EXHIBIT CX 39
SPCC Renewal Information Collection Request

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 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 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 substantive 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 conform with applicable requirements of any applicable more stringent State rules (112.7(j)), and in cases where secondary containment is impracticable, 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 relevant state and local agencies. 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

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 containers associated with the Oil Pollution Prevention regulation may have complementary requirements under the USTs. 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 allows considerable flexibility in Plan preparation, managment 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 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

For this renewal, the following individuals were consulted:

Kathleen Spillman; Keitu Engineers and Consultants, Inc.; Mandan, ND
Nirav Patel; RSB Environmental; Houston, TX
Gary Boley; InterSpec; Virginia Beach, VA
Jeremy Stehle; ECCI; Little Rock, AR

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. 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 EPA 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 a second oil discharge (causing harm) of more than 42 U.S. gallons in a 12-month period. EPA personnel conducting follow-up activities 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. 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.

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,

[5] Harm is defined in 40 CFR part 110.

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)
Oil 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
Petroleum 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

Data Items, including Recordkeeping Requirements

The 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. Some key elements are highlighted below. For more detailed requirements, refer to the Oil Pollution Prevention regulation at 40 CFR part 112.

- Potential equipment failure. Where experience indicates a reasonable potential for equipment failure (e.g., tank overflow, rupture, or leakage), the Plan must include a prediction of the direction, rate of flow, and total quantity of oil that could be discharged from the facility resulting from each major type of equipment failure (§112.7(b)).

- Containment/diversion or contingency planning. Appropriate containment and/or diversion structures or equipment must be provided to prevent a discharge (see §§112.7(c), 112.7(h)(1),112.8(c)(2),112.8(c)(11),112.9(c)(2),112.10(c),112.12(c)(2), and/or 112.12(c)(11)), as applicable according to facility and oil type.

- Detailed requirements. In addition to secondary containment requirements, the Plan must include a discussion of the facility's conformance with more detailed and specific requirements, as applicable according to facility and oil type. These specific requirements are detailed in §§112.7(a),112.7(f) through (j),112.8(c)(6),112.9(c)(3) or 112.12(c)(6); and 112.9(d)(4).

- Recordkeeping requirements. Every facility owner or operator must conduct inspections and tests required by 40 CFR part 112 in accordance with written procedures in the Plan and keep a record of the inspections and tests, signed by the appropriate supervisor or inspector, with the SPCC Plan for a period of three years (§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 (see discussion under section 5(b) below).

- Reporting requirements. As the result certain oil discharges, in accordance with §112.4, the following information must be provided to the Regional Administrator and the respective State agency:

    (1) Name of the facility;
    (2) Name of the owner or operator;
    (3) Location of the facility;
    (4) Maximum storage or handling capacity of the facility and its normal daily throughput;
    (5) The corrective action or countermeasures taken, including an adequate description of equipment repairs and/or replacements;

(6) Adequate description of the facility, including maps, flow diagrams, and topographic maps;
(7) Cause(s) of the discharge, (which cause harm as described in 40 CFR part 110), including a failure analysis of the system or subsystem in which the failure occurred;
(8) Additional preventive measures taken or contemplated to minimize the possibility of recurrence; and
(9) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or discharge.

In addition, as necessary, a facility owner or operator must amend the facility's Plan following a modification in the facility's design or operations that materially affects its potential for a discharge and following the five-year review. According to the timeframes in the regulation, these amendments must also be implemented by the Plan owner or operator once the amendment has been documented.

Respondent Activities

The Oil Pollution Prevention regulation requires an owner or operator to conduct the following compliance activities:

- Prepare and implement an SPCC Plan (§§112.3 and 112.7);
- Maintain the SPCC Plan and keep records (§§112.3 and 112.7(e));
- Revise the SPCC Plan following a material modification of the facility (§112.5(a));
- Conduct periodic reviews of the SPCC Plan (§112.5(b)); and;
- For certain oil discharges, submit a report to EPA and the State Agency in charge of oil pollution control activities in the State in which the facility is located (§ 112.4(a)).

Each of these compliance activities is described briefly below:

Prepare and implement 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 EPCC Plan. The actual preparation of the Plan may involve several tasks which can be conducted by the facility's technical personnel or 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);

- A 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;

- A 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).

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.

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, as described in section 4(b)(i) of this supporting statement, a facility owner or operator is required to maintain and update Plan-specific records as outlined under §112.7(e). 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.

Submit information in the event of certain discharges of oil

In the event of certain discharges of oil into navigable waters[6], 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 collecting 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.

Revise the SPCC Plan following modification of the facility

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 in the case of qualified facilities. These amendments must be implemented as soon as possible, but not later than six months after the amendment occurs.

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.

[6] 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.

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

5(a) Agency Activities

If a 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 twelve-month period, EPA's review of the information submitted by the facility under 40 CFR 112.4(a) may include:

(1) Name of the facility;
(2) Name of the owner or operator;
(3) Location of the facility;
(4) Maximum storage or handling capacity of the facility and its normal daily throughput;
(5) The corrective action or countermeasures taken, including an adequate description of equipment repairs and/or replacements;
(6) Adequate description of the facility including maps, flow diagrams, and topographic maps;
(7) Cause(s) of the discharge, (which causes harm as described in 40 CFR part 110), including a failure analysis of the system or subsystem in which the failure occurred;
(8) Additional preventive measures taken or contemplated to minimize the possibility of recurrence; and,
(9) Such other information as the Regional Administrator may reasonably require pertinent to the Plan or discharge.

EPA's routine inspection/compliance monitoring, enforcement, and outreach activities conducted as part of administering this program are not covered by this ICR. Inspectors typically request a copy of the SPCC Plan during an 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 specific information management technique or technology in preparing and maintaining SPCC Plans or records. In fact, because of this wide variation and to reduce compliance costs, EPA employs a performance-based regulatory approach. The regulation allows flexibility with this performance-based approach 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 of a performance-based approach 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 maintains the information submitted to regional offices by facilities following certain reported oil discharges. 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, EPA does not collect SPCC Plans or related records from facilities on a routine basis, except 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 and others 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 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

To estimate the respondent burden, EPA divided regulated facilities into four size categories based on their aggregate oil storage capacity and the facility type (see Exhibit 2). 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.

Exhibit 2

SPCC-Regulated Facility Size Categories

Size Category	Aggregate Capacity*
I	Non-farm facilities: 1,321 to 10,000 U.S. gallons *Farm facilities: 2,500** to 19,999 U.S. gallons*
II	Non-farm facilities: 10,001 to 42,000 U.S. gallons *Farm facilities: 20,000 to 42,000 U.S. gallons*
III	All facilities: 42,001 to 1 million U.S. gallons
IV	All facilities: greater than 1 million U.S. gallons

* EPA included farms with aggregate capacity up to 20,000 U.S. gallons in Category I in estimating the SPCC Rule burden because these facilities are assumed to self-certify their SPCC Plan.
** This threshold is set by statute.

EPA also categorized facilities as either production (operations primarily involving oil production) or storage (all other industry groups) facilities. This reflects differences in the estimated burden of compliance activities based on the nature of the facility's operations.

Additionally, EPA categorizes facilities as either existing or new to reflect the differences in compliance activities between these two groups. For existing facilities that initiated operations prior to this ICR renewal period, EPA assumed that they have already prepared their SPCC Plans and have incurred all costs associated with initial Plan preparation and implementation. EPA assumes a portion of these facilities will incur costs to perform a five-year review, revise their SPCC Plan, submit information in the event of certain oil discharges, and maintain the Plan and keep records. New facilities will initiate operations during the ICR period and become existing facilities after their first year of operation.

For its 2008 Regulatory Impact Analysis (RIA), EPA developed a unit burden hours inventory with burden estimates for each of the SPCC rule requirements. EPA relied on those burden estimates to estimate the burden of conducting compliance activities at regulated facilities for this ICR renewal.

EPA calculated the total annual burden by summing the unit burden estimates for all compliance activities undertaken by an average facility by size and industry category. The annual burden for an average facility differs for each size category based on the assumed differences in the oil storage capacity and complexity of the facility and its operations. The estimated annual burden hours for an average respondent in each size category for existing and new facilities are presented in Exhibit 4 through Exhibit 8.

Total Annual Burden per Average Respondent Summary

EPA calculated the unit burden for each compliance activity performed by the average facility in estimating the per-respondent burden for existing and new facilities in each size category. These average per-facility burdens are shown in Exhibit 4 through Exhibit 8. To estimate the burden for each compliance activity performed by the average respondent facility in each size category under the rule, EPA summed the unit burden estimates for management, technical, and clerical personnel for each activity and then totaled the results to calculate an annual average burden for each size category of facility.

Existing facilities are those that have been in operation for longer than a year. Their burdens include activities that occur continuously, such as recordkeeping, or once every several years, such as SPCC Plan review.[7] Their estimated total annual burden for all information collection activities required by the SPCC rule are:

- Category I (Tier I): 3.5 hours per facility;
- Category I: 6.2 hours per facility;
- Category II: 11.5 hours per facility
- Category III: 19.0 hours per facility; and,
- Category IV: 38.9 hours per facility.

New facilities will initiate operations during the ICR period and become existing facilities after the first year of operation. Therefore, each year a new set of facilities would incur the burdens listed below. A typical SPCC-regulated facility would incur the burden for new facilities in Year 1 and incur the burden for existing facilities presented above in each subsequent year. Their estimated total annual burden for all information collection activities required by the SPCC rule:

- Category I (Tier I): 12.7 hours per facility;
- Category I: 51.1 hours per facility;
- Category II: 68.4 hours per facility;
- Category III: 121.3 hours per facility; and,
- Category IV: 203.6 hours per facility.

Estimated annual burdens for new facilities are higher than those for existing facilities because of the larger amount of time associated with preparing a new SPCC Plan, which could include PE certification or developing an oil spill contingency plan when necessary.

6(b) Estimating Respondent Costs

This section presents estimated respondent costs for facilities that are regulated by the SPCC rule. Plan preparation costs affect new facilities that become subject to the SPCC rule. Plan certification costs also affect new facilities unless they meet the “qualified facility” criteria.

[7] The cost estimates in the Exhibits present average annual burdens for each facility, e.g., the annual burden estimate for Plan review represents the total burden for Plan review divided by five.

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. For the 2002 rule ICR, based on spill data obtained from the Emergency Response Notification System database, 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)).[8] 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 more recent data and adjusting the 2016 ICR values using either the construction cost index, the employment cost index or the GDP deflator, depending on the cost component.

Exhibit 4 through Exhibit 8 provide average cost estimates for existing and new facilities. For existing facilities, the estimates include the following activities: five-year plan review under §112.5(b); information submission in the event of certain oil discharges under §112.4(c); Plan modification under §112.5(a) and PE certifications of any technical amendment under §112.5(c); and recordkeeping. For newly regulated facilities, paperwork-related activities include SPCC Plan preparation under §112.3(a); oil spill contingency plan preparation under §112.7(d); information submission in the event of certain oil discharges under §112.4(c); Plan modification under §112.5(a) and PE certifications of any technical amendment under §112.5(c); and recordkeeping under §112.7(e).

The option to self-certify a facility-specific SPCC Plan according to the requirements in §112.6 is available to qualified non-farm facilities with storage capacity of 10,000 U.S. gallons or less, and to qualified farm facilities with storage capacity of less than 20,000 U.S. gallons. EPA assumed that all new qualified facilities with storage capacity of 10,000 U.S. gallons or less (and all new farms with storage capacity of 20,000 U.S. gallons or less) would self-certify their Plan rather than hire a PE, and owners and operators of all existing qualified facilities would self-certify a technical amendment to their Plan.

EPA assumed that owners and operators of *all* new qualified facilities, with no single container greater than 5,000 U.S. gallons, would take advantage of the reduced requirements and complete a Tier I template to serve as the facility SPCC Plan. EPA assumed that all facilities with aggregate aboveground storage capacity of 5,000 U.S. gallons or less, and half of the facilities with between 5,001 and 10,000 U.S. gallons (up to 20,000 U.S. gallons in the case of farms), have no tank larger than 5,000 U.S. gallons and would therefore be eligible to use the Tier I template.

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

The costs presented in Exhibit 4 through Exhibit 8 represent the average costs for facilities of different sizes, accounting for the probability that certain facilities will incur those costs (e.g., five-year reviews conducted by one-fifth of existing facilities) and for the assumed overlap between federal and state requirements. Costs that facilities have a low probability of incurring (e.g., submitting information to EPA in accordance with §112.4(c)) distributed across many facilities yield only nominal per facility average costs, particularly when state overlap is taken into consideration.

The state overlap assumptions are based on research originally conducted for the 2002 SPCC rule[9] and are described in the regulatory impact analysis for the SPCC final rule. Each state has its own regulations regarding the storage, handling, and containment of oil. In some cases, the effort required by these state regulations and SPCC may be the same. Overall, in 2002 EPA found that approximately 5.9 percent of facilities are located in states with complete overlap; 5.6 percent are in states with substantial overlap; and 5.7 percent are in states with partial overlap. EPA reviewed the assumptions in 2009 as part of the regulatory analysis for the 2009 final SPCC amendments. While the overlap percentages may have changed since 2002 because of amended state regulations and EPA's 2011 SPCC amendments, EPA is not adjusting the overlap estimates and is using these same overlap assumptions for this ICR renewal.

(i) Estimating Labor Costs

To estimate the per-facility costs to develop the SPCC Plan and comply with other information collection requirements for typical new and existing respondents in each facility size category, EPA multiplied unit labor estimates for management, technical, and clerical personnel by the fully loaded hourly wage rate for each labor category. EPA then added these labor costs to capital and operating and maintenance (O&M) costs.

The labor wage rates for private industry were derived from the December 2018 U.S. Department of Labor's Employer Costs for Employee Compensation.[10] The December 2018 wage rates include wages and salaries; benefit costs, including paid leave, supplemental pay, insurance, retirement and savings, and legally required benefits. These wage rates reflect private industry averages estimated by the Bureau of Labor Statistics (BLS) and reflect industry averages, which may underestimate or overestimate the actual wages received by some SPCC regulated facility personnel. The following items are the estimated loaded wage rates used in this analysis:

- Management: $69/hour;
- Technical: $69/hour; and
- Clerical: $31/hour.

[9] U.S. Environmental Protection Agency, "Economic Analysis for the Final Revisions to the Oil Pollution Prevention Regulation (40 CFR part 112)," May 2002.

[10] United States Department of Labor, Bureau of Labor Statistics, Employer Costs for Employee Compensation, December 2018. Available at https://www.bls.gov/web/ecec/ecsuphst.pdf.

EPA further adjusted these rates to reflect overhead costs of 17 percent.[11]

- Management: $81/hour;
- Technical: $80/hour; and
- Clerical: $36/hour.

EPA assumed these labor rates would apply to all scenarios when facilities use in-house labor to satisfy requirements, such as preparing the SPCC Plan. When required or needed, EPA assumes that a portion of facilities will contract with an outside PE to develop and/or certify the Plan. A small facility might be more likely to hire outside engineers because it may not have the necessary in-house expertise. However, small facilities also may not have the resources to hire outside engineers and may be in a better position to use in-house labor because the owner may be closely involved with all operations. Similar arguments can also be made for larger facilities. Therefore, EPA assumed that 50 percent of the facilities of all size categories use in-house labor and the remaining 50 percent use outside PE labor.

EPA assumes that the cost to a facility owner or operator to retain an outside PE to certify the SPCC Plan varies by the size, complexity and location of the facility; for example, larger facility likely has a more complex SPCC Plan and Plan amendments than a smaller facility. Unless a facility meets the "qualified facility" criteria, certifying SPCC Plans and their amendments requires a PE. The fully loaded wages for PE labor used in this analysis are as follows:[12,13]

- Management: $181/hour;
- Technical: $145/hour;
- Drafter: $90/hour; and
- Clerical: $67/hour.

EPA expects some facilities will retain a PE to certify their SPCC Plans, along with any subsequent technical amendments that are made to the Plan. In certifying the Plan, the engineer attests to having examined the facility and determining that the Plan has been prepared in accordance with good engineering practices that satisfy the SPCC requirements (40 CFR part 112).

Exhibit 3 summarizes the average expected costs for facilities of different sizes for PE certification of a new Plan, as well as any subsequent amendments. The costs to certify Plan amendments are higher than for a new plan because of differences in the types of facilities and/or technical amendments that require involvement of a PE, and the relative input from facility personnel and the PE in preparing the plan or developing justifications for the technical

[11] 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. Fully loaded wage rates are rounded here to nearest dollar.
[12] Source: SCS Engineers, a professional engineering firm adjusted with BLS wage rates for December 2018 published April 2019.
[13] Values updated in 2018 using United States Department of Labor, Bureau of Labor Statistics, Employer Costs for Employee Compensation, December 2018. Available at https://www.bls.gov/web/ecec/ecsuphst.pdf.

amendments. Further, not all facilities retain a PE to certify their SPCC Plans. EPA assumes that Tier I facilities in Category I use a simplified SPCC Plan template and self-certify their Plan.

Exhibit 3

Cost of PE Certification for the SPCC Plan (2018$)[1]

Size Category	Facility Type	New Plan	Amendments
I	Storage	$2,052	$2,679
	Production	$905	$1,218
II	Storage	$3,863	$5,116
	Production	$1,810	$2,437
III	Storage	$5,673	$7,553
	Production	$3,620	$4,874
IV	Storage	$8,388	$11,306
	Production	$5,431	$7,311

Source: SCS Engineers adjusted with December 2018 BLS data.
[1] One-time compliance costs.

(ii) Estimating Capital and O&M Costs

EPA expects that facilities will incur capital and O&M costs to maintain the Plan and keep records (40 CFR 112.3 and 112.7(e)), and to submit required information in the event of certain discharges of oil (40 CFR 112.4). EPA assumes that most facilities will maintain files electronically and that paper file storage will be minimal and impose no significant incremental cost relative to existing business practices. In the event of certain discharges, the owner or operator is required to submit information to the Regional Administrator and the state agency in charge of oil pollution control activities for the area where the discharge occurs. EPA assumes that this information will be submitted electronically, at a *de minimis* cost, thus reducing facility burden.

Total Annual Cost per Average Respondent Summary

EPA calculated the unit cost for each compliance activity performed by the average facility in estimating the per-respondent costs for existing and new facilities in each size category. These average per-facility costs are shown in the right-hand columns of Exhibit 4 through 8. To estimate the cost for each compliance activity performed by the average respondent facility in each size category under the rule, EPA multiplied the unit burden estimates for management, technical, and clerical personnel by the hourly wage rate for each labor category and then added the result to the capital and O&M costs.

Existing facilities are those that have been in operation for longer than a year. Their costs include activities that occur continuously, such as recordkeeping, or once every several

years, such as SPCC Plan review.[14] Their estimated total annual costs for all information collection activities required by the SPCC rule are:

- Category I (Tier I): $312 per facility;
- Category I: $1,179 per facility;
- Category II: $1,589 per facility;
- Category III: $2,747 per facility; and,
- Category IV: $5,109 per facility.

New facilities will initiate operations during the ICR period and become existing facilities after the first year of operation. Therefore, each year a new set of facilities would incur the costs listed below. A typical SPCC-regulated facility would incur the costs for new facilities in Year 1 and incur the costs for existing facilities presented above in each subsequent year. Their estimated total annual costs for all information collection activities required by the SPCC rule:

- Category I (Tier I): $997 per facility;
- Category I: $4,936 per facility;
- Category II: $9,187 per facility;
- Category III: $16,754 per facility; and,
- Category IV: $28,739 per facility.

Estimated annual costs for new facilities are higher than those for existing facilities because of the greater expenses associated with preparing a new SPCC Plan, which could include PE certification or developing an oil spill contingency plan when necessary.

[14] The cost estimates in the Exhibits present average annual costs for each facility, e.g., the annual cost estimate for Plan review represents the total cost for Plan review divided by five.

Exhibit 4

Annual Burden and Unit Costs for All Required Information Collection Activities

Average Category I Facility (Tier I)

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan and Revise as Needed[4]	0.2	0.6	0.0	0.0	0.8	$0	$94
Submit Information in the Event of Certain Discharges of Oil[5]	0.0	0.0	0.0	0.0	0.0	$0	$0
Maintain the SPCC Plan and Keep Records	0.0	2.7	0.0	0.0	2.7	$0	$218
TOTAL	0.2	3.3	0.0	0.0	3.5	$0	$312
New Facilities[3]							
Prepare an SPCC Plan	1.0	3.0	0.0	0.0	4.0	$0	$469
Prepare a Contingency Plan	0.7	3.5	0.0	1.0	5.1	$0	$226
Submit Information in the Event of Certain Discharges of Oil[5]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.0	0.0	0.0	0.0	0.0	$0	$7
Maintain the SPCC Plan and Keep Records	0.0	3.7	0.0	0.0	3.7	$0	$294
TOTAL	1.7	10.1	0.0	1.0	12.7	$0	$997

[1] Unit burden estimates are weighted averages, rounded to the nearest tenth of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the nearest dollar.

[3] New facilities include those facilities that will initiate operations during the ICR period. This analysis assumes that new facilities become existing facilities after the first year of operation. As a result, in each year of this ICR, a different set of new facilities will become operational.

[4] The burden of reviewing and revising the SPCC Plan for a Tier I facility is assumed to be no more than that of preparing a new SPCC Plan using the Template and is assumed to occur once every five years.

[5] The unit burden for a facility that needs to submit information because of a discharge is estimated to be one hour of management labor and one hour of technical labor, resulting in a total unit cost of $138. Because only 0.15 percent of all facilities are expected to meet the discharge criteria and submit information, the average unit burden is less than 0.05 hours, and is therefore indicated here as 0. However, the actual unit burden and cost estimates are used in later calculations.

Exhibit 5
Annual Burden and Unit Costs for All Required Information Collection Activities
Average Category I Facility

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	0.4	2.8	0.0	0.4	3.5	$0	$381
Submit Information in the Event of Certain Discharges of Oil[5]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.3	1.8	0.0	0.2	0.0	$0	$580
Maintain the SPCC Plan and Keep Records	0.0	2.7	0.0	0.0	2.7	$0	$218
TOTAL	**0.7**	**7.3**	**0.0**	**0.6**	**6.2**	**$0**	**$1,179**
New Facilities[3]							
Prepare an SPCC Plan	1.8	27.0	10.0	3.6	42.4	$0	$4,409
Prepare a Contingency Plan	0.7	3.5	0.0	1.0	5.1	$0	$226
Submit Information in the Event of Certain Discharges of Oil[4]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.0	0.0	0.0	0.0	0.0	**$0**	$7
Maintain the SPCC Plan and Keep Records	0.0	3.7	0.0	0.0	3.7	$0	$294
TOTAL	**2.5**	**34.1**	**10.0**	**4.6**	**51.1**	**$0**	**$4,936**

[1] Unit burden estimates are weighted averages, rounded to the nearest tenth of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the nearest dollar.

[3] New facilities include those facilities that will initiate operations during the ICR period. This analysis assumes that new facilities become existing facilities after the first year of operation. As a result, in each year of this ICR, a different set of new facilities will become operational.

[4] The unit burden for a facility that needs to submit information because of a discharge is estimated to be one hour of management labor and one hour of technical labor, resulting in a total unit cost of $138. Because only 0.15 percent of all facilities are expected to meet the discharge criteria and submit information, the average unit burden is less than 0.05 hours, and is therefore indicated here as 0. However, the actual unit burden and cost estimates are used in later calculations.

Exhibit 6
Annual Burden and Unit Costs for All Required Information Collection Activities
Average Category II Facility

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	0.3	4.0	0.0	0.3	4.5	$0	$497
Submit Information in the Event of Certain Discharges of Oil[5]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.4	2.6	0.0	0.3	3.4	$430	$796
Maintain the SPCC Plan and Keep Records	0.0	3.7	0.0	0.0	3.7	$0	$296
TOTAL	**0.7**	**10.2**	**0.0**	**0.6**	**11.5**	**$430**	**$1,589**
New Facilities[3]							
Prepare an SPCC Plan	2.8	38.9	15.1	5.1	61.9	$2,376	$8,840
Prepare a Contingency Plan	0.7	3.5	0.0	1.0	5.1	$0	$226
Submit Information in the Event of Certain Discharges of Oil[4]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.0	0.0	0.0	0.0	0.0	$5	$9
Maintain the SPCC Plan and Keep Records	0.0	1.4	0.0	0.0	1.4	$0	$111
TOTAL	**3.5**	**43.7**	**15.1**	**6.1**	**68.4**	**$2,380**	**$9,187**

[1] Unit burden estimates are weighted averages, rounded to the nearest tenth of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.
[2] Annual costs are rounded to the nearest dollar.
[3] New facilities include those facilities that will initiate operations during the ICR period. This analysis assumes that new facilities become existing facilities after the first year of operation. As a result, in each year of this ICR, a different set of new facilities will become operational.[4] The unit burden for a facility that needs to submit information because of a discharge is estimated to be one hour of management labor and one hour of technical labor, resulting in a total unit cost of $138. Because only 0.15 percent of all facilities are expected to meet the discharge criteria and submit information, the average unit burden is less than 0.05 hours, and is therefore indicated here as 0. However, the actual unit burden and cost estimates are used in later calculations.

Exhibit 7

Annual Burden and Unit Costs for All Required Information Collection Activities

Average Category III Facility

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	0.5	7.4	0.0	0.5	8.3	$0	$920
Submit Information in the Event of Certain Discharges of Oil[5]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.8	4.8	0.0	0.6	6.2	$791	$1,468
Maintain the SPCC Plan and Keep Records	0.0	4.5	0.0	0.0	4.5	$0	$358
TOTAL	**1.3**	**16.6**	**0.0**	**1.1**	**19.0**	**$791**	**$2,747**
New Facilities[3]							
Prepare an SPCC Plan	5.5	72.7	30.0	6.0	114.2	$4,423	$16,370
Prepare a Contingency Plan	0.7	3.5	0.0	1.0	5.1	$0	$226
Submit Information in the Event of Certain Discharges of Oil[4]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.0	0.1	0.0	0.0	0.1	$0	$0
Maintain the SPCC Plan and Keep Records	0.0	2.0	0.0	0.0	2.0	$0	$157
TOTAL	**6.2**	**78.2**	**30.0**	**6.9**	**121.3**	**$4,423**	**$16,754**

[1] Unit burden estimates are weighted averages, rounded to the nearest tenth of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the nearest dollar.

[3] New facilities include those facilities that will initiate operations during the ICR period. This analysis assumes that new facilities become existing facilities after the first year of operation. As a result, in each year of this ICR, a different set of new facilities will become operational.

[4] The unit burden for a facility that needs to submit information because of a discharge is estimated to be one hour of management labor and one hour of technical labor, resulting in a total unit cost of $138. Because only 0.15 percent of all facilities are expected to meet the discharge criteria and submit information, the average unit burden is less than 0.05 hours, and is therefore indicated here as 0. However, the actual unit burden and cost estimates are used in later calculations.

Exhibit 8
Annual Burden and Unit Costs for All Required Information Collection Activities
Average Category IV Facility

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	0.9	13.0	0.0	0.9	14.7	$0	$1,625
Submit Information in the Event of Certain Discharges of Oil[5]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	1.4	8.4	0.0	1.1	10.9	$1,403	$2,595
Maintain the SPCC Plan and Keep Records	0.4	12.1	0.0	0.8	13.2	$0	$890
TOTAL	**2.7**	**33.5**	**0.0**	**2.8**	**38.9**	**$1,403**	**$5,109**
New Facilities							
Prepare an SPCC Plan	10.9	126.1	40.9	13.5	191.4	$7,877	$27,917
Prepare a Contingency Plan	0.7	3.5	0.0	1.0	5.1	$0	$226
Submit Information in the Event of Certain Discharges of Oil[4]	0.0	0.0	0.0	0.0	0.0	$0	$0
Revise the SPCC Plan	0.0	0.1	0.0	0.0	0.1	$16	$29
Maintain the SPCC Plan and Keep Records	0.0	7.0	0.0	0.0	7.0	$0	$566
TOTAL	**11.5**	**136.7**	**40.9**	**14.5**	**203.6**	**$7,893**	**$28,739**

[1] Unit burden estimates are weighted averages, rounded to the nearest tenth of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the nearest dollar.

[3] New facilities include those facilities that will initiate operations during the ICR period. This analysis assumes that new facilities become existing facilities after the first year of operation. As a result, in each year of this ICR, a different set of new facilities will become operational.

[4] The unit burden for a facility that needs to submit information because of a discharge is estimated to be one hour of management labor and one hour of technical labor, resulting in a total unit cost of $138. Because only 0.15 percent of all facilities are expected to meet the discharge criteria and submit information, the average unit burden is less than 0.05 hours, and is therefore indicated here as 0. However, the actual unit burden and cost estimates are used in later calculations.

6(c) Estimating Agency Burden and Costs

EPA 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 9 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 9
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 12, EPA estimates 550,900 respondents in 2019, 550,700 respondents in 2020, and 550,500 respondents in 2021.

This 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. EPA adjusted the universe of farms to reflect the Water Resources Reform and Development Act (WRRDA) of 2014 and Water Infrastructure Improvements for the Nation (WIIN) Act of 2016, which 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*)[15] 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.

Industry Growth Rates

To project the number of existing and new facilities regulated under the SPCC rule over the 2019 through 2021 ICR period, EPA used industry-specific growth rates for new and existing facilities.

To estimate industry-specific growth rates for existing facilities of all SPCC-related industry categories except farms and oil production, EPA used 2006 and 2016 U.S. Economic Census data on the number of establishments in each industry, identified by NAICS code.[16] Where complete data did not exist for those years, EPA used 2011 and 2016 Economic Census data or the Department of Energy's Commercial Buildings Energy Consumption Survey for 2003 and 2012. EPA used an extended time period to estimate industry-specific growth rates to attempt to account for diverse economic conditions under which SPCC-regulated industries operate. To estimate annual growth rates for agricultural establishments, EPA used data reported by the U.S. Department of Agriculture Census of Agriculture on the number of farms in the United States from 2007 and 2017.

EPA estimated the growth rates for new facilities using 2006 through 2016 Business Employment Dynamics (BDS) data from the BLS.[17] EPA matched nine BDS sectors with SPCC industry classifications (Exhibit 10), and averaged annual rate of entry data over 10 years. The BDS classifies establishments that change hands as new establishments, but these establishments would not be expected to develop a new SPCC Plan. Instead, a new owner may amend the existing Plan. EPA assumed that 25 percent of the new establishments projected using the BDS rates would need to develop a new SPCC Plan and 75 percent would amend the existing Plan for the facility.

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

[16] In the 2016 Economic Census, the U.S. Census Bureau did not include establishment numbers for NAICS code 482. This was left out of the industry growth rate calculations.

[17] Previous analyses relied on the D&B Market Spectrum database (2005).

Exhibit 10
Mapping of SPCC Industry Categories to BDS Sectors

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

In total, EPA estimated that nearly 550,933 facilities would be regulated by the SPCC rule in 2019. 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.

Exhibit 11 and Exhibit 12 present the estimated number of existing and new SPCC-regulated facilities that are expected to incur a burden associated with the final amendments to the SPCC rule. The count of facilities includes facilities owned or operated by private entities, facilities owned or operated by state or local governments, and facilities owned or operated by the Federal government. Exhibit 11 presents the number of facilities by facility type – storage

and production facilities – for the first year of the ICR renewal period, 2019. Exhibit 12 presents the number of facilities for the entire analysis period, 2019 through 2021.

Exhibit 11
Number of Existing and New Facilities
(First Year of ICR: 2019)

Facility Type		Category I (1,320-10,000 U.S. gallons)*	Category II (10,001-42,000 U.S. gallons)	Category III (42,001 to 1 million U.S. gallons)	Category IV (>1 million U.S. gallons)	Total
Existing	Storage	187,800	76,600	34,800	2,888	302,100
	Production	29,500	158,700	41,700	409	230,300
	Total	**217,200**	**235,300**	**76,600**	**3,297**	**532,400**
New	Storage	5,318	2,497	1,114	83	9,012
	Production	1,220	6,576	1,729	17	9,541
	Total	6,538	9,072	2,843	100	18,600
Total		**223,800**	**244,400**	**79,400**	**3,398**	**550,900**

Note: values may not total due to rounding.

* Category I includes farms with aggregate oil storage capacity up to 19,999 U.S. gallons.

Exhibit 12
Number of Existing and New Facilities
(ICR Period: 2019 - 2021)

Facility Type/ Year		Category I (1,320-10,000 U.S. gallons)*		Category II (10,001-42,000 U.S. gallons)	Category III (42,001 to 1 million U.S. gallons)	Category IV (>1 million U.S. gallons)	Total
		Tier I	All Others				
Existing	Year 1 – 2019	169,400	47,900	235,300	76,600	3,297	532,400
	Year 2 – 2020	169,600	47,800	234,600	76,400	3,290	531,800
	Year 3 – 2021	169,900	47,700	234,000	76,300	3,284	531,200
New	Year 1 – 2019	5,100	1,440	9,072	2,843	100	18,600
	Year 2 – 2020	5,220	1,470	9,241	2,899	103	18,900
	Year 3 – 2021	5,340	1,510	9,413	2,956	105	19,300
Total	Year 1 – 2019	174,500	49,300	244,400	79,400	3,398	550,900
	Year 2 – 2020	174,800	49,300	243,900	79,300	3,393	550,700
	Year 3 – 2021	175,200	49,300	243,400	79,200	3,389	550,500

Note: values may not total due to rounding.

* Category I includes farms with aggregate oil storage capacity up to 19,999 U.S. gallons.

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally
(ii) The Agency Tally
(iii) Variations in the Annual Bottom Line

The total burden hours is estimated as the average per-facility burden multiplied by the number of affected facilities. Similarly, the total cost for all respondents is estimated by multiplying the number of facilities in each size category by the unit costs for each compliance activity. The total annual burden and costs for all respondents in each category are presented in Exhibit 13 through Exhibit 18 for each facility size. The annual average total burden is estimated at 6.3 million hours; the annual average total cost is estimated at $858 million.

Exhibit 13
Total Annual Burden and Costs for
Average Category I Facilities (Tier I)

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan and Revise as Needed[3]	33,900	100,500	-	-	134,400	$0	$15,902,000
Submit Information in the Event of Certain Discharges of Oil	254	254	-	-	508	$0	$41,000
Maintain the SPCC Plan and Keep Records	-	458,600	-	-	458,600	$0	$36,900,000
TOTAL	**34,200**	**559,400**	**-**	**-**	**593,500**	**$0**	**$52,843,000**
New Facilities							
Prepare an SPCC Plan	5,219	15,500	-	-	20,700	$0	$2,446,000
Prepare a Contingency Plan	3,404	18,100	-	4,997	26,500	$0	$1,182,000
Submit Information in the Event of Certain Discharges of Oil	8	8	-	-	16	$0	$1,263
Revise the SPCC Plan	18	109	-	15	142	$0	$34,900
Maintain the SPCC Plan and Keep Records	-	19,100	-	-	19,100	$0	$1,537,000
TOTAL	**8,649**	**52,700**	**-**	**5,011**	**66,400**	**$0**	**$5,201,000**

[1] Unit burden estimates are estimated totals, rounded to the nearest three significant figures of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the three significant figures.

[3] The burden of reviewing and revising the SPCC Plan for a Tier I facility is assumed to be no more than that of preparing a new SPCC Plan using the Template and is assumed to be incurred once every five years.

Exhibit 14
Total Annual Burden and Costs for All Other Facilities
Average Category I Facilities

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	17,200	133,700	-	17,200	168,100	$0	$18,228,000
Submit Information in the Event of Certain Discharges of Oil	72	72	-	-	143	$0	$11,600
Revise the SPCC Plan	14,500	86,900	-	11,600	-	$0	$27,728,000
Maintain the SPCC Plan and Keep Records	-	129,200	-	-	129,200	$0	$10,395,000
TOTAL	**31,700**	**349,900**	**-**	**28,800**	**297,400**	**$0**	**$56,362,000**
New Facilities							
Prepare an SPCC Plan	2,655	39,800	14,700	5,349	62,500	$0	$6,502,000
Prepare a Contingency Plan	962	5,104	-	1,412	7,478	$0	$334,000
Submit Information in the Event of Certain Discharges of Oil	2	2	-	-	4	$0	$357
Revise the SPCC Plan	5	31	-	4	40	$0	$9,857
Maintain the SPCC Plan and Keep Records	-	5,400	-	-	5,400	$0	$434,000
TOTAL	**3,624**	**50,300**	**14,700**	**6,765**	**75,400**	**$0**	**$7,281,000**

[1] Unit burden estimates are estimated totals, rounded to the nearest three significant figures of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the three significant figures.

Exhibit 15
Total Annual Burden and Costs for All Facilities
Average Category II Facilities

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	62,200	933,100	-	62,200	1,057,500	$0	$116,643,000
Submit Information in the Event of Certain Discharges of Oil	352	352	-	-	703	$0	$56,800
Revise the SPCC Plan	101,100	606,500	-	80,900	788,500	$100,936,000	$186,783,000
Maintain the SPCC Plan and Keep Records	-	862,200	-	-	862,200	$0	$69,377,000
TOTAL	**163,600**	**2,402,200**	**-**	**143,100**	**2,708,900**	**$100,936,000**	**$372,860,000**
New Facilities							
Prepare an SPCC Plan	25,800	359,100	139,700	47,100	571,800	$21,950,000	$81,683,000
Prepare a Contingency Plan	6,027	32,000	-	8,848	46,900	$0	$2,093,000
Submit Information in the Event of Certain Discharges of Oil	14	14	-	-	28	$0	$2,236
Revise the SPCC Plan	44	265	-	35	344	$44,000	$81,500
Maintain the SPCC Plan and Keep Records	-	12,700	-	-	12,700	$0	$1,023,000
TOTAL	**31,900**	**404,100**	**139,700**	**56,000**	**631,700**	**$21,994,000**	**$84,882,000**

[1] Unit burden estimates are estimated totals, rounded to the nearest three significant figures of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the three significant figures.

Exhibit 16
Total Annual Burden and Costs for All Facilities
Average Category III Facilities

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	37,500	562,800	-	37,500	637,800	$0	$70,351,000
Submit Information in the Event of Certain Discharges of Oil	115	115	-	-	229	$0	$18,500
Revise the SPCC Plan	61,000	365,800	-	48,800	475,500	$60,522,000	$112,298,000
Maintain the SPCC Plan and Keep Records	-	340,400	-	-	340,400	$0	$27,389,000
TOTAL	**98,600**	**1,269,100**	**-**	**86,300**	**1,454,000**	**$60,522,000**	**$210,056,000**
New Facilities							
Prepare an SPCC Plan	16,100	210,900	87,000	17,300	331,300	$12,830,000	$47,474,000
Prepare a Contingency Plan	1,891	10,000	-	2,776	14,700	$0	$657,000
Submit Information in the Event of Certain Discharges of Oil	4	4	-	-	9	$0	$702
Revise the SPCC Plan	26	156	-	21	203	$53	$0
Maintain the SPCC Plan and Keep Records	-	5,682	-	-	5,682	$0	$457,000
TOTAL	**18,000**	**226,800**	**87,000**	**20,100**	**351,900**	**$12,830,000**	**$48,588,000**

[1] Unit burden estimates are estimated totals, rounded to the nearest three significant figures of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the three significant figures.

Exhibit 17
Total Annual Burden and Costs for All Facilities
Average Category IV Facilities

Activity	Annual Burden Hours[1]				Total Burden Hours	PE Costs (2018$)	Annual Costs (2018$)[2]
	Management	Technical	Drafter	Clerical			
Existing Facilities							
Review the SPCC Plan	2,839	42,900	-	2,839	48,600	$0	$5,356,000
Submit Information in the Event of Certain Discharges of Oil	5	5	-	-	10	$0	$796
Revise the SPCC Plan	4,707	27,700	-	3,691	36,100	$4,625,000	$8,555,000
Maintain the SPCC Plan and Keep Records	1,224	39,200	-	2,447	42,900	$0	$2,899,000
TOTAL	**8,775**	**109,700**	**-**	**8,977**	**127,500**	**$4,625,000**	**$16,812,000**
New Facilities							
Prepare an SPCC Plan	1,115	12,900	4,188	1,390	19,600	$809,000	$2,865,000
Prepare a Contingency Plan	67	355	-	98	520	$0	$23,200
Submit Information in the Event of Certain Discharges of Oil	0	0	-	-	0	$0	$25
Revise the SPCC Plan	2	10	-	1	13	$1,634	$3,023
Maintain the SPCC Plan and Keep Records	-	724	-	-	724	$0	$58,300
TOTAL	**1,184**	**14,000**	**4,188**	**1,490**	**20,900**	**$810,000**	**$2,950,000**

[1] Unit burden estimates are estimated totals, rounded to the nearest three significant figures of an hour, based on the distribution of storage and production facilities and the number of facilities estimated to perform each activity during the one-year period. The numbers in this exhibit may not add precisely due to rounding.

[2] Annual costs are rounded to the three significant figures.

The total estimated burden hours and costs incurred by all new and existing facilities are summarized in Exhibit 18. The exhibit shows the burden and cost components for each year of this ICR, along with three-year total and annual costs.

Exhibit 18
Estimated Total Burden and Costs for Facilities

Year	Total Burden (million hours)	Total Cost (2018$, millions)		
		Labor	O&M	Total
First	6.3	$655	$201	$856
Second	6.3	$656	$202	$858
Third	6.3	$657	$202	$859
Three-Year Total	**19.0**	**$1,968**	**$605**	**$2,574**
Annual	**6.3**	**$656**	**$202**	**$858**

6(f) Reasons for the Change in Burden

Differences in burden and costs from the previous ICR are attributed to adjustments for wage rates and the projected universe of facilities over the covered period 2019 through 2021. Adjustments capture updates to the number of affected facilities and wages.

Exhibit 19 presents the annual burden hours and costs. In total, the 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 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 changes in the numbers of existing and newly regulated facilities in the new ICR period. The universe of regulated facilities is also estimated to be approximately two percent greater on average during the three years covered by this ICR renewal than the current universe (550,700 respondents vs. 542,100 respondents).

Annual O&M costs are estimated to increase by approximately $4,597,000 (two percent) relative to the current OMB inventory. These increases are due the combination of the higher number of regulated facilities projected between 2019-2021 compared to the number of facilities between 2016-2018 estimated in the current ICR, as well as higher labor, capital and O&M unit costs due to inflation.

Exhibit 19
Total Estimated Annual Burden Hours and Annualized Costs Comparison

	Annual Burden Hours	O&M Costs (2018$,1,000s)
Current OMB Inventory Burden	6,180,100	$197,119[1]
Change in Burden	147,600	$4,597
SPCC Final Rule Collection Burden	6,327,700	$201,700

[1]Currently approved cost 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.

The exhibits below present the change in burden (hours and costs) compared to the burden estimates currently approved by OMB.[18] Exhibit 20 shows the change in burden for all facilities, except for facilities owned or operated by the federal government. Private facilities are broken out separately in Exhibit 21, and State and Local Government facilities, in Exhibit 22.

Exhibit 20
Total Estimated Annual Burden and Costs 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	6,309,523	6,180,100	0	129,425[1]
Annual Cost Burden (Capital/Startup and O&M costs)	$201,002,128	$197,119,200[2]	$0	$3,882,900

[1]Annual Responses and Annual Hour Burden values in the column, Due to EPA Estimate, do not equal the sums of these values in Exhibits 21 and 22 for private facilities and state and local government facilities, respectively 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 20.

[2]Currently 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.

[18] OMB's currently approved burden was estimated for 2013 through 2015, covering July 1, 2013 through June 30, 2016.

Exhibit 21
Total Estimated Annual Burden and Costs Comparison: Private Facilities

	Total Requested	Currently Approved	Change Due to EPA Discretion	Due to EPA Estimate
Annual Responses	549,218	541,600	0	7,618[1]
Annual Hour Burden	6,306,549	6,177,300	0	129,249[1]
Annual Cost Burden (Capital/Startup and O&M costs)	$201,002,128	$197,119,200[2]	$0	$3,882,900

[1] Annual Responses and Annual Hour Burden values in the column, Due to EPA Estimates, do not equal the sums of these figures in Exhibits 21 and 22 for private facilities and state and local government facilities, respectively, 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 20.

[2]Currently 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.

Exhibit 22
Total Estimated Annual Burden and Costs Comparison: State and Local Government Facilities

	Total Requested	Currently Approved	Change Due to EPA Discretion	Due to EPA Estimate
Annual Responses	566	528	0	38[1]
Annual Hour Burden	2,974	2,767	0	207[1]
Annual Cost Burden (Capital/Startup and O&M costs)	$0	$0	$0	$0

[1]Annual Responses and Annual Hour Burden values in the column, Due to EPA Estimates, do not equal the sums of these figures in Exhibits 21 and 22 for private facilities and state and local government facilities, respectively, 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 20.

Annual Respondent Burden

	Respondents	Hours	O&M[1]
Private	549,218	6,306,549	$201,002,128
State/Local	566	2,974	$0
Total	**549,785**	**6,309,523**	**$201,002,128**

[1]Currently 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.

Total estimated respondent annual cost for this collection is $857,835,543.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is around 11 hours per response. For newly regulated facilities, it 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.

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 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.

APPENDIX A

SPCC ICR Consultation Script

Hello [PE contact name], my name is [contractor name], and I work for ICF. We are a contractor for the U.S. Environmental Protection Agency. Every three years, EPA updates its estimates for paperwork-related burden for implementing the Spill Prevention Control and Countermeasure (SPCC) regulation. Your responses will help EPA determine reasonable burden hours required for completing SPCC paperwork. Note that the questions relate specifically to the administrative or paperwork-related activities associated with SPCC compliance, such as Plan preparation, certification, recordkeeping, and reporting, not capital or O&M costs associated with equipment or installations.

We estimate that this interview should take no more than 15 minutes and we greatly appreciate your willingness to provide insight based on your experience.

First, I will ask some general background questions to understand your experience developing SPCC Plans.

1. Our understanding based on our research is that your firm provides engineering or technical support to facilities subject to SPCC regulation, including support in preparing SPCC Plans. Is that correct?

[**If NO**, then thank them for their time and end the call.]

2. What is your position at [PE firm name]?

3. Would it be helpful to be reminded of what the SPCC regulation is?

[**If YES**, then provide the following information:

The regulation establishes spill prevention procedures, methods, and equipment requirements for non-transportation-related onshore and offshore facilities with oil storage capacity greater than certain thresholds and meeting other criteria. Regulated facilities are those which, because of their location, could reasonably be expected to discharge oil in quantities that may be harmful into the navigable waters of the United States or adjoining shorelines.]

4. Approximately how many SPCC Plans have you worked on over the last five years [or another period (annually) if needed to provide an estimate]? This would include SPCC Plans that you have developed and/or certified.

5. Can you describe the types of facilities for which you develop or certify SPCC Plans? For example, are the Plans for small or large facilities? For oil storage and distribution facilities, oil production facilities, manufacturing facilities, or farms?

6. How does your firm price its SPCC Plan development or certification services? By time and materials (T&M), fixed price, or another pricing structure?

We provided you with written questions in advance of this phone call with estimates of the labor hours required to complete SPCC-related tasks. It would be helpful for you to refer to it as I go over my next set of questions. Do you have the questions in front of you?

[**Pause to confirm**]

EPA estimated hours required to complete certain SPCC-related tasks. These hours vary by whether the facility is a storage or production facility, and which of EPA's four size categories the facilities fall under. For reference, the definitions of each size category are provided in Table 1. I will be asking you questions that seek to assess whether these estimates are reasonable. We understand that this assessment is based on your personal experience and that facility-specific factors may result in different values, but please do your best to think about an "average" facility you have worked with.

Table 1: SPCC-Regulated Facility Size Categories

Size Category	Aggregate Capacity
I	Non-farm facilities: 1,321 to 10,000 gallons *Farm facilities: 2,501[1] to 19,999 gallons*
II	Non-farm facilities: 10,001 to 42,000 gallons *Farm facilities: 20,000 to 42,000 gallons*
III	All facilities: 42,001 to 1 million gallons
IV	All facilities: greater than 1 million gallons

[1]Note that the correct threshold is 2,500 gallons, not 2,501 gallons, which was included in the Consultation Script in error. However, EPA does not believe that this error had any material effect on the responses to the consultation questions.

[**If PE firm indicated in Question 5 that they provide services to storage facilities, ask questions 7a-7k. If PE firm indicated that they serve production facilities, ask questions 8a-8k. If PE firm serves both, ask questions 7a-7k and 8a-8k.**]

7. [For STORAGE facilities:]

7a. Have you ever prepared a new Plan for a new facility? Note that preparing the Plan does not include certifying the Plan if you charge for certification separately.

[**IF YES**, continue on to question 7b. **IF NO**, then skip to question 7d.]

7b. Approximately how many total hours are required to prepare a new Plan for each size category?

7c. In the questions we provided you, there is a table with estimated average values of labor hours required to prepare a new Plan for a new facility. These values are in Table 2. They include only the number of hours required to prepare the Plan, not to certify the Plan. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the number of hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 2: Hours for preparation of new SPCC Plan for new facilities

		Management	Technical	Drafter	Clerical	Total
Storage	Category I	2	30	12	4	48
	Category II	4	60	24	8	96
	Category III	7	90	30	12	139
	Category IV	12	135	40	20	207

7d. Have you done technical amendments to an existing SPCC Plan, for example to incorporate a material change in facility design, construction, operations or maintenance that alters the potential for an oil spill? Note that amending the Plan does not include certifying the Plan if you charge for certification separately.

[**IF YES**, continue on to question 7e. **IF NO**, then skip to question 7g.]

7e. Approximately how many total hours are required to amend an existing Plan for each size category?

7f. I will next ask about the number of labor hours required for amending an existing SPCC Plan. Please refer to Table 3. These values include only the number of hours for amending

the Plan, not to certify the Plan. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the number of hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 3: Hours for Plan amendment for new and existing facilities

		Management	Technical	Drafter	Clerical	Total
Storage	Category I	3	15	-	2	20
	Category II	5	30	-	4	39
	Category III	7.5	45	-	6	59
	Category IV	11.5	67.5	-	9	88

7g. Have you ever prepared a five-year review of an existing Plan?

[**IF YES**, continue on to question 7h. **IF NO**, then skip to question 7j.]

7h. Approximately how many total hours are required to conduct a five-year review for each size category?

7i. Next I will ask about number of labor hours required for a five-year review for existing Plans. Please refer to Table 4. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 4: Hours for five-year review for existing Plan

		Management	Technical	Drafter	Clerical	Total
Storage	Category I	2	15	-	2	19
	Category II	2	30	-	2	34
	Category III	3	45	-	3	51
	Category IV	5	68	-	4.5	77

7j. Have you ever developed a SPCC facility diagram as part of developing, certifying, or reviewing a Plan?

[**IF YES**, continue on to question 7k. **IF NO**, then this is the end of the questions related to storage facilities.]

7k. Finally, for the last question about storage facilities, please refer to Table 5 for the number of average hours required to complete a SPCC facility diagram. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the

number of hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 5: Hours for creating facility diagram

		Annual Hours Burden				
		Management	**Technical**	**Drafter**	**Clerical**	**Total**
Storage	Category I	0.5	4	12	-	17
	Category II	1	8	24	-	33
	Category III	2	12	30	-	44
	Category IV	3	18	40	-	

8. [For PRODUCTION facilities:]

8a. Have you prepared a new Plan for a new production facility? Note that preparing the Plan does not include certifying the Plan if you charge for certification separately.

[**IF YES**, continue on to question 8b. **IF NO**, then skip to question 8d.]

8b. Approximately how many total hours are required to prepare a new Plan for each size category?

8c. In the questions we provided you, there is a table with estimated average values of labor hours required to prepare a new Plan for a new facility. These values are in Table 6. They include only the number of hours required to prepare the Plan, not to certify the Plan. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the number of hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 6: Hours for preparation of new Plan for new facilities

		Management	**Technical**	**Drafter**	**Clerical**	**Total**
Production	Category I	1	16	7.5	2	27
	Category II	3	32	15	4	54
	Category III	5	64	30	8	107
	Category IV	8	96	45	12	161

8d. Have you done technical amendments to an existing SPCC Plan, for example to incorporate a material change in facility design, construction, operations or maintenance that alters the

potential for an oil spill? Note that amending the Plan does not include certifying the Plan if you charge for certification separately.

[**IF YES**, continue on to question 8e. **IF NO**, then skip to question 8g.]

8e. Approximately how many total hours are required to amend an existing Plan for each size category?

8f. I will next ask about the number of labor hours required for amending an existing SPCC Plan. Please refer to Table 7. These values include only the number of hours for amending the Plan, not to certify the Plan. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the number of hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 7: Hours for Plan amendment for new and existing facilities

		Management	Technical	Drafter	Clerical	Total
Production	Category I	1.25	7.5	-	1	10
	Category II	2.5	15	-	2	20
	Category III	5	30	-	4	39
	Category IV	8	45	-	6	59

8g. Have you ever prepared a five-year review of an existing Plan?

[**IF YES**, continue on to question 8h. **IF NO**, then skip to question 8i.]

8h. Approximately how many total hours are required to prepare a five-year review for each size category?

8i. Next I will ask about number of labor hours required for a five-year review for existing Plans. Please refer to Table 8. Please take a look at the values and let me know if these estimates are reasonable. If not, please let me know the number of hours that you think are reasonable. If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 8: Hours for five-year review for existing facilities

		Management	Technical	Drafter	Clerical	Total
Production	Category I	0.5	7.5	-	0.5	9
	Category II	1	15	-	1	17
	Category III	2	30	-	2	34
	Category IV	3	45	-	3	51

8j. Have you ever created a SPCC facility diagram as part of developing, certifying, or reviewing a Plan?

[**IF YES**, continue on to question 8k. **IF NO**, then this is the end of the survey.]

8k. Finally, for the last question about production facilities, please refer to Table 9 for the number of average hours required to complete a SPCC facility diagram. Please take a look at the values and let me know if these estimates are reasonable. If not, can you tell me the number of hours that you think are reasonable? If you are unsure, do you think the total provided is reasonable? What about the distribution among staff of different levels? Which numbers do you think should be higher or lower?

Table 9: Hours for creating facility diagram

		Annual Hours Burden				
		Management	**Technical**	**Drafter**	**Clerical**	**Total**
Production	Category I	0.5	3	8	-	11
	Category II	1	6	15	-	22
	Category III	2	12	30	-	44
	Category IV	3	18	45	-	66

EXHIBIT CX 40
Resume of David Smith-Watts

David Smith-Watts

1200 Pennsylvania Ave, NW • Washington DC 20460 • Smith-Watts.David@epa.gov • 202-564-4083
Admitted to the Ohio State Bar

Legal Experience

United States Environmental Protection Agency **Washington, D.C.**
Senior Attorney, Office of Civil Enforcement (OCE) **2016 - Present**

- EPA's National Coordinator for Civil Penalties and Financial Analyses; advises on civil penalty assessments under CAA, CWA, EPCRA, FIFRA, OPA, RCRA, SDWA, TSCA, & CERCLA.
- Counsels regional and OCE enforcement teams on ability to pay (ATP), economic benefit (EcBen), and civil penalty litigation and settlement strategies.
- Oversees EPA financial computer models (BEN, ABEL, INDIPAY, MUNIPAY, PROJECT).
- Developed Partial-Year Data ATP Tool for Businesses and associated data request form.
- Delivered 40 national and international trainings to ~3,000 participants, including representatives from Argentina, Brazil, China, & Taiwan.
- Developed civil penalty webinars for Canada and Mexico as part of the United States-Mexico-Canada Agreement (USMCA).
- Chair of the EPA & States Penalty and Financial Analysis Monthly Call.
- Leads the Penalty Inflation Workgroup; oversaw nine Federal Register rules (2017-2025) and four nationwide policy amendments.
- OCE lead on tax law and accounts receivable compliance.
- COR Level 2 managing the Industrial Economics (IEc) contract from FY17 to present.
- Mentored attorneys and law clerks; former Audit Policy Team member.

Attorney-Advisor (Detail), OCE's Waste and Chemical Enforcement Division **2015–16**

- Financial assurance subject matter lead; provided 75+ consultations to EPA and states.
- Negotiated and finalized Reichhold bankruptcy settlements: $4.25M corrective action trust and $13M CERCLA allowed claims.
- For the RCRA air emissions National Compliance Initiative, created a case digest that summarized prior RCRA air cases and drafted a paper on legal elements needed to bring claims for valve emission violations.
- Authored CAA § 112(r) General Duty Clause analysis application to aboveground oil tanks and underground natural gas storage facilities.
- Coordinated with DOJ and OGC on Ninth Circuit litigation involving Teck Cominco.

Attorney-Advisor, Office of Site Remediation Enforcement (OSRE) **2008-15**

- Negotiated ten multi-regional bankruptcy cases, including:
  - Lyondell Chemical: $1.01B allowed claims, $108.4M in trust, $53.6M cash.
  - Kodak: clean up trust for Eastman Business Park in Rochester, NY.
  - Chrysler: $31M allowed claims.
  - G-I Holdings: $33.55M for cleanup at 12 sites in 6 EPA regions.
  - WP & RG Steel: $19.8M allowed claims for civil penalties at seven steel facilities.
- Co-developed EPA/DOJ Model Bankruptcy Settlement Agreement & Short-Form Model.
- Delivered in-person bankruptcy trainings to Region 1 and Region 10.

- Burlington Northern Team member; advised on arranger liability and divisibility under CERCLA.
- OSRE Liaison to Region 10 (2009 to 2013) & OSRE Liaison to Region 5 (2013 to 2016).
    - Coordinated Major Cleanup Settlements: Midnite Mine ($193M), Holden Mine ($107M), USS Lead ($43M), Ashland Lakefront ($100M+).
    - Upper Columbia River Site: In this transboundary case involving a Superfund site in Washington State contaminated by a smelter facility in Canada, the case team filed two U.S. amicus briefs with the District Court of Washington – one on divisibility in 2011 and another on "disposal" under RCRA in 2014.
- Subject matter contact on access under CERCLA § 104(e), useful product defense, & SREA.
- Mentored eight law clerks from 2009 to 2013.

Attorney General of Ohio **Toledo, Ohio**
Law Clerk, Environmental Enforcement Division **Fall 2007**

- Authored memos on the regulation of non-friable asbestos floor tiles and coal combustion ash emissions under Ohio law.
- Drafted interrogatories defending Ohio EPA Director's open burn permits.

University of Toledo College of Law **Toledo, Ohio**
Research Assistant for Environmental Law Professor Kenneth Kilbert **2007-08**

- Researched and reviewed Professor Kilbert's scholarly article which advocated that courts should find an implied right of contribution under RCRA.

United States Environmental Protection Agency **Washington, D.C.**
Law Clerk, Office of Site Remediation Enforcement **Summer 2007**

- Researched and analyzed how the U.S. v. Atlantic Research Corp. decision affected a party's settlement protection when another party brings a cost recovery or contribution claim.
- Researched CERCLA case law analyzed issuances of UAOs to different polluters and examined the history of the "Enforcement First" program to prepare the division director for a deposition during the discovery phase of General Electric v. EPA.
- One of 50 law clerks selected from a 1600 applicant pool.

Sixth District Court of Appeals of Ohio **Toledo, Ohio**
Law Clerk **Spring 2007**

- Researched and drafted opinions which were reviewed by the Judge and staff attorneys. Case types: criminal law, criminal procedure and civil procedure.

Legal Aid of the Bluegrass **Covington, Kentucky**
Law Clerk **Winter Break 2006-07**

- Researched case law; wrote memos; updated forms with current law; helped to interview walk-in clients; traveled to several courts in Northern Kentucky.

Lucas County Probate Court **Toledo, Ohio**
Law Clerk **Fall 2006**

- Under the supervision of the Judge and Magistrates, researched and drafted opinions and closed pending estate cases; observed pretrial meetings in the Judge's chamber.

EPA Awards and Recognition

- Gold Medal for Exceptional Service, Auto Sector Bankruptcy Team, 2011.
- Bronze Metal for Commendable Service, EPA's Compliance Process for the Mandated FY24 IRS 1098-F Form Submission Requirement Team, 2024.
- Bronze Metal for Commendable Service, Financial Assurance Initiative Case Team, 2012.
- Bronze Metal for Commendable Service, Burlington Northern Response Team, 2010.
- Superior Accomplishment Recognition Award, Finalizing Model Bankruptcy Settlement Agreement, 2013.
- OECA AA's Award for Excellence, Eastman Kodak Settlements Team, 2015.
- OECA COVID-19 Award, Analysis of the 2015 ATP Guidance in Context of COVID Impacts and Issuance of Temporary Waiver, 2020.
- OECA COVID-19 Award, Development of CBI Procedures for COVID, 2020.
- OECA COVID-19 Award, COVID FOIA Review, 2020.
- Office of Water's Partners of OW Award, OECA Support Team for OW Activities, 2020.
- Quality Step Increase Awards, 2012, 2020.
- Shooting Star Awards, 2019, 2025, 2026.

Education

University of Toledo College of Law **Toledo, Ohio**
***Juris Doctor* with Certificate of Specialization in Environmental Law** **May 2008**

- **Moot Court,** Environmental Law Team, 2006-07; Environmental Law Team Coach, 2007-08.
- **Teaching Assistant,** Advanced Appellate Advocacy, CWA problem, 2007.
- **Environmental Law Society**, 2005-2008; Vice President, 2007-2008.
- **International Environmental Law Class**, highest grade, 2008.

Denison University **Granville, Ohio**
***Bachelor of Arts* in Philosophy, Political Science and Economics (PPE)** **May 2005**

- **Senior Thesis**, Titled "Can Environmental Ethics Survive in the Political Arena?"
- **Distinguished Leadership Award**, Presented by the Vice President of Student Affairs.

EXHIBIT CX 41
Report Calculating the Economic Benefit of Noncompliance

In the Matter of: Jackson & Son Distributors, Inc., d/b/a Jackson and Son Oil
Docket No. CWA-10-2025-0023

Report Calculating the Economic Benefit of Noncompliance

By: David Smith-Watts
Senior Attorney
National Coordinator for Civil Penalties and Financial Analyses
U.S. Environmental Protection Agency
Washington, DC

/s/ David Smith-Watts

February 20, 2026

I. Background and Credentials

My name is David Smith-Watts. EPA Region 10 requested that I calculate the economic benefit of non-compliance Jackson & Son Distributors, Inc., d/b/a Jackson and Son Oil (Respondent) gained through its alleged noncompliance with the Clean Water Act (CWA) in this case (Docket No. CWA-10-2025-0023).

I hold a B.A. in Philosophy, Political Science, and Economics from Denison University and a J.D. with a Certificate of Specialization in Environmental Law from the University of Toledo College of Law.

In 2008, I joined EPA's Office of Enforcement and Compliance Assurance (OECA) in Washington D.C., and specifically within OECA's Office of Site Remediation Enforcement (OSRE). My responsibilities included leading multi-regional bankruptcy cases and developing policies on nationally significant issues related to EPA enforcement at Superfund sites. In 2015 and 2016, I served a detail to EPA's Waste and Chemical Enforcement Division within OECA's Office of Civil Enforcement (OCE), where I led EPA's financial assurance enforcement practice. This practice ensures that hazardous waste facilities have sufficient financial resources for proper closure and emergency responses.

In 2016, I joined OCE's Crosscutting Issues Staff and became EPA's National Coordinator for Civil Penalties and Financial Analyses.[1] In this role, which I currently serve, I provide EPA enforcement case teams with legal, policy, and financial support for the calculation and collection of civil penalties. I am responsible for advising case teams on a wide range of financial and civil penalty subject matters, including the calculation of economic benefit. I estimate that since 2016, I have calculated economic benefit or advised case teams on economic benefit in over 600 cases.

I also am responsible for maintaining, updating, and advising EPA case teams on EPA's BEN computer model, which is used to calculate economic benefit from delayed and avoided cost scenarios. The BEN model needs to be updated annually with up-to-date financial data, such as new inflation, tax, and economic rates. It is also updated to improve user friendliness. I have been responsible for these annual updates nine times.

Since 2020, I have provided training to EPA and states on economic benefit, the BEN model, and other civil penalty topics. For the economic benefit and BEN model specific trainings, I delivered 28 trainings to 2,476 participants. I have also presented to delegates from countries including Argentina, Brazil, China, Suriname, and Taiwan.

This report is the third economic benefit report I have written for an EPA case team litigating an administrative enforcement case.

[1] In October 2025, OECA completed a reorganization and changed its name from the Crosscutting Policy Staff to the Cross-Cutting Issues Staff.

II. Principles and Methodology of Calculating Economic Benefit

a. Introduction to Economic Benefit

Compliance with environmental laws typically requires financial expenditures by regulated entities. When a regulated entity does not make these expenditures to comply with the law, the entity can use those funds for other profit-making activities. Thus, the violating entity gains an unfair financial advantage compared to their competitors who made the necessary expenditures and complied with the law. The economic benefit component of a civil penalty represents the amount of money an entity gained by not complying with an environmental law in a timely manner.

Most federal environmental statutes authorize EPA to collect civil penalties from violating entities. Some statutes, including the CWA, require EPA to consider economic benefit when calculating civil penalties. Economic benefit is also one of the main components of EPA's penalty policies, which guide EPA case teams when calculating civil penalties in specific enforcement cases. EPA's *Policy on Civil Penalties* and *A Framework for Statute-Specific Approaches to Penalty Assessments* established general goals for penalty assessments and provide guidance on developing media-specific penalty policies.[2] These policies state that "… it is Agency policy that penalties generally should, at a minimum, remove any significant economic benefits resulting from failure to comply with the law."[3]

There are three types of economic benefit: delayed costs; avoided costs; and wrongful profits. Delayed costs occur when an entity should have paid money to be compliant and did not, but subsequently, the entity incurred the necessary costs to come into compliance. Avoided costs occur when an entity should have paid money to be compliant and did not, and to date, the entity still has not incurred the necessary costs to come into compliance. Wrongful profits occur when an entity's violation of the law directly results in increased profits. The facts in this case do not require calculation of wrongful profits because it does not appear Respondent gained profits as a result of its non-compliance. Therefore, for purposes of the economic benefit calculation in this case, only delayed and avoided costs are applicable and should be calculated.

b. EPA's Approach for Calculating Delayed and Avoided Costs

In 1984, EPA created the BEN computer model to assist case teams in calculating economic benefit for delayed and avoided costs. At that time, EPA encouraged case teams to use the BEN model or a simplified approach called the "rule of thumb" method. In 1996[4] and 1999,[5] EPA

[2] EPA's *Policy on Civil Penalties* from February 16, 1984, is also known as EPA General Enforcement Policy #GM-21. EPA's *A Framework for Statute-Specific Approaches to Penalty Assessments* from February 16, 1984, is also known as EPA General Enforcement Policy #GM-22. EPA included both policies in CX 21.
[3] CX 21 at 4.
[4] 61 Fed. Reg. 53,026 (October 9, 1996), https://www.govinfo.gov/content/pkg/FR-1996-10-09/pdf/96-25893.pdf.
[5] 64 Fed. Reg. 32,948 (June 18, 1999), https://www.govinfo.gov/content/pkg/FR-1999-06-18/pdf/99-15271.pdf.

issued Federal Register Notices (FRN) requesting public comment on the BEN model's methodology, precision, and user-friendliness. After receiving and evaluating comments, EPA modified the BEN model and published changes to the model in the 1999 FRN and subsequently in a 2005 FRN.[6]

EPA's BEN model uses a standard and widely accepted technique for evaluating costs and investments referred to as a "cash flow analysis."[7] The cash flow analysis captures the "real, 'out of pocket,' cash effects resulting from expenditure" with a focus on three important factors: inflation, taxation, and the time value of money.[8] In the vast majority of EPA enforcement cases where economic benefit has been calculated since 2005, including in this report, EPA relies upon the BEN model's methodology or its general principles to calculate economic benefit for delayed and avoided costs. Consistent with EPA's BEN Model, for the purposes of calculating the economic benefit gained by Respondent in this matter, I used a cash flow analysis to calculate the economic benefit of the delayed and avoided costs using customized Excel spreadsheets.[9]

A cash flow analysis examines the effect that delayed and avoided compliance costs has on an entity's cash flow. To calculate delayed costs, EPA compares a compliant, hypothetical scenario (On-Time Scenario) with the non-compliant, actual scenario (Delayed Scenario), and then adjusts the benefit to the estimated penalty payment date by accounting for inflation, taxation, and the time value of money. To calculate avoided costs, EPA calculates the compliant, hypothetical scenario and then adjusts the benefit to the estimated payment date by accounting for inflation, taxation, and the time value of money. Because there is no delayed cost incurred for avoided costs, there is no Delayed Cost Scenario to compare with the On-Time Scenario when calculating avoided costs.

There are three different types of costs that must be considered and could be applicable to delayed and avoided costs, which are capital investments, one-time non-depreciable expenditures, and annual recurring costs. Capital investments are costs of items that depreciate, such as purchasing and installing pollution control equipment. One-time non-depreciable expenditures are costs that are made once and do not depreciate, such as staff costs or disposal costs. Annual recurring costs are average, calendar year, incremental costs, such as costs for operating and/or maintaining the required pollution control measures. In this case for delayed and avoided costs, only one-time non-depreciable expenditures are applicable.

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[6] 70 Fed. Reg. 50,326 (August 26, 2005), https://www.govinfo.gov/content/pkg/FR-2005-08-26/pdf/05-17033.pdf.
[7] 64 Fed. Reg. 32,950.
[8] *Id*.
[9] EPA has "The BEN Help System" document that is located within the BEN model. The Help System provides background information on economic benefit and instructs users on how to use the BEN model. On page 3 of the Help System's PDF, it says, "In general, EPA uses the model to assist its own staff in developing settlement penalty figures. (For trial or hearing, an expert in financial economics must present the analysis of economic benefit, using whatever analytical tools -- possibly including BEN, or maybe instead customized computer spreadsheets -- are appropriate to the case's particular compliance scenarios.)"

c. Important Factors in Economic Benefit Calculations

As mentioned above, inflation, taxes, and the time value of money are three important factors in a cash flow analysis of economic benefit for delayed and avoided costs. A brief description of each concept is provided below.

i. Inflation

To compare the compliant, hypothetical scenario with the non-compliant, actual scenario, it is necessary to adjust costs from different time points to a common time point using inflation indices. For these cash flow adjustments, I used the Employment Cost Index (ECI), which is published quarterly by the U.S. Department of Labor's Bureau of Labor Statistics. ECI measures changes in labor costs, including wages, salaries, and benefits. ECI is appropriate for calculating economic benefit when one-time non-depreciable expenditures are comprised mostly of labor. In this case, the costs associated with preparing and implementing a Spill Prevention, Control, and Countermeasure (SPCC) plan are all labor based. ECI is an optional inflation index in the BEN model.

ii. Taxes

Under a cash flow analysis, economic benefit is calculated on an after-tax basis because environmental expenditures can reduce income tax liability. Estimated federal and state taxes should be subtracted from the On-Time and Delayed Cost Scenarios at the time those costs should have been or were incurred to obtain after-tax values.

iii. Time Value of Money

The time value of money is a fundamental concept of the economic benefit calculation, and it is illustrated by the saying, "A dollar today is worth more than a dollar tomorrow." This is because today's dollar can be used or invested to generate a return of more than one dollar tomorrow. The same principle can be said looking backward in time: a dollar a year ago is worth more than a dollar today.

EPA uses a discount rate to reflect the time value of money principle in economic benefit calculations. Specifically, since November 1992, EPA's BEN model has used the Weighted Average Cost of Capital (WACC) as the time value of money discount rate. The WACC is the average of the cost of debt and the cost of equity, weighted by the portions of debt and equity out of total financing. In other words, the WACC represents the amount of money a company must earn on average to pay its debt holders and equity owners to stay in business, or the return the company can earn on its money, including money not incurred on environmental compliance costs. Courts have approved the use of the WACC as the discount rate.[10]

[10] See *United States v. Smithfields Foods, Inc.*, 191 F.3d 516, 529-31 (4th Cir. 1999).

The BEN model calculates the WACC for each year between the Non-Compliance Date and the Penalty Payment Date for each delayed and avoided cost. It then averages these annual WACC values to arrive at the applicable discount rate for each cost. In this case, the time periods between the Non-Compliance Dates and the Penalty Payment Date vary for the delayed and avoided costs. Consequently, the discount rates for each cost range from 8.0% to 9.8%.

d. Steps for Calculating Delayed Costs

The first step is to calculate the after-tax cost of complying on time (i.e., after-tax cost of complying as of the Non-Compliance Date), which can be described as the "On-Time Scenario" (Step 1A). For this, I took the cost as of the Cost Estimate Date and adjusted it, using inflation, to the Non-Compliance Date. Then, I subtracted federal and state taxes to obtain the after-tax cash flow of the delayed cost for the On-Time Scenario as of the Non-Compliance Date (Step 1B).

The second step is to calculate the after-tax delayed cost as of the Non-Compliance Date, which can be described as the "Delayed Cost Scenario." For this, I took the cost as of the Cost Estimate Date and adjusted it using inflation to the Delayed Cost Date (Step 2A). Next, I subtracted federal and state taxes, and I adjusted the cost to the Non-Compliance Date using the discount rate (Step 2B). As mentioned above, the discount rate reflects the amount of money Respondent could have gained on money that was not incurred on compliance costs starting at the Non-Compliance Date.

The third step is to subtract the Delayed Cost Scenario calculated in Step 2 from the On-Time Scenario calculated in Step 1. This results in the economic benefit gained as of the Non-Compliance Date.

The fourth step is to calculate the years between the Non-Compliance Date and the Estimated Penalty Payment Date.

The fifth and final step is to adjust the economic benefit as of the Non-Compliance Date to the Estimated Penalty Payment Date using the time value of money discount rate. This results in the economic benefit of the delayed cost.

e. Steps for Calculating Avoided Costs

The steps for calculating avoided costs are the same as those for delayed costs, except steps 2 and 3 are not necessary. This is because no delayed costs were incurred, and, as a result, there is no Delayed Cost Scenario to compare when calculating avoided costs.

III. Input Values for Economic Benefit Calculation

Kate Spaulding, EPA Region 10 Oil Program Enforcement Coordinator, provided me with most of the information below about the case, specifically the cost, dates, and other information needed to calculate economic benefit. The BEN model provided other values, such as tax and inflation values. In this case, Respondent is a domestic business corporation and oil distributor located in Seaside, Oregon. Region 10 alleges that Respondent failed to prepare and implement a SPCC plan. There are three different costs associated with the alleged violations: (1) preparing and creating a SPCC plan; (2) maintaining the SPCC plan and keeping records within the first year of the plan; and (3) reviewing, revising, and maintaining the SPCC plan after the plan is in place. Some inputs for the economic benefit calculation apply to all three costs, while some inputs are cost specific.

a. Inputs Applicable to All Costs

Kate Spaulding obtained all cost estimates from EPA's 2019-2021 Information Collection Request for SPCC plans from over 550,000 facilities (SPCC Renewal Information Collection Request, CX 39). The cost estimate dates for all costs are 12/1/2018 because the SPCC Renewal Information Collection Request uses December 2018 labor wage rates from the United States Department of Labor, Bureau of Labor Statistics, Employer Costs for Employee Compensation.

The date of compliance is 12/16/2024, which is the date Respondent signed the SPCC plan.[11]

I estimated the penalty payment date to be 6/1/2026. As of the date of this report, February 20, 2026, this case is currently in the middle of the Prehearing Exchange phase of administrative litigation. If the two parties were to agree to settlement terms today, it would take at least a month to draft the Consent Agreement and Final Order, review and comment on it by the parties, obtain signatures, seek approval from the Administrative Law Judge, and allow time for public comment. In this scenario, payment of the civil penalty might occur in April 2026 at best. On the other end of the spectrum, should the case go to hearing and render a decision by the ALJ, that process may take a year or more. In light of the above, I conservatively estimate the penalty payment date to be 6/1/2026. I believe this date is a reasonable approximation of when the penalty could be incurred. It is also a conservative estimate because using a date further in the future would increase the economic benefit.

b. Inputs Applicable to Preparing and Creating the SPCC Plan

As explained in EPA's Rebuttal Prehearing Exchange & Supplemental Prehearing Exchange, Kate Spaulding estimated the date of non-compliance for preparing an SPCC Plan to be 7/1/2015. Based on the SPCC Renewal Information Collection Request, Kate Spaulding estimated the cost to develop the SPCC plan is $16,370.

[11] CX 23, at 5.

c. Inputs Applicable to Maintaining SPCC Plan in First Year

For maintaining the SPCC plan and keeping records within the first year of the plan, the date of non-compliance is 6/30/2016 because this is the last day of the one-year period after the plan was in place. This is a conservative estimate because choosing an earlier date in the one-year period would increase the economic benefit. As explained in EPA's Rebuttal Prehearing Exchange & Supplemental Prehearing Exchange, based on the SPCC Renewal Information Collection Request, Kate Spaulding estimated the cost for maintaining the SPCC plan in the first year is $157.

d. Inputs Applicable to Annual Reviews and Revisions of the SPCC Plan

In the hypothetical, complaint scenario (discussed above), Respondent would have been required to review and revise their SPCC plan after it was created. Respondent avoided these costs. As explained in EPA's Rebuttal Prehearing Exchange & Supplemental Prehearing Exchange, based on the SPCC Renewal Information Collection Request, Kate Spaulding estimated the average, annual cost of reviewing and maintaining the SPCC Plan to be $2,747. To calculate these avoided costs, I performed nine separate calculations for each year these costs were avoided. I conducted a tenth calculation to account for the last, partial year. The non-compliance date for each calculation is the last day of the respective yearly period.

IV. Economic Benefit Calculations

I calculated the economic benefit of the delayed and avoided costs in an Excel workbook. Screen shots from the Excel workbook are provided in figures below.

a. Calculating Delayed Cost

Step 1A. The first step of calculating the delayed cost is to adjust the cost estimate from the Cost Estimate Date to the Non-Compliance Date. I took $16,370 and adjusted it using inflation from the Cost Estimate Date of 12/1/2018 to the Non-Compliance Date of 7/1/2015. Because ECI has an inflation value of 135.0 for December 2018 and an inflation value of 124.6 for July 2015, the equation is $16,370.00 / 135.0 * 124.6 = $15,108.90. This result is shown in Cell G3 of Figure 1.

Figure 1:

	A	B	C	D	E	F	G
1		**Step 1A - Adjust Compliance Costs from Cost Estimate Date to the Non-Compliance Date (NCD)**					
2	**Alleged Violations and Associated Costs**	Estimated Compliance Costs	Cost Estimate Date	Inflation Value as of Cost Estimate Date	NCD Start (On-Time Date)	Inflation Value as of the NCD	Cost Estimate as of NCD
3	Failure to Prepare and Implement SPCC Plan	$16,370.00	12/1/2018	135	7/1/2015	124.6	$15,108.90

Step 1B. Next, I calculated the after-tax cost of complying on time by subtracting federal and state taxes from the adjusted cost of $15,108.90 from Step 1A above. For the federal tax rate, Respondent, as a corporation, was subject to a federal tax rate of 35% in 2015, as provided in the BEN model. To calculate federal taxes, the equation is: $15,108.90 * 35.0% equals $5,288.12. This result is shown in Cell J3 of Figure 2. For state taxes, I first calculated the 2015 Oregon tax rate that accounts for federal deductibility. This rate is calculated by the equation: (1 – federal tax rate) * state tax rate. In 2015, the federal tax rate was 35%, and the Oregon state tax rate was 7.60%, as provided in the BEN model. Therefore, the equation is (1 – 35%) * 7.60% = 4.94%. The result is shown in Cell K3 of Figure 2. To calculate state taxes, I calculated $15,108.90 * 4.94%, which equals $746.38. This result is shown in Cell L3 of Figure 2. Then, taking $15,108.90 and subtracting the federal tax of $5,288.12 and subtracting the state tax of $746.38, the result is $9,074.41. This amount is shown in Cell M3 of Figure 2. This is the after-tax cost of complying on time.

Figure 2:

	A	I	J	K	L	M
1		**Step 1B - Calculate After-Tax Cost of Complying On Time (On-Time Scenario)**				
2	**Alleged Violations and Associated Costs**	Federal Tax Rate in 2015	Federal Tax Offset	State Tax Rate, Adjusted for Fed. Deductibility in 2015	State Tax Offset	After-Tax Cash Flow as of NCD
3	Failure to Prepare and Implement SPCC Plan	35.00%	$5,288.12	4.94%	$746.38	$9,074.41

Step 2A. Step 2 is to calculate the After-Tax Delayed Costs as of the Non-Compliance Date. First, I adjusted the compliance costs of $16,370.00 from the Cost Estimate Date of 12/1/2018, which has an inflation index of 135.0, to the Delayed Cost Date of 12/16/2024, which has an inflation index of 168.0. The equation is $16,370 / 135.0 * 168.0 = $20,371.56. This result is shown in Cell T3 of Figure 3. This is the delayed cost before tax implications as of the delayed cost date.

Figure 3:

	A	O	P	Q	R	S	T
1		**Step 2A - Adjust Delayed Compliance Costs from Cost Estimate Date to When Delayed Costs Will be Incurred**					
2	**Alleged Violations and Associated Costs**	Compliance Costs	Cost Estimate Date	Inflation Value as of Cost Estimate Date	Delayed Cost Date	Inflation Value as of the Delayed Cost Date	Delayed Costs Incurred as of Delayed Cost Date
3	Failure to Prepare and Implement SPCC Plan	$16,370.00	12/1/2018	135	12/16/2024	168	$20,371.56

Step 2B. Next, I calculated the after-tax delayed costs as of the Delayed Cost Date by removing federal and state taxes. The federal tax rate for corporations in 2024 was 21%, as provided in the BEN model. Multiplying the pre-tax delayed cost of $20,371.56 by 21% equals $4,278.03. This result is shown in Cell W3 of Figure 4. The next step is to calculate the 2024 state tax rate that accounts for federal deductibility. I used the equation: (1 – federal tax rate) * state tax rate. The Oregon state tax rate in 2024 was 7.60%, as provided in the BEN model. Therefore, the equation is (1 – 21%) * 7.60% = 6.00%. This result is shown in Cell X3 of Figure 4. To calculate state taxes, I multiplied $20,371.56 by 6.00% to equal $1,222.29. This result is shown in Cell Y3 of Figure 4. Next, I subtracted the federal and state taxes to obtain the After-Tax Delayed Cost. This equation is $20,371.56 - $4,278.03 - $1,222.29 = $14,871.24. The result is shown in Cell Z3 of Figure 4.

Figure 4:

	A	V	W	X	Y	Z
1		**Step 2B - Calculate After-Tax Cost of Delayed Costs Incurred (Delayed Scenario)**				
2	**Alleged Violations and Associated Costs**	Federal Tax Rate in 2024	Federal Tax Offset	State Tax Rate, Adjusted for Fed. Deductibility in 2024	State Tax Offset	After-Tax Cash Flow as of Delayed Cost Date
3	Failure to Prepare and Implement SPCC Plan	21.00%	$4,278.03	6.00%	$1,222.29	$14,871.24

Step 2C. The next step is to adjust the After-Tax Delayed Cost from the Delayed Cost Date to the Non-Compliance Date. First, I calculated that there are 3,456 days between the Non-Compliance Date and the Delayed Cost Date. Next, I converted the 3,456 days into years by dividing 3,456 by 365 to equal 9.468493151. Then, I adjusted the cash flow as of the Delayed Cost Date to the Non-Compliance Date, using the discount rate of 8.0%. The equation is the cash flow as of the Delayed Cost Date multiplied by (1 + discount rate) ^ years. In this equation, the discount rate is applied over the years of non-compliance to reflect the business' ability to reinvest the cost savings in profit-generating opportunities. The calculation is $14,871.24 * (1 + 0.08) ^ -9.468493151, which equals $7,175.87. This result is shown in Cell AG3 of Figure 5.

Figure 5:

	A	AB	AC	AD	AE	AF	AG
1		**Step 2C - Adjust After-Tax Delayed Costs to NCD**					
2	**Alleged Violations and Associated Costs**	Delayed Cost Date	NCD Start (On Time Date)	Days Between NCD and Delayed Cost Date	Divide Days Difference with 365 to Obtain Years	Discount Rate (8.0%)	Adjust After-Tax Delayed Costs to NCD
3	Failure to Prepare and Implement SPCC Plan	12/16/2024	7/1/2015	-3456	-9.468493151	0.08	$7,175.87

Step 3. Next, I subtracted the Delayed Cost Scenario of $9,074.41 in Step 2C from the On-Time Scenario of $7,175.87 in Step 1B. The equation is $9,074.41 - $7,175.87 = $1,898.54. The result is shown in Cell AI3 of Figure 6. $1,898.54 is the economic benefit as of the Non-Compliance Date.

Figure 6:

	A	AI
1		**Step 3 - Subtract Delayed Scenario from On Time Scenario**
2	**Alleged Violations and Associated Costs**	Subtract Delayed Scenario from On-Time Scenario
3	Failure to Prepare and Implement SPCC Plan	$1,898.54

Step 4. Next, I calculated the number of days between the Non-Compliance Date of 7/1/2015 and the Estimated Penalty Payment Date of 6/1/2026 to be 3,988 days, as shown in Cell AM3 of Figure 7. Then, I converted these days to years by dividing 3,988 by 365. The result is 10.9260274 years, which is shown in Cell AN3 of Figure 7.

Figure 7:

	A	AK	AL	AM	AN
1		**Step 4 - Calculate Years between NCD and Estimated Penalty Payment Date**			
2	**Alleged Violations and Associated Costs**	NCD Start (On-Time Date)	Estimated Penalty Payment Date	Days Between NCD and Penalty Payment Date	Divide Days Difference with 365 to Obtain Years
3	Failure to Prepare and Implement SPCC Plan	7/1/2015	6/1/2026	3988	10.9260274

Step 5. Finally, I adjusted the economic benefit as of the Non-Compliance Date to the Estimated Penalty Payment Date. The equation for this is $1,898.54 * ((1+0.08) ^ 10.9260274), which equals $4,401.58. This result is shown in Cell AQ3 of Figure 8. $4,401.58 is the economic benefit as of the Penalty Payment Date for this delayed cost.

Figure 8:

	A	AP	AQ
1		**Step 5 - Calculate Final Economic Benefit as of Penalty Payment Date**	
2	**Alleged Violations and Associated Costs**	Discount Rate (8.0%)	Final Economic Benefit as of Penalty Payment Date
3	Failure to Prepare and Implement SPCC Plan	0.08	$4,401.58

b. Calculating Avoided Costs

The avoided cost calculations below use the same steps as those above for calculating delayed costs, except steps 2 and 3 are not needed because there is no Delayed Cost Scenario for avoided cost calculations.

As noted in Section III. above, there is one avoided cost for failing to maintain the SPCC plan in the first year of the plan, and ten avoided costs for failing to review and revise the SPCC plan on an annual basis. I will not write each specific calculation for every cost but will describe the calculation methodology and provide figures of each input and result.

Step 1A. The first step of calculating avoided costs is to adjust the cost estimate from the Cost Estimate Date to the Non-Compliance Date. The Non-Compliance Date for each cost is the last day of the applicable yearly period when the costs should have been incurred, as shown in Column E of Figure 9. The equation is the Estimated Compliance Cost divided by the inflation value as of the Cost Estimate Date multiplied by the inflation value of the Non-Compliance Date. The results are shown in Column G of Figure 9.

Figure 9:

	A	B	C	D	E	F	G
1		Step 1A - Adjust Compliance Costs from Cost Estimate Date to the Non-Compliance Date (NCD)					
2	**Alleged Violations and Associated Costs**	Estimated Compliance Costs	Cost Estimate Date	Inflation Value as of Cost Estimate Date	NCD Start (On-Time Date)	Inflation Value as of the NCD	Cost Estimate as of NCD
3	Avoided Costs for Failure to Maintain the SPCC Plan and Keep Records in First Year of Plan from 7/1/2015 to 6/30/2016	$157.00	12/1/2018	135	6/30/2016	126.7	$147.35
4	Avoided Costs from 7/1/2015 to 6/30/2016	$2,747.00	12/1/2018	135	6/30/2016	126.7	$2,578.11
5	Avoided Costs from 7/1/2016 to 6/30/2017	$2,747.00	12/1/2018	135	6/30/2017	129.7	$2,639.15
6	Avoided Costs from 7/1/2017 to 6/30/2018	$2,747.00	12/1/2018	135	6/30/2018	133.3	$2,712.41
7	Avoided Costs from 7/1/2018 to 6/30/2019	$2,747.00	12/1/2018	135	6/30/2019	136.9	$2,785.66
8	Avoided Costs from 7/1/2019 to 6/30/2020	$2,747.00	12/1/2018	135	6/30/2020	140.6	$2,860.95
9	Avoided Costs from 7/1/2020 to 6/30/2021	$2,747.00	12/1/2018	135	6/30/2021	144.7	$2,944.38
10	Avoided Costs from 7/1/2021 to 6/30/2022	$2,747.00	12/1/2018	135	6/30/2022	152.1	$3,094.95
11	Avoided Costs from 7/1/2022 to 6/30/2023	$2,747.00	12/1/2018	135	6/30/2023	159	$3,235.36
12	Avoided Costs from 7/1/2023 to 6/30/2024	$2,747.00	12/1/2018	135	6/30/2024	165.5	$3,367.62
13	Avoided Costs from 7/1/2024 to 12/16/2024	$2,747.00	12/1/2018	135	12/16/2024	168	$3,418.49

Step 1B. Next, I calculated the after-tax costs of complying on time by subtracting federal and state taxes from the adjusted costs. The federal and state tax rates need to be specific to the year of each cost's Non-Compliance Date. For the federal tax rate, Respondent, as a corporation, was subject to a federal tax rate of 35% from 2016 to 2017, and of 21% from 2018 to 2024. To calculate federal taxes, the equation is the cost as of the Non-Compliance Date multiplied by the applicable federal tax rate. The federal tax amounts are shown in Column J of Figure 10. The formula for computing the Oregon state tax rates that account for federal deductibility is: (1 – federal tax rate) * state tax rate. The Oregon tax rate from 2016 to 2024 was 7.60%. Therefore, the state tax rates adjusted for federal deductibility are shown in Column K of Figure 10. Then, I subtracted federal and state taxes from the adjusted costs, which resulted in the amounts in Column M of Figure 10. These amounts are the after-tax costs of complying on time.

Figure 10:

	A	I	J	K	L	M
1		Step 1B - Calculate After-Tax Cost of Complying On Time (On-Time Scenario)				
2	**Alleged Violations and Associated Costs**	Federal Tax Rate	Federal Tax Offset	State Tax Rate, Adjusted for Fed. Deductibility	State Tax Offset	After-Tax Cash Flow as of NCD
3	Avoided Costs for Failure to Maintain the SPCC Plan and Keep Records in First Year of Plan from 7/1/2015 to 6/30/2016	35.00%	$51.57	4.94%	$7.28	$88.50
4	Avoided Costs from 7/1/2015 to 6/30/2016	35.00%	$902.34	4.94%	$127.36	$1,548.41
5	Avoided Costs from 7/1/2016 to 6/30/2017	35.00%	$923.70	4.94%	$130.37	$1,585.08
6	Avoided Costs from 7/1/2017 to 6/30/2018	21.00%	$569.61	6.00%	$162.74	$1,980.06
7	Avoided Costs from 7/1/2018 to 6/30/2019	21.00%	$584.99	6.00%	$167.14	$2,033.53
8	Avoided Costs from 7/1/2019 to 6/30/2020	21.00%	$600.80	6.00%	$171.66	$2,088.49
9	Avoided Costs from 7/1/2020 to 6/30/2021	21.00%	$618.32	6.00%	$176.66	$2,149.40
10	Avoided Costs from 7/1/2021 to 6/30/2022	21.00%	$649.94	6.00%	$185.70	$2,259.32
11	Avoided Costs from 7/1/2022 to 6/30/2023	21.00%	$679.42	6.00%	$194.12	$2,361.81
12	Avoided Costs from 7/1/2023 to 6/30/2024	21.00%	$707.20	6.00%	$202.06	$2,458.36
13	Avoided Costs from 7/1/2024 to 12/16/2024	21.00%	$717.88	6.00%	$205.11	$2,495.50

Steps 2 & 3. As noted above, Steps 2 and 3 from the delay cost calculation above are not needed for calculating avoided costs because there is no Delayed Cost Scenario. However, in order to keep the steps for avoided costs consistent with the steps for delayed costs above, the next step here will be Step 4.

Step 4. Next, I calculated the number of days between each Non-Compliance Date and the Estimated Penalty Payment Date of 6/1/2026. The results are shown in Column S of Figure 11. Then, I converted these days to years, which is shown in Column T of Figure 11.

Figure 11:

	A	Q	R	S	T
1		Step 4 - Calculate Years between NCD and Estimated Penalty Payment Date			
2	**Alleged Violations and Associated Costs**	NCD (On Time Date)	Estimated Penalty Payment Date	Days Between NCD and Penalty Payment Date	Divide Days Difference with 365 to Obtain Years
3	Avoided Costs for Failure to Maintain the SPCC Plan and Keep Records in First Year of Plan from 7/1/2015 to 6/30/2016	6/30/2016	6/1/2026	3623	9.926027397
4	Avoided Costs from 7/1/2015 to 6/30/2016	6/30/2016	6/1/2026	3623	9.926027397
5	Avoided Costs from 7/1/2016 to 6/30/2017	6/30/2017	6/1/2026	3258	8.926027397
6	Avoided Costs from 7/1/2017 to 6/30/2018	6/30/2018	6/1/2026	2893	7.926027397
7	Avoided Costs from 7/1/2018 to 6/30/2019	6/30/2019	6/1/2026	2528	6.926027397
8	Avoided Costs from 7/1/2019 to 6/30/2020	6/30/2020	6/1/2026	2162	5.923287671
9	Avoided Costs from 7/1/2020 to 6/30/2021	6/30/2021	6/1/2026	1797	4.923287671
10	Avoided Costs from 7/1/2021 to 6/30/2022	6/30/2022	6/1/2026	1432	3.923287671
11	Avoided Costs from 7/1/2022 to 6/30/2023	6/30/2023	6/1/2026	1067	2.923287671
12	Avoided Costs from 7/1/2023 to 6/30/2024	6/30/2024	6/1/2026	701	1.920547945
13	Avoided Costs from 7/1/2024 to 12/16/2024	12/16/2024	6/1/2026	532	1.457534247

Step 5. Finally, I adjusted the economic benefit as of each Non-Compliance Date to the Estimated Penalty Payment Date. The equation for this is the after-tax cash flow as of the Non-Compliance Date multiplied by ((1+Discount Rate) ^ years between Non-Compliance Date and Penalty Payment Date). Each result is shown in Column W of Figure 12. Adding together the values in Column W of Figure 12, the total economic benefit of the avoided costs is $32,617.60, as shown in Cell W15 of Figure 12.

Figure 12:

	A	V	W
1		**Step 5 - Calculate Final Economic Benefit as of Penalty Payment Date**	
2	**Alleged Violations and Associated Costs**	Discount Rate	Final Economic Benefit as of Penalty Payment Date
3	Avoided Costs for Failure to Maintain the SPCC Plan and Keep Records in First Year of Plan from 7/1/2015 to 6/30/2016	0.080	$189.97
4	Avoided Costs from 7/1/2015 to 6/30/2016	0.080	$3,323.93
5	Avoided Costs from 7/1/2016 to 6/30/2017	0.082	$3,203.05
6	Avoided Costs from 7/1/2017 to 6/30/2018	0.082	$3,697.98
7	Avoided Costs from 7/1/2018 to 6/30/2019	0.083	$3,532.55
8	Avoided Costs from 7/1/2019 to 6/30/2020	0.084	$3,367.61
9	Avoided Costs from 7/1/2020 to 6/30/2021	0.089	$3,270.51
10	Avoided Costs from 7/1/2021 to 6/30/2022	0.093	$3,202.54
11	Avoided Costs from 7/1/2022 to 6/30/2023	0.097	$3,095.85
12	Avoided Costs from 7/1/2023 to 6/30/2024	0.098	$2,941.88
13	Avoided Costs from 7/1/2024 to 12/16/2024	0.080	$2,791.73
14			
15		Total Economic Benefit of Avoided Costs	$32,617.60

V. Conclusion

Adding together the economic benefits of $4,401.58 from delayed costs and $32,617.60 from avoided costs, the total economic benefit in this case amounts to $37,019.18, as shown in Cell B4 of Figure 13.

Figure 13:

	A	B
1		**Economic Benefit Amounts**
2	**One-Time Non-Depreciable Delayed Costs**	$4,401.58
3	**One-Time Non-Depreciable Avoided Costs**	$32,617.60
4	**Total Economic Benefit**	$37,019.18