

20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or TTY, contact (202) 502-8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

**Magalie R. Salas,**  
Secretary.

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## ENVIRONMENTAL PROTECTION AGENCY

[OPA-2004-0001, FRL-7633-8]

### Agency Information Collection Activities: Proposed Collection; Comment Request; Renewal of Information Collection Request for the Implementation of the Oil Pollution Act Facility Response Plan Requirements (40 CFR Part 112); EPA ICR Number 1630.08; OMB Control Number 2050-0135

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection. This ICR is scheduled to expire on May 31, 2004. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before May 10, 2004.

**ADDRESSES:** Submit your comments, referencing docket ID number OPA-2004-0001, to EPA online using EDOCKET (our preferred method), by e-mail to [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, OSWER Docket, Mail Code 5202T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Leigh DeHaven, Office of Solid Waste and Emergency Response—OEPPR, Mail Code 5203G, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 603-9065; fax number: (703) 603-9116; e-mail address: [dehaven.leigh@epa.gov](mailto:dehaven.leigh@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has established a public docket for this ICR under Docket ID number OPA-2004-0001, which is available for public viewing at the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. 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 OSWER Docket is (202) 566-0276. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to obtain a copy of the draft collection of information, 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. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not

be available for public viewing in EDOCKET.

**Affected entities:** The owner or operator of a facility that is required to have a spill prevention control and countermeasure (SPCC) plan under the Oil Pollution Prevention regulation (40 CFR part 112) and that could cause "substantial harm" to the environment must prepare and submit to EPA a facility response plan (FRP). The criteria for a "substantial harm" facility include oil transfers over water and a total storage capacity over 42,000 gallons; or total oil storage capacity over one million gallons and insufficient secondary containment, proximity to sensitive environments, proximity to drinking water supplies, or recent large spills; or other factors considered by the Regional Administrator. (See 40 CFR 112.20(b)(1) and (f) for further information about the criteria for "substantial harm.")

The specific private industry sectors subject to this action include, but are not limited to: (1) Petroleum Bulk Stations and Terminals (NAICS 42271); (2) Electric Power Generation, Transmission, and Distribution (NAICS 2211); (3) Gasoline Stations/Automotive Rental and Leasing (NAICS 4471/5321); (4) Heating Oil Dealers (NAICS 3112); (5) Transportation, Pipelines, and Marinas (NAICS 482-486/488112-48819/4883/48849/492/71393); (6) Grain and Oilseed Milling (NAICS 3112); (7) Manufacturing (NAICS 31-33); (8) Warehousing and Storage (NAICS 493); (9) Crude Petroleum and Natural Gas Extraction (211111); (10) Mining and Heavy Construction (NAICS 2121/2123/213114/213116/234); (11) Schools (NAICS 6111-6113); (12) Hospitals (622-623); (13) Crop and Animal Production (NAICS 111-112); and (14) Other Commercial Facilities (miscellaneous).

**Title:** Renewal of Information Collection Request for the Implementation of the Oil Pollution Act Facility Response Plan Requirements (40 CFR part 112).

**Abstract:** The authority for EPA's facility response plan requirements is derived from section 311 of the Clean Water Act, as amended by the Oil Pollution Act of 1990. EPA's regulation is codified at 40 CFR 112.20 and 112.21. This information collection request renewal reflects impacts associated with a program change to the SPCC regulations since the last ICR approval (May 2, 2001). EPA issued the final SPCC regulations on July 17, 2002. Pursuant to 40 CFR 112.1(d)(6), EPA will no longer regulate wastewater treatment facilities or parts thereof (except at oil production, oil recovery,

and oil recycling facilities) used exclusively for wastewater treatment and not used to meet any other requirement of 40 CFR part 112. All facility response plan (FRP) reporting and recordkeeping activities are mandatory.

#### **Purpose of Data Collection**

A facility-specific response plan will help an owner or operator identify the necessary resources to respond to an oil spill in a timely manner. If implemented effectively, the FRP will reduce the impact and severity of oil spills and may prevent spills because of the identification of risks at the facility. Although the owner or operator is the primary data user, EPA also uses the data in certain situations to ensure that facilities comply with the regulation and to help allocate response resources. State and local governments may use the data, which are not generally available elsewhere and can greatly assist local emergency preparedness planning efforts.

EPA reviews all submitted FRPs and must approve FRPs 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 planned for adequate resources and procedures to respond to a spill. (See 40 CFR 112.20(f)(3) for further information about the criteria for "significant and substantial harm.")

#### **Response Plan Certification**

Under section 112.20(e), the owner or operator of a facility that does not meet the "substantial harm" criteria in section 112.20(f)(1) must complete and maintain at the facility the certification form contained in Appendix C to part 112.

#### **Response Plan Development**

Under section 112.20(a) or (b), the owner or operator of a facility that meets the "substantial harm" criteria in section 112.20(f)(1) must prepare and submit to the EPA Regional Administrator a facility response plan (FRP) following section 112.20(h). Such a facility may be a newly constructed facility or may be an existing facility that meets paragraph (f)(1) as a result of a planned change (paragraph (a)(2)(iii)) or an unplanned change (paragraph (a)(2)(iv)) in facility characteristics. Under paragraph (c), the owner or operator may be required to amend the FRP.

#### **Response Plan Maintenance**

Under section 112.20(g), the owner or operator must periodically review the

FRP to ensure consistency with the National Oil and Hazardous Substances Pollution Contingency Plan and Area Contingency Plans. Under section 112.20(d), the facility owner or operator must revise and resubmit revised portions of the FRP after material changes at the facility. FRP changes that do not result in a material change in response capabilities shall be provided to the Regional Administrator as they occur. Periodic drills and exercises are required to test the effectiveness of the FRP.

#### **Recordkeeping**

Under section 112.20(e), an owner or operator who determines that the requirements do not apply must certify and retain a record of this determination. An owner or operator who is subject to the requirements must keep the FRP at the facility (section 112.20(a)), keep updates to the FRP (section 112.20(d)(1) and (2)), and log activities such as discharge prevention meetings, response training, and drills and exercises (section 112.20(h)(8)(iv)).

#### **Consultations**

For the current ICR (approved on May 2, 2001), EPA relied on existing industry-related sources of burden and cost information, combined with input from EPA regional staff and best professional judgment, to estimate FRP ICR burden and unit costs. In addition, EPA undertook the collection of FRP information by contacting several regulated facilities and trade organizations representing these facilities to gather FRP ICR burden information. However, none of the facility owners and operators were willing to disclose any data, due to privacy concerns or lack of information.

The terms of clearance for the current ICR (approved on May 2, 2001) states that "[w]hen EPA resubmits the ICR for renewal, the Agency must evaluate, after consulting with respondents, the burden estimates for reporting and recordkeeping requirements." For this renewal ICR, EPA consulted with nine owners or operators of FRP facilities (of different sizes and types) to assess the reasonableness of the hour and dollar burden estimates. The interviews revealed that the burden estimates presented in the May 2001 renewal ICR and the burden estimates collected during the nine facility consultations were comparable; all were within the same order of magnitude. Further, the consultations did not reveal any information regarding significant sources of burden not captured in the May 2001 renewal ICR (such as unaccounted for recordkeeping costs or

other time-consuming tasks associated with FRP regulatory compliance). EPA recognizes that the information from the interviews with nine individuals are not statistically representative of the burden experienced by all FRP facilities. Nevertheless, the results of the consultations suggest that EPA's burden estimates adequately capture industry practices. This renewal ICR, therefore, does not change the hour or capital cost burden estimates used in the May 2001 renewal ICR.

None of the information to be gathered for this collection is believed to be confidential. 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 in 40 CFR are listed in 40 CFR part 9.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* Of the estimated 432,034 existing SPCC facilities in 2004, EPA assumes that representatives from approximately 6,158 facilities have developed and are maintaining FRPs. EPA also estimates that the annual number of new FRP facilities is approximately 66, or 1.5 percent of the number of new facilities subject to 40 CFR part 112 each year (4,420). Accordingly, EPA assumes that representatives from approximately 4,354 facilities (98.5 percent of facilities subject to 40 CFR part 112) will complete the certification from indicating that they are not "substantial harm" facilities.

The hour burden and dollar cost estimates capture the variety of facility types and sizes among those that are subject to the FRP requirements. Because the costs of compliance

activities associated with FRPs depend largely on the physical and operating characteristics of the facility, three facility size categories were defined as: Small facilities with a total storage capacity greater than 1,320 gallons, but less than or equal to 42,000 gallons; Medium facilities with a total storage capacity greater than 42,000 gallons but less than or equal to one million gallons; and Large facilities with a total storage capacity greater than one million gallons. Because FRP regulations apply to facilities with an oil storage capacity of over one million gallons, or over 42,000 gallons if the facility transfers oil over water or to and from vessels, the "small" facilities were excluded from the burden estimates. The FRP facility

type categories were based on how oil is used at a facility. Facilities were classified as using oil in one of three ways: Storage/Consumption facilities that consume oil as a raw material or end-use product; Storage/Distribution facilities market and distribute oil as a wholesale or retail product; and Production facilities pump oil from the ground as part of exploration or production activities.

The total hour burden to the entire regulated community over the three-year period covered by the renewal ICR is approximately 1,904,980 hours, or 634,994 hours annually. Exhibit 1 displays the recordkeeping and reporting burden for affected facilities. The public reporting and recordkeeping

burdens to newly regulated facilities 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 0.1 hours for recordkeeping and 0.4 hours for reporting per year. The annual reporting and recordkeeping burdens to newly regulated facilities where the owners or operators are required to prepare FRPs (*i.e.*, first-year costs for plan development) are 8.3 hours and 237 hours, respectively. The average annual reporting and recordkeeping burdens to facilities where the owners or operators maintain FRPs (*i.e.*, subsequent year costs for annual plan maintenance) are 1.2 hours and 98 hours, respectively.

EXHIBIT 1.—FRP RECORDKEEPING AND REPORTING BURDEN FOR AFFECTED FACILITIES

	Total average annual burden (hours)	Number of facilities per year (respondents)	Average annual burden per respondent (hours)
<b>FRP Certification</b>			
Recordkeeping .....	435	4,354	0.1
Reporting .....	1,813	4,354	0.4
<b>FRP Preparation</b>			
Recordkeeping .....	548	66	8.3
Reporting .....	15,658	66	237.0
<b>FRP Maintenance</b>			
Recordkeeping .....	7,469	6,224	1.2
Reporting .....	609,070	6,224	98.0

Capital costs are incurred by respondents that must prepare an FRP for the first time. The total capital cost to comply with the FRP information collection requirements is \$62,147 over the three-year period covered by the renewal ICR, or \$20,716 per year. This includes one-time start-up costs such as telephone calls, postage, photocopying, and other costs related to the preparation and submission of an FRP. O&M costs are considered to be negligible since it is expected that facility owners and operators will incur no additional costs due to hard copy storage of their FRPs (*e.g.*, placed on existing shelves or in existing file cabinets) or electronic storage (*e.g.*, saved on a facility's existing computer hard drive or network).

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.

Dated: February 26, 2004.

**Deborah Y. Dietrich,**

*Director, Office of Emergency Prevention, Preparedness & Emergency Response.*

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7633-7]

**2004 RCRA National Corrective Action Conference**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public invitation to the 2004 RCRA National Corrective Action Conference.

**SUMMARY:** Notice is hereby given of public invitation to the sessions of the forthcoming Resource Conservation and Recovery Act (RCRA) Corrective Action (CA) Conference "Moving Towards Results Based—Facility Initiated Corrective Action." This CA Conference brings together RCRA program representatives from the Environmental Protection Agency (EPA), States, Community leaders, as well as Industry representatives. This conference will explore Future Measures for Environmental Indicators for 2008 and