing facilities may not need to take any action other than maintain records.

2(a) Need/Authority for the Collection

Section 311(j)(1)(C) of the Federal Water Pollution Control Act (FWPCA), or Clean Water Act (CWA), authorizes the President to issue regulations establishing procedures, methods, equipment, and other requirements to prevent discharges of oil from vessels and facilities and to contain such discharges.² The President delegated the authority to regulate non-transportation-related onshore facilities under §311(j)(1)(C) of the Act to EPA under Executive Order (E.O.) 12777, §2(b)(1).³ By this same Executive Order, the President delegated authority over transportation-related onshore facilities, deep water ports, and vessels to the U.S. Department of Transportation (DOT)⁴ and authority over other offshore facilities, including associated pipelines, to the U.S. Department of the Interior (DOI). A Memorandum of Understanding (MOU), dated February 3, 1994, among EPA, DOT, and DOI, reallocated the responsibility for non-transportation-related offshore facilities that are landward of the coastline, to EPA. An earlier MOU between the Secretary of Transportation and the EPA Administrator, dated November 24, 1971 (36 FR 24080), established the definitions of non-transportation-and transportation-related facilities.

The Oil Pollution Prevention regulation, 40 CFR part 112, outlines requirements for preventing, preparing for, and responding to oil spills. The prevention part of this regulation at §112.1 through §112.12 is also known as the SPCC rule. It was originally promulgated on December 11, 1973, at 38 FR 34164, under the authority of §311(j)(1)(C) of the CWA and subsequently amended on several occasions, with the most recent amendments in April 2011 (76 FR 21652). The regulation applies to non-transportation-related onshore and offshore facilities with aboveground oil storage capacity or completely buried underground oil storage capacity greater than specified thresholds and meeting other applicability criteria (see §112.1). Regulated facilities are those which, because of their location, could reasonably be expected to discharge oil in quantities that may be harmful, as described in 40 CFR part 110, into or upon the navigable waters of the United States or adjoining shorelines.

2(b) Practical Utility/Users of the Data

EPA does not routinely collect SPCC Plans or related records from SPCC-regulated facilities, except during certain compliance monitoring activities. Preparation, implementation, and maintenance of the SPCC Plan by the facility owner or operator helps prevent oil discharges and mitigate the environmental damage caused by such discharges. The primary user of the data is the facility owner or operator, and the utility of these data is described below:

- Collecting the necessary data requires that the facility staff analyze the facility measures and procedures for preventing oil discharges, facilitating safety awareness, and promoting appropriate modifications to facility design and operations;

² 33 U.S.C. 1321(j)(1)(C).

³ 56 FR 54757 (October 22, 1991), superseding Executive Order 11735, 38 FR 21243.

⁴ Authority over transportation-related onshore facilities, deep water ports, and vessels rests with the U.S. Coast Guard, which is now part of the Department of Homeland Security.

- Having the required information in a single document promotes an efficient response in the event of a discharge;
- Implementing the Plan according to the specifications of 40 CFR part 112 requires meeting certain design and operational/industry standards that reduce the likelihood of an oil discharge;
- Keeping inspection records promotes important maintenance activities, visual inspections and facilitates discharge detection; and,
- Reviewing the Plan periodically ensures the implementation of lessons learned and more effective oil discharge prevention control technology (as technology becomes available and is demonstrated to be effective) and updates to the Plan regarding amendments that may have not been documented.

Although facility personnel are the primary users of the Plan data, EPA may use the data in certain situations. For example, as a result of typical compliance monitoring activities, an EPA Regional Administrator (RA) may require a facility owner or operator to amend an SPCC Plan if the RA finds that the facility has not met the requirements of the regulation, or if such amendment will help prevent and contain discharges of oil.

State and local governments may be users of the data. The information provided in SPCC Plans (e.g., facility configuration and potential risks) assists local emergency preparedness planning efforts and may not be available elsewhere. The Plan must include a complete discussion of conformance with applicable requirements of any applicable more stringent State rules (112.7(j)), and in the limited situations where secondary containment is impracticable (112.7(d)), include an oil spill contingency plan that follows the criteria applicable to plans developed with State, local and regional agencies under 40 CFR 109. Coordination with state governments is further facilitated by the provision in 40 CFR §112.4(c) requiring that information on certain oil discharges, which must be sent to the RA under 40 CFR §112.4(a), also be sent to the appropriate agency or agencies in charge of oil pollution control activities in the State in which the facility is located. The flexibility with respect to Plan formatting promotes greater coordination with state planning efforts by encouraging the use of plans prepared pursuant to state regulations.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Non-duplication

1 Generally, completely buried tanks are regulated either exclusively by the SPCC rule or exclusively by the Underground Storage Tank (UST) rule to minimize dual regulation. The SPCC rule accomplishes this exclusively by exempting completely buried tanks subject to all of the technical requirements of EPA's UST program (40 CFR part 280) or a state program approved under 40 CFR part 281. Due to their unique configuration, design and operational requirements, a small population of partially buried/bunkered containers associated with the Oil

Pollution Prevention regulation may have complementary requirements under the UST regulations. The SPCC provisions focus on surface water protection and the UST provisions focus on groundwater protection, as these unique container configurations (with both above and belowground portions) provide threats to both surface and groundwater.

The regulation was specifically revised and designed to allow considerable flexibility in Plan preparation, management and recordkeeping, including the use of alternative, appropriately cross-referenced, formats based on state or other federal requirements. Flexibility is also provided for facility recordkeeping practices by allowing the use of usual and customary business records to meet the SPCC recordkeeping requirements. For example, records required pursuant to the National Pollutant Discharge Elimination System (NPDES) program and American Petroleum Institute (API) or other industry standards or recommended practices may satisfy certain SPCC recordkeeping requirements. Records kept under other usual and customary business practices are also accepted for inspections, tests, and records.

3(b) Public Notice Required Prior to ICR Submission to the Office of Management and Budget (OMB)

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the Agency has notified the public of the renewal of this ICR through publication of a notice on Sept. 11, 2019 in the Federal Register (FR) (84 FR 47948). The Agency received two comments on the ICR during the 60-day comment period. Neither comment directly addressed this ICR.

3(c) Consultations

1For this ICR renewal, EPA consulted with personnel at the following companies:

1. Keitu Engineers and Consultants, Inc., Mandan, ND; Managing Director/Senior Project Engineer.
2. RSB Environmental; Houston, TX; Project Manager.
3. InterSpec; Virginia Beach, VA; President and owner.
4. ECCI; Little Rock, AR; Senior Environmental Scientist.

The PE firms EPA contacted provide services to SPCC-regulated facilities in a variety of industries, including oil production, oil storage and distribution, renewable energy, manufacturing, and farming. With a few exceptions for certain services and size categories for two of the firms, the hour burden estimates provided by the contacts are within the range of burden estimates developed by EPA. This suggests that EPA's hour burden estimates are reasonable. See Appendix A for the script that was used for the consultation calls. Notes on responses by the PE firms can be found in Part A of the Attachment to this document.

In addition, EPA identified and contacted six other firms in order to conduct consultations but was unsuccessful in completing these consultations. Two PE firms responded to initial email requests but did not participate in phone consultations. They were also sent questionnaires via email and given the option to respond by email. One of these firms is a small firm in Ohio. The other firm is a mid-size firm with nationwide offices. Two large firms based in Texas and Louisiana were contacted twice, one via email and the other via website form, but neither

responded. Two smaller firms were also contacted twice by email but never responded - one based in Pennsylvania, and the other based in multiple states. Transcripts and details of contact with each firm are provided in Parts B and C of the Attachment to this document.

3(d) Effects of Less Frequent Collection

The SPCC rule requires the development and maintenance of SPCC Plans and in certain cases PE certification of these Plans. EPA does not require the owner or operator of a regulated facility to submit his or her Plan to EPA nor is approval of the Plan required by EPA. The Plan must be available to the Regional Administrator (RA) or a delegated EPA inspector for onsite review during normal business hours. Additionally, section 112.4(a) requires that owners and operators submit certain critical information to the respective EPA regional administrator regarding facility oil storage, discharge cause, and corrective actions following an oil discharge (causing harm)⁵ of more than 1,000 U.S. gallons or two oil discharges (causing harm) of more than 42 U.S. gallons in a 12-month period. EPA personnel conducting follow-up activities, associated with compliance monitoring may request a copy of the Plan, access a copy of the Plan by visiting the facility or request the Plan by utilizing CWA section 308 authorities associated with compliance monitoring activities. Because the Rule does not contain a collection schedule, less frequent collection is not possible.

The owner or operator of a facility is required to review, evaluate and update the Plan every five years to reflect currently available and proven technology and techniques for preventing and controlling oil discharges. The owner operator is also required to amend the Plan when there is a change in the facility design, construction, operation, or maintenance that materially affects its potential for a discharge as described in §112.1(b). For Plans originally certified by a PE, these plan amendments must be newly certified by a PE. EPA's experience in administering the SPCC regulation indicates that this time frame is adequate, given the pace at which such technologies and techniques evolve. As a practical matter, this review also offers the owner or operator an opportunity to document any technical amendments that may have not be properly captured in the past five years.

3(e) General Guidelines

The information collection activities discussed in this ICR comply with the general Paperwork Reduction Act guidelines at 5 CFR 1320.5(d)(2).

3(f) Confidentiality

The data collected under this ICR is not confidential.

3(g) Sensitive Questions

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

⁵ Harm is defined in 40 CFR part 110.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/NAICS Codes

The industries that are likely to be covered by the SPCC rule fall into numerous North American Industrial Classification System (NAICS) categories, including those associated with petroleum production; non-petroleum oil storage and distribution; petroleum refining, processing, distribution, storage, and consumption; and manufacturing facilities using and storing animal fats and vegetable oils (AFVOs). Most regulated facilities fall under the industry sectors listed in Exhibit 1.

Exhibit 1
Primary Industry Sectors and NAICS Codes Covered by the SPCC Rule

Industry Category	NAICS Code(s)
1Oil and Gas Extraction	211111
Farms	111, 112
Electric Utility Plants	2211
Petroleum Refining and Related Industries	324
Chemical Manufacturing	325
Food Manufacturing	311, 312
Manufacturing Facilities Using and Storing Animal Fats and Vegetable Oils	311, 325
Metal Manufacturing	331, 332
Other Manufacturing	31-33
Real Estate Rental and Leasing	531-533
Retail Trade	441-446, 448, 451-454
Contract Construction	23
Wholesale Trade	42
Other Commercial	492, 541, 551, 561-562
Transportation	481, 483-488
Arts Entertainment & Recreation	711-713
Other Services (Except Public Administration)	811-813
Education	61
1Petroleum Bulk Stations and Terminals	4247
Hospitals & Other Health Care	621, 622
Accommodation and Food Services	721, 722
Fuel Oil Dealers	45431
Gasoline Stations	4471
Information Finance and Insurance	51, 52
Mining	212
Warehousing and Storage	493
Pipelines	4861, 48691
Government	92
Military Installations	928110
Religious Organizations	813110

4(b) Information Requested

1The primary data collection activities required by the SPCC rule are the preparation and maintenance of the SPCC Plan and inspection records and tests. In preparing a Plan, a facility owner or operator must follow the provisions outlined in the regulation and include a

discussion of the measures taken to meet the SPCC requirements. The reporting and recordkeeping requirements are listed in Exhibit 2.

Exhibit 2
Reporting and Recordkeeping Requirements for 40 CFR part 112

Citation	Reporting and/or Recordkeeping Requirement
40 CFR part 112.3 and 112.7	Prepare an SPCC Plan
40 CFR part 112.7(c) 40 CFR part 112.7(h)(1) 40 CFR part 112.8(c)(2) 40 CFR part 112.8(c)(11) 40 CFR part 112.9(c)(2) 40 CFR part 112.10(c) 40 CFR part 112.12(c)(2) and/or 112.12(c)(11)	Prepare a Contingency Plan
40 CFR 112.5(b)	Review the SPCC Plan
40 CFR 112.4(a)	Submit Information in the Event of Certain Discharges of Oil
40 CFR 112.5(a)	Revise the SPCC Plan
40 CFR 112.3 and 112.7(e)	Maintain the SPCC Plan and keep records
40 CFR 112.5(a)	Revise the SPCC Plan following a material modification of the facility

Each of these requirements in Exhibit 2 are summarized below.

1. Prepare an SPCC Plan

The owner or operator of a new non-production facility must prepare and implement an SPCC Plan in accordance with the guidelines set forth in 40 CFR part 112 before beginning operations (excluding oil production facilities). The owner or operator of a production facility has six months after beginning operations to prepare and implement an SPCC Plan.

The actual preparation of the Plan may involve several tasks, which can be conducted by the facility's technical personnel or Professional Engineers (PEs). These tasks include:

- Field investigations conducted to fully understand the design of the facility and to accurately predict the areas or equipment most likely to discharge oil (e.g., to predict the flow paths of spilled oil);
- Regulatory review conducted by management personnel, such that the technical personnel in charge of preparing the Plan are fully aware of all requirements in 40 CFR part 112;
- Review of existing procedures conducted to determine the effectiveness of the current spill prevention and control practices employed by the facility;

- Preparation of the Plan, which involves both technical and clerical time, as well as a final review by facility management personnel prior to completion (this could also be performed by an engineering firm), and includes plan amendments.

Generally, a PE must review and certify an SPCC Plan and technical amendments. Owners and operators of qualified facilities can self-certify their Plan instead of having a PE review and certify their Plan. Qualified facilities are those that have an aggregate storage capacity less than 20,000 U.S. gallons in the case of a farm or 10,000 U.S. gallons for all other types of facilities, and no discharge history. The rule sets two categories of qualified facilities: Tier I and Tier II.

Owners and operators of Tier I qualified facilities, which have no oil storage containers exceeding 5,000 U.S. gallons, can complete an SPCC Plan template (Appendix G to the 40 CFR part 112) and self-certify compliance with a set of streamlined SPCC rule requirements in lieu of preparing a full SPCC Plan. Tier I facilities cannot deviate from conditions provided in the Plan template. See §§112.7(a)(3), 112.3(g) and 112.3(d) for more details.

Owners and operators of Tier II qualified facilities (those facilities that do not meet the Tier I maximum container criterion) have the option to self-certify that their SPCC Plan complies with 40 CFR part 112 in lieu of having a PE review and certify their Plan. In some circumstances, owners and operators of Tier II qualified facilities may have a PE review and certify portions of their self-certified Plan (e.g., if they deviate from certain requirements of the SPCC rule as specified under §112.7(a)(2) or make impracticability determinations as described under §112.7(d) (see §112.6(b)(4)).

EPA estimated burden for Tier I and Tier II qualified facility Plans based on expected use of a Plan template and other streamlined requirements for these facilities. In estimating burden, EPA assumed that no Tier II qualified facilities will require section-specific PE certification of their Plan.

2. Prepare a Contingency Plan

An owner or operator who determines that secondary containment is impracticable and who has not submitted a Facility Response Plan under §112.20 must include with the SPCC Plan an oil spill contingency plan following the provisions of 40 CFR part 109, Criteria for State, Local, and Regional Oil Removal Contingency Plans⁶, and a written commitment of manpower, equipment, and materials required to expeditiously control and remove any quantity of oil that may be harmful (see §112.7(d)). EPA has provided detailed guidance on how to develop and implement a 40 CFR part 109 contingency plan⁷. The sample contingency plan is intended to provide examples of contingency planning as a reference when a facility determines that the

⁶ For more details on the contingency plan requirements, see Section 4.6.3 on p. 4-42 in SPCC guidance document,

https://www.epa.gov/sites/production/files/2014-04/documents/4_secondarycontainment_impracticability_2014.pdf.

⁷ Appendix F guidance on contingency plan,

https://www.epa.gov/sites/production/files/2014-04/documents/f_contingencyplan.pdf

required secondary containment is impracticable, pursuant to 40 CFR §112.7(d). The sample contingency plan presents a variety of scenarios for purposes of illustration only.

3. Review the SPCC Plan

An owner or operator of an SPCC-regulated facility is required to review and evaluate the facility's Plan at least once every five years. This review is expected to involve mostly technical labor hours to review spill prevention and control procedures, as well as a regulatory review involving management labor hours. Clerical hours are also used to complete necessary paperwork. An owner or operator is required to amend their SPCC Plan within six months of the review to include more effective prevention and control technology under certain conditions. Any technical amendments to the Plan must be certified prior to implementation by a licensed PE or, for qualified facilities, self-certified in accordance with §112.6(b). SPCC Plan review cost estimates are generated in this ICR for an existing facility only because a new facility that becomes operational after the beginning of the ICR-approval period will not be required to conduct its review until after the three-year period covered by this ICR.

4. Submit Information in the Event of Certain Discharges of Oil

In the event of certain discharges of oil into navigable waters⁸, a facility owner or operator must submit information described in §112.4(a) to the Regional Administrator and to the appropriate State agency within 60 days.

Submission of information after a discharge of oil requires both technical and management labor hours to collect the required information. Section 112.4(c) also requires the facility owner or operator to submit a copy of this information to the State agency with regulatory authority over the facility. The Regional Administrator may require the owner or operator of the facility to amend the SPCC Plan to prevent and contain discharges from the facility. Unless contested by the facility, amendments must become part of the Plan within 30 days. The amended Plan must then be certified by a licensed PE prior to implementation, or self-certified in the case of qualified facilities. As required by §112.4(e), amendments to the Plan must be implemented as soon as possible, but no later than six months after the amendments become part of the Plan. Section 112.4(f) allows a facility owner or operator to appeal a decision made by the Regional Administrator requiring a Plan amendment.

5. Revise the SPCC Plan

Section 112.5(a) requires the facility owner or operator to amend the facility's Plan in accordance with §112.7 whenever there is a change in the facility's design, construction, operation, or maintenance that materially affects the facility's potential to discharge oil into navigable water in harmful quantities. The activities the facility must then undertake to amend the Plan are assumed to involve technical labor hours, as well as some clerical labor. The amended Plan must then be certified prior to implementation by a licensed PE, or self-certified

⁸ These discharges are 1) A single discharge as described in §112.1(b) of more than 1,000 U.S. gallons; or 2) two or more discharges as described in §112.1(b), each more than 42 U.S. gallons.

by the appropriate facility representative in the case of qualified facilities. An amendment made under 112.5(a) must be prepared within six months, and implemented as soon as possible, but not later than six months following preparation of the amendment.

The rule was amended in 2002, in an effort to reduce the burden of the rule relative to non-technical amendments. The rule clarified, that non-technical amendments that do not materially affect the facilities potential for a discharge as described in §112.1(b) are not required to be certified by a licensed PE, or self-certified by the appropriate facility representative in the case of a self-certified plan⁹. Non-technical changes not requiring the exercise of good engineering practice do not require PE certification. Such non-technical changes include but are not limited to such items as: changes to the contact list; more stringent requirements for stormwater discharges to comply with NPDES rules; phone numbers; product changes if the new product is compatible with conditions in the existing tank and secondary containment; and, any other changes which do not materially affect the facility's potential to discharge oil. If the owner or operator is not sure whether the change is technical or non-technical, he should have it certified. This rule clarification related to nontechnical amendments reduces the burden incurred, as certification is not required

6. Maintain the SPCC Plan and keep records

Section 112.3 requires the owner or operator to maintain a copy of the SPCC Plan at the facility if the facility is normally attended for at least four hours per day or at the nearest field office if not. The Plan must be available to the Regional Administrator for review during normal working hours (§112.3(e)). In addition, a facility owner or operator is required to maintain and update Plan-specific records for a period of three years as outlined under §112.7(e). Records of inspections and tests kept under usual and customary business practices fulfill these requirements. EPA allows appropriate electronic recordkeeping to reduce costs and improve efficiency. In estimating burden, EPA assumes that Plan maintenance and recordkeeping activities involve almost entirely technical labor, although they may also require a small amount of clerical labor.

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

5(a) Agency Activities

1If an SPCC-regulated facility discharges more than 1,000 U.S. gallons of oil in a single discharge as described in §112.1(b), or discharges more than 42 U.S. gallons of oil in each of two discharges as described in §112.1(b) within any 12-month period, EPA must review the information submitted by the facility under 40 CFR 112.4(a).

EPA's inspection/compliance monitoring, enforcement, and outreach activities conducted as part of administering the SPCC program are not covered by an ICR because they are routine agency activities. Inspectors typically can request a copy of the SPCC Plan during a

⁹ For more information see 67 FR 47093, July 17, 2002,

compliance monitoring inspection. The small burden the facility incurs to provide the plan is included in the activity “Revise the SPCC Plan and Maintain Records”.

5(b) Collection Methodology and Management

SPCC Plans must be tailored to the unique characteristics of the facility. Due to the wide range of types and sizes of facilities subject to the regulation, EPA does not prescribe any standardized format in preparing and maintaining SPCC Plans or records. In fact, because of this wide variation and to reduce compliance costs, the regulation allows flexibility in Plan preparation and recordkeeping in a way that allows the use of additional, appropriately cross-referenced formats (§112.7). Greater flexibility is also provided for facility recordkeeping practices, which may potentially satisfy certain SPCC recordkeeping requirements with records kept under normal business practices, such as those required pursuant to the NPDES program and API, Steel Tank Institute (STI) or other industry standards or recommended practices.

EPA also provides the flexibility in the development of user-friendly tools for writing and maintaining SPCC Plans, provided the Plans and records continue to provide the required information and meet the administrative requirements of the SPCC rule. These include, for example, the use of electronic plan formats and recordkeeping procedures/documentation programs. Whichever medium is used, the Plan must be readily accessible to response personnel in an emergency and during normal working hours.

EPA regional offices maintain the information submitted to regional offices by email or on paper following certain reported oil discharges¹⁰. This supports ongoing program activities, such as targeting inspections, and evaluating industry trends, as well as supports response operations during oil discharges that are not covered by this ICR. However, neither EPA Headquarters nor EPA regional offices routinely collect SPCC Plans or related records from facilities, with the exception being during an inspection and related compliance monitoring activities.

5(c) Small Entity Flexibility

EPA amended the SPCC rule (40 CFR part 112) in 2002, 2006, 2008/2009 and 2011 to provide additional flexibility to the regulated community, including small entities. Some flexibilities are based on the facility’s storage capacity, e.g., *de minimis* container size of less than 55 U.S. gallons and aggregate aboveground capacity of 1,320 U.S. gallons or less of oil. Other flexibilities are based on a facility’s discharge history or the industry sector or activity conducted, e.g., farms, oil production, hot-mix asphalt facilities, facilities that produce or process animal fats and vegetable oil.

5(d) Collection Schedule

The SPCC rule does not require a specific information collection schedule. However, a facility owner or operator must prepare, amend, and implement an SPCC Plan before beginning

¹⁰ See 40 CFR §112.4 Amendment of Spill Prevention, Control, and Countermeasure Plan by Regional Administrator.

operations according to the compliance deadlines in §112.3(a) and (b). New oil production facilities must prepare and implement an SPCC plan within six months after beginning operations.

The owner or operator must review the SPCC Plan once every five years to ensure that SPCC Plans reflect currently available and proven technology and techniques for preventing and controlling oil discharges.

6. ESTIMATING BURDEN AND COST

6(a) Estimating Respondent Burden

1 To estimate the respondent burden, EPA divided regulated facilities into four size categories based on their aggregate oil storage capacity and the facility type. These size categories help to account for differences in the rule requirements and corresponding differences in the potential compliance time burden and costs incurred by facilities of different sizes. For more information, please see the 2008 RIA¹¹ and Appendix A.

6(b) 1Estimating Respondent Costs

1This section presents estimated respondent costs for facilities that are regulated by the SPCC rule. Plan preparation costs are incurred by new facilities that become subject to the SPCC rule. Plan certification costs also are incurred by new facilities unless they meet the “qualified facility” criteria. New facilities include those facilities that will initiate operations during the ICR period. EPA assumes that owners or operators of new facilities will incur the total cost of preparing a Plan and PE certification (if applicable) in their first year.

EPA assumes that one-fifth of all existing facilities will undertake a formal five-year review of their SPCC Plans annually during each year of the ICR period. In addition to Plan-related costs, owners or operators of all new and existing facilities will incur costs to prepare and maintain records.

Owners or operators of some new and existing facilities may need to submit information because of a reportable oil discharge and others may need to revise their Plan during the ICR period. Based on spill data obtained from the Emergency Response Notification System database in 2002, EPA estimated that approximately 0.15 percent of all facilities would incur costs each year due to reporting requirements related to an oil discharge (see §112.4(a)).¹² In addition, based on conversations with EPA regional personnel involved with the SPCC program, EPA estimated that approximately 10 percent of all facilities would revise their Plan each year to address requirements at §112.5(a) or (c) or §112.4(d). EPA retained these assumptions for estimating the burden for this ICR. EPA updated the costs from the 2016 ICR renewal using recent data and adjusting those values using the construction cost index, and either the employment cost index or the GDP deflator, depending on the cost component. For a detailed breakdown of the respondent costs, please see Exhibits in Appendix A.

¹¹ See rulemaking docket EPA-HQ-OPA-2007-0584.

¹² Information Collection Request for the final rule to amend the oil pollution prevention regulation (40 CFR part 112), May 2002.

6(c) Estimating Agency Burden and Costs

1EPA incurs costs associated with the evaluation of information submitted in accordance with 40 CFR §112.4, as well as consideration of appeals and extension requests. This section summarizes the estimated burden and cost of these activities to EPA. Burden estimates are based on input from EPA regional staff involved directly with the implementation of 40 CFR part 112. Exhibit 3 shows the total burden and labor cost to EPA. As described in section 6(b), EPA assumed that 0.15 percent of regulated facilities would submit information to EPA for review. The costs to EPA are not included in the calculation of total cost and burden hours for regulated entities because EPA is not considered a “person” as the term applies to regulated entities.

EPA labor costs are based on the January 2018 General Schedule (GS) pay schedule. EPA estimates an average hourly labor cost of \$41.67 for managerial staff (GS-13), and \$29.24 for technical staff (GS-11). EPA then multiplied hourly rates by the standard government overhead factor of 1.6, which resulted in adjusted rates of \$66.68 and \$46.78, respectively. Unit costs were calculated as unit burden estimates multiplied by the hourly labor rates for EPA personnel.

Exhibit 3
Estimated Annual Burden and Cost to EPA

Activity	Burden Hours				Total Costs (2018\$)
	Management	Technical	Clerical	Total	
Plan Evaluations*	825	8,254	0	9,080	\$441,209
Review of Comments	413	413	0	825	\$46,828
Consideration of Appeals	660	0	0	660	\$44,031
Total	1,898	8,667	0	10,566	\$532,067

*Plan evaluations are conducted as part of compliance monitoring activities.

Note: Costs may not total due to rounding; January 2018 OPM General Schedule.

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

EPA estimates an annual average of 550,700 respondents for the next three years of this collection. As shown in Exhibit 4, EPA estimates 550,900 respondents in 2019, 550,700 respondents in 2020, and 550,500 respondents in 2021.

11This section describes the universe of facilities subject to SPCC regulations. The SPCC rule does not include a notification requirement and, with certain exceptions, owners and operators do not submit their SPCC Plans to EPA.

EPA started from its prior estimates of the number of facilities projected to be subject to the SPCC requirements in 2016 (77 FR 74659) and adjusted the number of farm facilities that are expected to incur burden during the ICR period of 2019 through 2021 to reflect the Water

Resources Reform and Development Act (WRRDA) of 2014 and Water Infrastructure Improvements for the Nation (WIIN) Act of 2016. The Acts modified the applicability of the SPCC rule to farms in certain size categories. Specifically, EPA used data from the study conducted in response to WRRDA (*Oil Storage on U.S. Farms: Risks and Opportunities for Protecting Surface Waters*)¹³ as the basis for its estimates of the number of farm facilities with aggregate oil storage capacities between 2,500 and 6,000 U.S. gallons, between 6,000 and 20,000 U.S. gallons, and greater than 20,000 U.S. gallons. EPA distributed farms with aggregate storage capacity greater than 20,000 U.S. gallons among the size categories in proportion to the prior estimates developed for the ICR period of 2016 through 2018. For a detailed breakdown, please see Exhibits A-11 and A-12 in Appendix A.

In total, EPA estimated that an annual average of 550,700 facilities would be subject to these recordkeeping and reporting requirements. Oil production facilities (44 percent), electric utilities (12 percent), real estate rental and leasing (6 percent), and farms (4 percent), account for the majority of SPCC-regulated facilities. Petroleum bulk stations and terminals comprise one percent of SPCC-regulated facilities.

6(e) Bottom Line Burden Hours and Cost Tables

The total estimated burden hours and costs incurred by all new and existing facilities are summarized in Exhibit 4. The annual average total burden is estimated at 6.3 million hours; the annual average total cost is estimated at \$858 million. Exhibit 4 shows the burden and cost components for each year of this ICR, along with three-year total and annual costs.

Exhibit 4
Estimated Total Burden and Costs for Facilities

Year	Respondents	Total Burden (million hours)	Total Cost (2018\$, millions)		
			Labor	PE Labor ^a	Total
First	550,900	6.3	\$655	\$201	\$856
Second	550,700	6.3	\$656	\$202	\$858
Third	550,500	6.3	\$657	\$202	\$859
Three-Year Total		19.0	\$1,968	\$605	\$2,574
Annual Average	550,700	6.3	\$656	\$202	\$858

^a Note that in the previous ICR renewal, PE Labor was categorized as an O&M cost. EPA believes this cost is more accurately described as a separate labor category and has relabeled it as PE Labor. See Appendix A for further discussion.

6(f) Reasons for the Change in Burden

1 The total burden hours presented in this ICR have increased relative to the currently approved OMB inventory. The new burden estimate shows a net annual increase of

¹³ The study is available at <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations/oil-storage-us-farms-risks-and-opportunities>.

approximately 147,600 hours (two percent increase from the current inventory) due to the net change in the universe of regulated facilities after accounting for estimated changes in the numbers of existing and newly regulated facilities in the new ICR period. The universe of regulated facilities is estimated to be approximately two percent greater on average during the three years covered by this ICR renewal than the current universe.¹⁴

Exhibit 5 shows the aggregate change in burden compared to the burden estimates currently approved by OMB.¹⁵

Exhibit 5
Total Estimated Annual Burden Comparison: All Respondent Facilities

	Total Requested	Currently Approved	Change Due to EPA Discretion	Due to EPA Estimate
Annual Responses	549,785	542,100	0	7,685 ¹
Annual Hour Burden	6,327,682	6,180,100	0	147,582 ¹
Annual Cost Burden (Including PE Labor)	\$201,002,128	\$197,119,200 ²	\$0	\$3,882,900

¹Annual Responses and Annual Hour Burden values in the column, Due to EPA Estimate, do not equal the sums of these values in Exhibit A-18, Total Estimated Annual Burden and Costs Comparison: Private Facilities and Exhibit A-19, Total Estimated Annual Burden and Costs Comparison: State and Local Government Facilities in Appendix A because the Currently Approved values are rounded while Total Requested values are not. This creates a small discrepancy when the private and state and local government figures are summed, and the total is compared to the All Respondent Facilities totals in Exhibit 5.

²Currently approved cost burden was adjusted to \$2018 from the 2016 ICR, which had a total requested value of \$183,160,300 in \$2015. The value was adjusted using the Employment Cost Index with an inflation rate of 7.6 percent.

6(g) Burden Statement

The annual public reporting and record keeping burden for newly regulated facilities is estimated to range from 13 to 203 hours per facility, with an average burden of approximately 57 hours per response. The annual public reporting and recordkeeping burden for facilities already regulated by the rule is estimated to range from 4 to 39 hours, with an average burden of approximately 10 hours. This is a mandatory collection under 40 CFR 112 part 112.

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

¹⁴ Please see Section 6(d) and Appendix A, Industry Growth Rates section for more in-depth discussions.

¹⁵ For information on Private versus State and Local Government facilities, please see Exhibits in Appendix A.

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 chapter 15 of 48 CFR.

To comment on EPA'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 has established a public docket for this ICR under Docket ID Number EPA-HQ-OPA-2007-0584, which is available for online viewing at www.regulations.gov, or in person viewing at the Superfund Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Superfund Docket is (202) 566-0276. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, comments can be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OPA-2007-0584 and OMB Control Number 2050-0021 in any correspondence.