

**SUPPORTING STATEMENT**  
**Stormwater Management Including Discharges from Developed Sites Questionnaires**

**U.S. Environmental Protection Agency**  
**Office of Water**  
**Office of Science and Technology**

**April 22, 2010**

---

## CONTENTS

	Page
PART A OF THE SUPPORTING STATEMENT.....	2
1. Identification of the Information Collection.....	2
a. Title of the Information Collection.....	2
b. Short Characterization/Abstract.....	2
2. Need for and Use of the Collection.....	4
a. Need/Authority for the Collection.....	4
b. Practical Utility/Users of the Data.....	4
i. General Use of the Data.....	4
ii. Detailed Technical Analyses Supported by the Data from the Questionnaires.....	6
iii. Detailed Economic Analyses Supported by the Questionnaire Data.....	10
3. Non-Duplication, Consultations, and Other Collection Criteria.....	13
a. Non-Duplication.....	13
b. Public Notice Required Prior to ICR Submission to OMB.....	14
c. Consultations.....	19
d. Effect of Less Frequent Data Collection.....	19
e. General Guidelines.....	20
f. Confidentiality.....	20
g. Sensitive Questions.....	21
4. The Respondents and the Information Requested.....	21
a. Respondent NAICS Codes.....	21
b. Information Requested.....	22
i. Data Items, Including Record Keeping Requirements.....	22
ii. Respondent Activities.....	47
5. The Information Collected: Agency/Contractor Activities, Collection Methodology, and Information.....	47
a. Agency/Contractor Activities.....	47
b. Collection Methodology and Management.....	48
c. Small Entity Flexibility.....	49
d. Collection Schedule.....	49
6. Estimating the Burden and Cost of the Collection.....	50
a. Estimating Respondent Costs.....	50
b. Estimating Respondent Costs.....	56
i. Estimating Labor Costs.....	56
ii. Estimating Capital and Operations and Maintenance (O&M) Costs.....	58
c. Estimating Agency and Contractor Burden and Costs.....	58
d. Estimating the Respondent Universe and Total Burden Costs.....	58
e. Bottom-Line Burden Hours and Cost Tables.....	58
f. Reasons for Change in Burden.....	58

## **PART A OF THE SUPPORTING STATEMENT**

### **1. Identification of the Information Collection**

#### **a. Title of the Information Collection**

United States Environmental Protection Agency  
Information Collection Request for Stormwater Management Including Discharges from Developed  
Sites (New)  
EPA ICR No. 2366.01  
OMB Control No. 2040-NEW

#### **b. Short Characterization/Abstract**

The United States Environmental Protection Agency (EPA), through this Information Collection Request (ICR) package, requests that Office of Management and Budget (OMB) review and approve this ICR in support of EPA's Stormwater Management rulemaking. Through this collection, EPA will obtain data essential to inform EPA's stormwater management rulemaking under Clean Water Act (CWA) Section 402(p).

Long term stormwater discharges from developed sites, such as subdivisions, roadways, and commercial buildings or shopping centers, can significantly alter the hydrology of a site and can have a negative impact on receiving waterbodies. Generally, as sites are developed, there is an increase in impervious areas where water cannot infiltrate into the ground, leading to increases in stormwater runoff volume. This additional stormwater volume, as well as the introduction of pollutants such as fertilizers, sediments and deposition of vehicle emissions contributes to increased stormwater impacts.

EPA's current national stormwater program regulates stormwater discharges from certain municipal separate storm sewer systems (MS4s), stormwater discharges associated with industrial activity, and stormwater discharges during active construction at sites of one acre or larger as required by section 402(p) of the CWA. See 40 CFR 122.26(a). Under EPA's regulations, these stormwater discharges are required to be covered by National Pollutant Discharge Elimination System (NPDES) permits that must include certain requirements including, where applicable, stormwater management plans including long term stormwater discharge controls. Section 402(p) also authorizes EPA to designate additional stormwater discharges to be regulated other than those already regulated and to establish a comprehensive program to regulate them. See 402(p)(2)(E) and (6).

In July 2006, EPA commissioned the National Research Council (NRC) to review its program for controlling stormwater discharges under the CWA. The NRC released its report, entitled *Urban Stormwater Management in the United States*, National Academy of Sciences Press, in October 2008. The NRC report states that stormwater discharges from the built environment remains one of the greatest challenges of modern water pollution controls, "as this source of contamination is a principal contributor to water quality impairment of waterbodies nationwide." The NRC found that the current regulatory approach by EPA is not adequately controlling all sources of stormwater discharge that are contributing to waterbody impairment. NRC recommended that EPA address stormwater discharges from impervious land cover and promote practices that harvest, infiltrate and evapotranspire

stormwater to prevent it from being discharged, which is critical to reducing the volume and pollutant loading to our Nation's waters.

Based on the results of the NRC report, EPA published a December 28, 2009 Federal Register Notice announcing a proposed rulemaking to strengthen its stormwater program under the Clean Water Act (CWA) and to further reduce the impact of long term stormwater discharges from developed sites to our Nation's waters (See FR 74 FR 68617-68622). As described in that notice, EPA is considering the following as part of its rulemaking:

- a. Establishing national standards for stormwater discharges from new and redeveloped sites.
- b. Expanding the scope of the existing MS4 regulations. This includes a consideration of covering more areas within existing MS4 jurisdiction as well as regulating additional areas for regulation not currently subject to MS4 jurisdiction.
- c. Revising existing MS4 regulation to establish a single rule for all regulated MS4s and to strengthen existing requirements..
- d. Revising existing MS4 requirements to include retrofit requirements for existing development within an MS4, and
- e. Including specific provisions for the Chesapeake Bay watershed.

In order to inform this rulemaking, this ICR consists of six questionnaire instruments designed to collect information from various entities: owners and developers of residential, commercial, industrial, and non-commercial sites; owners and operators of MS4s (including one specific to state and county Departments of Transportation (DOTs)), and NPDES Permitting Authorities. The data collected through these questionnaires will provide EPA with information to characterize current building, transportation, and real estate improvement projects (i.e., new and redevelopment); long term stormwater controls and best management practices (BMPs) being installed at newly developed and redeveloped projects; state and local long term stormwater programs and requirements (including retrofit of existing development) and the areas covered by these requirements; the current capacity and expenditures by NPDES Permitting Authorities and local authorities to implement, enforce, and maintain long term stormwater programs and controls; and technical, financial, and environmental data needed to quantify the incremental pollutant removals, compliance costs, impacts, and benefits for various regulatory options that EPA might consider in this rulemaking.

EPA plans to distribute the Owner/Developer Questionnaires and MS4 Questionnaires to a statistical sample of owners and developers and MS4s, respectively. EPA plans to distribute the NPDES Permitting Authority Questionnaire to a census of NPDES Permitting Authorities. See Part B of this supporting statement. Owners/Developers, MS4s, and NPDES Permitting Authorities will devote time and resources to respond to this ICR. EPA estimates that the total respondent burden associated with this ICR will be 167,669 hours and \$6,972,000 (including labor and O&M costs). The questionnaires and collection design represent EPA's effort to gather sufficient data to perform the analysis to accurately assess its rulemaking consideration yet at the same time administer an ICR that limits the burden placed on respondents.

## **2. Need for and Use of the Collection**

### **a. Need/Authority for the Collection**

As explained in 74 FR 68617-68622, under Authority of Section 402(p) of the CWA, EPA's Office of Water has begun an effort to strengthen and expand its stormwater program with a focus on reducing water quality impacts from long term stormwater discharges from developed sites. EPA plans to use these questionnaires to solicit information from owners and developers of newly developed and redeveloped projects, owners and operators of MS4s including transportation agencies, and NPDES Permitting Authorities. Because EPA lacks readily available information to inform this proposed rulemaking, this ICR is necessary to fulfill requirements established by the CWA to inform Agency decision making about the appropriate course of regulatory action to reduce water quality impacts from long term stormwater discharges.

EPA will use the questionnaire data (along with information obtained from other sources) to develop a profile of current building, transportation, and real estate improvement projects (i.e., new and redevelopment); long term stormwater controls and best management practices (BMPs) being installed at newly developed and redeveloped projects; state and local long term stormwater programs and requirements (including retrofit of existing development) and the areas covered by these requirements; the current capacity and expenditures by states and localities such as MS4s associated with implementing and enforcing existing stormwater programs and requirements and in maintaining long term stormwater controls; and technical, financial, and environmental data needed to quantify the incremental pollutant removals, compliance costs, impacts, and benefits for various regulatory options that EPA might consider in this rulemaking.

With the exception of the information requested from the NPDES permit authorities, the information will be collected through questionnaires, distributed under the authority of section 308 of the Clean Water Act. Information from the NPDES Permit Authorities will be collected through a questionnaire distributed under the authority of sections 304(i) and 402(c) of the CWA.

### **b. Practical Utility/Users of the Data**

#### **i. General Use of the Data**

EPA plans to use this ICR to solicit information from the various entities that may be affected by this rulemaking including owners and developers of sites, MS4s, DOTs, and NPDES Permitting Authorities. EPA will use the information collected through this ICR to gain knowledge of new development and redevelopment projects, long term stormwater management practices and installations at newly and redeveloped sites; financial information for developers and owners of these projects; current local and state stormwater programs and requirements; budgets and financial information for NPDES Permitting Authority and local governments responsible for implementing, maintaining, and enforcing long term stormwater discharges and associated best management practices; and baseline information on the current level of implementation of state permit programs, including industrial permits. The information collected will provide data that complement, and go beyond, data that are available from public sources.

The Owner/Developer Questionnaires request information on the following primarily as they relate to long term stormwater management of discharges from newly and redeveloped building and real estate improvement projects<sup>1</sup>:

- General identification information;
- Type/location/size/identification of projects;
- Soil type, stormwater conveyance, and discharge location for the project;
- Land cover areas both pre- and post-development including percent imperviousness;
- Long term stormwater best management practices and controls (with a focus on LID practices), including design criteria, specifications, and cost information;
- Stormwater permit and management requirements;
- Information on design credits or incentives (or impediments) associated with implementing retention practices;
- Firm level financial information;
- Establishment level financial information; and
- Project level financial information.

The MS4 and Transportation Questionnaires requests information on:

- The type of MS4 (e.g., Phase I, traditional. State DOT);
- Stormwater conveyance (including direct discharge) within the MS4 jurisdiction;
- Specific stormwater program components (e.g., outreach, recordkeeping, training) and extent of coverage;
- Extent of new and redevelopment projects and MS4 oversight (e.g. site plan review);
- Current MS4 stormwater management requirements, including specific or numeric long term stormwater discharge standards for new and redevelopment activities;
- Local ordinances that conflict with or encourage long term stormwater retention practices;
- Long term stormwater controls and practices installed, maintained and whether cost and/or performance data are available;
- Current capacity, budget, and funding sources for implementing, enforcing, maintaining and monitoring existing stormwater program; and
- Stormwater capital improvement plans and/or requirements (including retrofit of existing property).

The NPDES Permitting Authority Questionnaire requests information on:

- Current state stormwater program components
- Scope and extent of municipal stormwater program, including the type and number of stormwater permittees (e.g. traditional, non traditional, Phase I, Phase II);
- State stormwater municipal permit requirements including specific or numeric long term stormwater discharge standards for new and redevelopment;
- State industrial stormwater permits and requirements;
- State construction stormwater permits and requirements;

---

<sup>1</sup> EPA is not collecting data on erosion control activities or stormwater management activities during the active construction phase.

- State retrofit plans or requirements;
- Stormwater inspection and enforcement activities; and
- Current capacity and budget associated with the state’s stormwater program;

EPA would use the technical data collected in the Owner/Developer Questionnaires to establish a baseline of current usage and availability of long term stormwater discharge practices and controls at new and redevelopment projects. In addition, EPA would use the project level data to develop a national distribution of projects based on critical characteristics (e.g. size, value, percent imperviousness, previous land use). Together, this information supplemented with other data (e.g. capital cost), will be used to assess the incremental costs and benefits associated with various regulatory options for reducing long term stormwater discharges. Finally, EPA would use the financial information collected on the firm, establishment, and project level to characterize the economic status of owners and developers that could be subject to new stormwater management requirements and estimate the impact of compliance costs on the property developers and owners.

EPA would use the technical information collected in the MS4 and Transportation questionnaires to first assess existing local stormwater programs. In specific, EPA would use information collected to, among other things, establish a baseline of local long term stormwater regulatory requirements and jurisdiction, operation and maintenance of long term stormwater practices and controls, and current local oversight, monitoring, and enforcement. EPA would also estimate the current capacity and budgets of localities for their existing programs, including retrofit programs as applicable. EPA would use this information to inform its consideration of expanding the scope of the existing MS4 regulations, whether to establish a single set of requirements for all MS4s, and/or whether to establish different requirements for transportation. EPA would also use this information to help inform its consideration of implementing national standards for new and redevelopment projects (and the associated operation and maintenance) through the MS4 program. Ultimately, EPA would use this information to evaluate the incremental costs and impacts on MS4s and local jurisdictions that may result from this regulation. Finally, where available, EPA would also incorporate reported information on frequency of specific long term stormwater controls, their costs and effectiveness with information reported in the owner/developer questionnaire.

The NPDES Permitting Authority Questionnaire would gather similar information as the MS4 questionnaire, but at the state level. In specific, EPA would use information collected to, among other things, characterize state stormwater programs, requirements, coverage, oversight, enforcement, capacity, and budgets. This information would serve a similar purpose as the data collected in the MS4 questionnaire, but would allow EPA to estimate the impact of regulatory options at the state level. It would also enable EPA to ensure that its regulatory options are not in conflict with state laws.

**ii. Detailed Technical Analyses Supported by the Data from the Questionnaires**

To support potential changes to the stormwater regulations, EPA would collect technical, programmatic, and financial information pertaining to current stormwater regulation and conveyance and treatment practices from owners and developers of property, MS4s, and NPDES Permitting Authorities. Ultimately, EPA would use the information to inform whether to expand its national stormwater program and how to best reduce long term stormwater discharges from new and redevelopment and the built environment.

EPA engineers, statisticians, economists, biologists, and contractors would perform detailed analyses of the data collected through the questionnaires. The EPA team would also supplement the collected information with additional data sources, such as National Oceanic and Atmospheric Administration (NOAA) precipitation data. Specific analyses using the technical data are described below.

Consideration of National Standards for Long Term Stormwater Discharges from New and Redeveloped Sites

(a) *Profile of Current Construction Projects and Creation of Impervious Surfaces*

EPA would use the data collected through the questionnaires to develop a national profile of new building and real estate improvement projects. This profile would differentiate the various types of residential and commercial construction, by, at minimum, size and geographic location. In addition, EPA would develop a national profile of net increase in impervious surfaces resulting from these activities.

(b) *Profile of Long Term Stormwater Management Practices*

EPA would use the data collected through the questionnaires to develop a national profile of long term stormwater management and control technologies and practices currently being incorporated in new building and real estate improvement projects, incentives and barriers to incorporating such practices, as well as a profile of the conveyance of stormwater discharges from these sites.

(c) *Profile of Current Stormwater Program Requirements for Long Term Stormwater Discharges*

EPA would use the data collected through the questionnaires to develop a national profile of existing local and state long term stormwater requirements for new and redevelopment projects and the built environment.

(d) *Technical Feasibility and Effectiveness Analysis of Post Construction Stormwater Control*

Feasibility and effectiveness of various long term stormwater controls and practices will likely vary depending, at minimum, on geography and weather patterns. EPA would use data collected through this ICR on feasibility and effectiveness of long term stormwater controls and practices, where available, together with other readily available data to assess the effectiveness of various control options at reducing overall stormwater volumes, stormwater velocities, and specific pollutants in the effluent and to identify any feasibility limitations of such technologies and/or practices.

(e) *Pollutant Loadings and Removals*

EPA will estimate current pollutant loadings from long term stormwater discharges and any reductions after incorporation of regulatory control options. EPA would use technical data collected from the questionnaires to supplement readily available data on pollutant loadings from long term stormwater discharges. Together, with information on existing projects, rainfall, and long term control and practice effectiveness, EPA will estimate the incremental pollutant reductions associated with various regulatory options. EPA will then use these incremental reductions in its benefits analyses and also to compare the relation between costs and associated reductions of regulatory options.



*(f) Assessment of Technology Costs*

EPA will estimate the costs of various stormwater management approaches, including pollution prevention and controls, associated with regulatory options. The costs of the control options or practices would include the following items: capital costs for engineering design (including overhead), equipment and installation, and annual operating and maintenance (O&M) costs for the option.

EPA would use data collected through the questionnaires, supplemented by cost information from other sources such as control system manufacturers, to estimate the direct costs of stormwater management, pollution prevention, and control options selected for any regulatory requirements. These data include information to allow for estimation of stormwater flow rates, data related to stormwater collection and treatment/control technologies, retention practices, and pollution prevention/management practices.

EPA would estimate the difference in incremental costs for incorporating option compliant long term stormwater discharge controls or practices during new development and redevelopment projects and any associated costs for operating and maintaining such controls and practices over current expenditures. EPA would use the information on current projects and long term stormwater pollutant estimates to determine whether new and redevelopment projects need to improve their stormwater collection and control technology (e.g., by installing new units or entire systems) and whether those responsible for maintaining such technologies would need to modify their operating practices to comply with the discharge requirements for a particular regulatory option. EPA also plans to evaluate and, account for, where appropriate, cost savings associated with option compliant long term stormwater discharge controls and practices. Incremental compliance costs would be used to determine the potential economic impacts of the options. In addition, these incremental compliance costs would be weighed against the incremental pollutant reductions and benefits resulting from each regulatory option.

*(g) Assessment of Costs to MS4s, localities and NPDES Permitting Authorities*

EPA will also assess the incremental costs associated with new requirements to reduce long term stormwater discharges from new and redevelopment projects. This includes, but is not limited to, incremental costs of implementing EPA's requirements, oversight, enforcement, and/or possible retrofit or maintenance requirements. The survey will provide information on how MS4s and NPDES permitting authorities are currently overseeing the operation and maintenance of the controls within their jurisdiction, on both public and private property. This will provide an indication of how the O&M for new controls resulting from the rule may be handled by MS4s and/or NPDES permitting authorities.

*(h) Environmental Assessment and Economic Benefits Analysis*

EPA will perform an environmental assessment to characterize environmental impacts associated with long term stormwater discharges and the environmental improvements associated with their reduction. Improvements can include both surface water improvements as well as "ancillary benefits" associated with the use of certain urban stormwater control technologies and practices (e.g., improved groundwater recharge from infiltration practices or additional riparian habitat from vegetative buffers). The assessment aims to provide both a qualitative and, when sufficient data is available, quantitative characterization.

EPA would use information collected through this ICR, supplemented by other data, to perform this analysis. Following an assessment of the current environmental impacts, EPA would estimate the potential change in environmental impact associated with different control options for discharges from newly developed and redeveloped sites.

(i) *Standards Consideration*

EPA would use all of the above analyses to help inform its consideration of and development of options for national requirements to reduce long term stormwater discharges from new and redeveloped sites. For example, EPA would use the information to assess whether it should develop different standards for development and redevelopment or based on geographic location (e.g., Chesapeake Bay). The above analyses in conjunction with the economic analyses described below would help EPA determine what standards are appropriate to meet such a requirement and ultimately the decision criteria that may be used to make standard(s) selection.

Consideration of Changes to the Federal Stormwater Program

(a) *Distribution and characteristics of MS4 jurisdictions around the country*

EPA would use collected data to develop a distribution of federally regulated and non-regulated MS4s around the country including their relative sizes, proximity to rapidly developing areas, and whether or not the MS4 regulates long term stormwater discharges beyond the urbanized area (e.g. entire jurisdiction).

(b) *Extensiveness of unregulated discharges*

EPA will determine how much and where new and redevelopment is occurring using land cover data and other spatial analysis. This information will be compared to existing Phase I and Phase II MS4 boundaries (urbanized area) to determine how much development is occurring outside the current federal regulatory framework. This information can help determine the need for regulating these sites through a redefined MS4 area and/or through direct regulation.

EPA will determine the prevalence of federally unregulated stormwater discharges that are located within MS4s, but discharge directly to a waterbody or to a private system as well as their impact. This information can help determine the need for regulating these sites under federal regulation.

(c) *Existing Stormwater Program Requirements*

EPA will use data primarily collected from questionnaire responses to develop a national profile of existing state and local stormwater programs and requirements. In addition, EPA will evaluate the current prevalence of the Phase I requirement and the six Phase II minimum control measures across all MS4s.

(d) *Assessment of Retrofit Requirements for Existing Sites*

Retrofitting is the installation or modification of stormwater control measures on sites with existing development (including existing storm sewers) to enhance the reduction of stormwater pollutants and discharge volume and flow rates. EPA will use data primarily collected from

questionnaire responses to develop a national profile of existing state and local retrofit programs, plans, and requirements.

*(e) Assessment of Incremental Compliance Costs*

EPA will estimate the incremental costs of potential mechanisms for expanding the scope of the federal stormwater program and requirements based upon the results of data collection. For example, if any Phase II MS4s currently regulate discharges beyond the urbanized boundary (as required by the existing federal program), there would be less additional cost involved in expanding this requirement. EPA will also estimate the incremental costs of requiring the same program elements for all MS4s. For example, if any Phase I MS4 program already incorporates the six minimum measures required for Phase II MS4 programs, then less additional cost would be incurred in extending the six minimum measures to all MS4s. Similarly, EPA will estimate the incremental costs of requiring retrofit or retrofit plans.

**iii. Detailed Economic Analyses Supported by the Questionnaire Data**

EPA economists would use information collected in these questionnaires to estimate the potential economic impacts of the proposed rule on affected entities. In each of these analyses, the questionnaire data may be used as the primary input (e.g., project level financial information is used directly in an impact model), or may be used in conjunction with other readily available information. Many of the economic analyses require input from and/or build on the technical analyses described above.

To analyze the costs and impact of the proposed rule, EPA would use the questionnaire information to (1) characterize quantitatively the financial profile of the economic entities expected to be subject to the regulation, (2) characterize quantitatively the profile of new and redevelopment projects, (3) undertake analyses of the economic impacts due to installation and maintenance costs based on that information; (4) to characterize quantitatively the additional costs and/or burden to NPDES Permitting Authorities and MS4s in maintaining and enforcing stormwater controls, BMPs, and retention practices.

*(a) Developing the Analysis Baseline*

EPA would develop the industry baseline for the establishments and firms engaged in developing projects and projects owners that are expected to be directly affected by this regulation. The development industry encompasses businesses operating in a range of construction industry segments. The questionnaires would determine those industry segments that are likely to perform activities within the scope of the regulation and that are the focus of this regulatory analysis. EPA would also determine the quantity and character of acreage and project development associated with those businesses and/or owners. The development of an industry baseline, with respect to both establishment financial condition and the profile of projects performed, will support the analysis of the costs and impact of the proposed rule.

(b) *Analysis of Impacted Entities associated with National Long Term Stormwater Discharge Standards for New and Redevelopment Projects*

The four primary categories of affected entities are defined by their role in the life cycle of a development project, including the original land owner, the project developer/owner, the project's end user, and the government entity (in most cases an MS4) that has jurisdiction over the project's stormwater. OW will use survey results, supplemented with other data sources to establish the baseline number and an economic/financial profile of potentially affected entities in sectors impacted by the rule. A set of model firms that perform development projects will be based on the profile of developers/owners. All model project costs will initially be assigned to model firms. As most of these projects will be developed to be sold or leased in the real estate market, many of these costs will be passed through to other entities. Information on ownership and project purpose gathered through the survey will facilitate the estimation of the proportion of costs that are passed through to different business sectors and socio-economic communities.

(c) *Error: Reference source not found*

The survey will collect information on project construction cost and value for each phase of development. This will facilitate an assessment of project-level changes to profitability and also help in estimating an incremental compliance cost multiplier, which would be used to account for overhead, debt, and equity cost considerations that affect per-acre compliance cost, but that are not expected to be accounted for in the engineering-level estimate of per-acre cost. The project level analyses will support assessment of the cost and economic impact of proposed regulatory requirements on development industry. Industry-level effects will be assessed in terms not only of total cost to the industry, but also other key impact metrics, including cost-to-revenue ratios, potential instances of financial stress, and potential closures. This analysis would be performed for the entire set of in-scope entities, and separately for small entities in order to satisfy the Regulatory Flexibility Act (RFA, 5 U.S.C. et seq., Public Law 96-354), amended by the 1996 Small Business Regulatory Enforcement Fairness Act (SBREFA).

(d) *Analysis of Single-Family Housing Affordability Impacts*

The survey will collect information on value and number of dwelling units for residential projects. This information will be used to help assess potential effects on housing affordability. This analysis would be performed at a regional level (potentially states or metropolitan statistical areas), with economic effects assessed in terms of the expected change in price for various priced new single-family homes and cost for potential operation and maintenance requirements for permanent stormwater control structures. An assessment of the affect of these costs on the purchasing decision of prospective home buyers would also be performed.

(e) *Analysis of Social Cost and Economy-wide Effects*

The survey results provide the basis for estimating the extent and distribution of current development activity and for assessing the incremental costs from regulating this activity. The survey also provides the information needed for a baseline assessment of current stormwater management activities by NPDES Permitting Authorities and municipalities and for estimating the incremental burden to these government entities from expansion of their responsibilities under the new rule. These

analyses in turn are used to estimate the social cost of the rule. The social costs analysis examines the affects of increased construction and O&M costs on the level of activity in the construction and real estate markets. The social cost analysis also takes into account the increased governmental costs resulting from the rule. The incremental costs to government and the private sector are also used for an additional analysis that estimates the economy-wide effects on output, employment and household income.

*(f) Regulatory Flexibility Act (RFA) and the Unfunded Mandates Reform Act (UMRA) Analyses*

As part of the statutory requirements under the RFA, EPA will assess the potential impacts of the rule on small entities. Small entities are estimated to comprise approximately 88 percent of the construction industry. It is anticipated that many MS4 municipalities are small entities as well. The survey will provide insight on the operating models of small entities, their baseline economic/financial condition, and their participation on in-scope projects, and thus support a stronger understanding of potential rule impacts on small businesses. The survey will also provide important information on the operating budgets and current stormwater management practices of small municipalities.

In accordance with requirements of the UMRA, EPA will estimate the potential effects of proposed regulations on Federal, State and Local government entities and specifically small businesses and small governments. The municipal and NPDES Permitting Authority surveys are essential for developing the profiles of affected government entities since no database exists on operators of MS4s and their technical and financial capacities, or on their existing regulations. The municipal survey is collecting budgetary and financial information that will be used to determine capacity of municipalities to administer the regulation. This will allow OW to determine incremental burden. OW will incorporate several cost concepts such as: the development of systems and procedures for processing a new permit; project design and permit review and approval at project commencement; and the potential cost of ongoing monitoring and inspection for compliance practices that require ongoing O&M. Governments will also face rule requirements as they develop in-scope projects.

*(g) Market Values Analysis*

The use of various stormwater controls and any associated maintenance requirements can have a direct affect on property values. The survey collects information on project value, controls used, and MS4 O&M requirements for property owners which will all help inform an analysis of how property values may change. Because some controls can improve or diminish the aesthetic quality of a property they can have an indirect affect on the property value of surrounding properties. Survey information will help identify neighborhoods that may have experienced property value changes due to the use of certain stormwater control practices within them.

*(h) Avoided Cost Analysis*

The national standards for new and redevelopment will lead to greater use of infiltration and retention practices, which can lead reductions in costs associated with numerous commercial activities and public works that are impacted by changes in urban hydrology, such as: Flood Damages, Storm Sewer System Maintenance, and Stream Restoration. The municipal survey gathers information on current municipal efforts and expenditures for capacity expansion to reduce flooding, storm sewer maintenance, and either stream restoration or stream bank stabilization. This information will help in the

assessment of the potential cost savings that may result from reducing the volume and velocity of stormwater entering storm sewers and adjacent waterways.

### **3. Non-Duplication, Consultations, and Other Collection Criteria**

#### **a. Non-Duplication**

EPA's Office of Water made every reasonable attempt to ensure that this ICR does not request data and information currently available through less burdensome mechanisms. Specifically, OW explored Agency databases, directories, contacts, and sources to locate data and information significant to this regulatory development process. OW also explored other ongoing or completed regulatory developments (e.g., Effluent Limitations, Guidelines, and Standards (ELGs) for the Construction and Development Industry) and/or information collection efforts. In addition, OW has conducted a thorough collection and review of other applicable databases and secondary sources.

For information on project type and project size, EPA has used CGP Notice of Intent (NOI) records in the past. However, while some information for potential in-scope projects can be obtained from the NOI database, the dataset has certain limitations including coverage, detail and currency. The NOI database includes data on only 24 states and cannot provide the information needed to conduct a national assessment. In addition, the information included in this source is not sufficiently detailed in terms of project technical characteristics and contains little or no economic/financial information to meet the needs of the technical, economic, and environmental impact analyses. Moreover, the dataset is not consistently current. EPA intends therefore to collect information on current projects and project size from the questionnaire respondents so that a more accurate national picture can be developed.

Previously used data sources for stormwater controls include state construction general permits (CGPs), websites, summary references, state regulations, and erosion and sediment control design and guidance manuals. These sources provide a summary of criteria and standards for active construction site stormwater erosion and sediment control that are implemented by states, but do not summarize long term stormwater controls that are implemented after completion of active new and redevelopment projects, which are the focus of this data collection activity. EPA intends to collect information on stormwater controls and to assess practices currently used for long term stormwater discharge control.

For information on land use, EPA has used the National Land Cover Database (NLCD), which provides a national source of data on land cover change. This database provides a 30-meter resolution land cover data layer over the conterminous United States (CONUS) from Landstat Thematic Mapper satellite imagery. NLCD data are publicly available for the years 1992 and 2001 and the land cover change map and all documentation pertaining to it are considered provisional until a formal accuracy assessment can be conducted. Classifications from the NLCD dataset include: open water, urban, barren, forest, grassland/shrub, agriculture, and wetlands Ice/Snow. EPA intends to collect pre- and post-development land cover data as part of this data collection as a means to assess potential changes in stormwater flow following land development. These data are not currently available from NLCD due to the level of detail required for post-development land cover categories (e.g., rooftops, parking lots, street/road, lawn, farm, forest, other vegetation).

For information on soil type, EPA has used the State Soil Geographic Database (STATSGO) which provides a national map of soil types across the U.S. STATSGO was designed primarily for

regional, multi-county, river basin, State, and multi-state resource planning, management and monitoring and the data are not detailed enough to make interpretations at a county level. As part of the questionnaire, EPA will request information on the predominant soil type for each project identified and reported. EPA needs to collect this information at the project level since STATSGO will not provide location specific soil conditions to allow for the most accurate analysis.

For precipitation data, EPA will use publicly available data published by the National Oceanic and Atmospheric Administration (NOAA). These data are available from national weather stations throughout the U.S. and will provide sufficient estimates of annual rainfall by location (city, county, state).

For purposes of the current stormwater data collection and analysis, EPA will also require information on BMPs and retention practices applicable to the control of long term stormwater discharges from newly developed and redeveloped sites. To assess the performance of these practices, in part, EPA will use data from vendors and the National Stormwater BMP Database, developed by the American Society of Civil Engineers (ASCE).

The financial data requested in the owner/developer Questionnaire is not expected to be available through other sources. While some general business information is available from business registries such as Dunn & Bradstreet (D&B), these data are limited and do not provide sufficient understanding of the business operations of the industry to complete a comprehensive economic impact analysis. In addition, some of the financial information requested may be claimed as CBI and therefore not available outside of a survey.

Although some municipalities and states may make information publicly available on their budgets, revenue sources, and stormwater management activities, this information is not systematically or consistently reported in such a way to make it usable for a comprehensive assessment of current stormwater regulatory activity at the municipal level. Particularly, states, which are permitting authorities, collect annual reports from MS4s, however; this information is not collected in a consistent way in order to support a national sampling. While reviewing Phase I and II permits may provide some information about specific permit requirements, the permits do not include the comprehensive scope of information that is needed. Some non-governmental entities, such as Black and Veatch, have undertaken voluntary surveys to gather information on municipal stormwater management activities. However, these efforts are very limited in terms of the questions asked and the number of municipal respondents. Therefore, these information sources can supplement the OW efforts, but by themselves are inadequate to form the basis of an analysis of the effects of expanding the MS4 program.

**b. Public Notice Required Prior to ICR Submission to OMB**

(i) Publication of the Federal Register Notice

On October 30, 2009 (74 FR 56191-56193), EPA published a notice in the Federal Register, announcing the Agency's intent to submit a request for a new ICR and to collect comment on three draft questionnaires associated with this stormwater management regulation. EPA informed trade associations, state and local contacts, and environmental groups of the notice via phone and e-mail.

EPA plans to publish a second notice in the Federal Register announcing its intent to submit a request for a new ICR and to collect comments on the revised versions of the questionnaires for

owners/developers, MS4s, and NPDES Permitting Authorities that incorporate comments received during the first comment period. The notice will include a description of the entities that would be affected by the proposed questionnaires, a brief explanation of the need for the questionnaires, and an estimate of the burden to be incurred by questionnaire respondents. By means of the notice, the Agency will request any further comments and suggestions regarding the questionnaires and a reduction in the associated burden, and ask the public to submit all final comments and suggestions within 30 days of Federal Notice publication. EPA will again notify key trade associations, state and local contacts, and environmental groups of this notice via phone and e-mail.

Pursuant to section 3506(c)(2)(a) of the Paperwork Reduction Act, EPA will specifically solicit comments and information to enable it to:

1. Evaluate whether this proposed information collection is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.
2. Evaluate the accuracy of the Agency's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used.
3. Enhance the quality, clarity, and unity of the information to be collected.
4. Evaluate the questionnaires that will be implemented for this information collection request.
5. Minimize the burden of the collection of information on those that respond.

(ii) Public Response to the Federal Register Notice

EPA received public comments from a variety of interested parties following publication of the first Federal Register Notice (October, 2009). EPA received a total of 84 comments from environmental groups, associations, MS4s including State Departments of Transportation, long term stormwater practice and control vendors, universities, and individuals. Appendix A contains a complete list of all commenters.

EPA is appreciative of the efforts made by stakeholders to support and improve the focus and content of the draft questionnaires. EPA has benefited from this input and used the information gained to improve this ICR and overall approach to this stormwater management rulemaking. In each case, EPA carefully reviewed each of the questionnaires, as appropriate, and revised them accordingly. The biggest change EPA made since its first notice is that this proposed ICR now consists of six survey instruments rather than three as proposed in the first Federal Register Notice. An overview of the overarching comments applicable to all of the questionnaires and the resultant changes is provided below. A more detailed summary of comments received on each of the questionnaires and EPA's response and action are presented in Appendix B.

Several commenters questioned EPA's authority to promulgate a regulation thereby negating the need for this information collection. The following discusses each of the comments and EPA's response:

**EPA does have federal authority to regulate discharges “from” MS4s but not “into” them. [402(p)(2)(C) & (D)] The only federal authority over MS4 influent is the prohibition of non-stormwater discharges into MS4s. [402(p)(3)];**



EPA agrees with commenter that CWA sections 402(p)(2)(C) and (D) give EPA the authority to regulate discharges from MS4s; indeed EPA was required to regulate medium and large MS4s under section 402(p)(4). EPA disagrees with commenter that EPA does not have the authority over stormwater discharges into MS4s or that the only authority over MS4 influent is the prohibition of non-stormwater discharges into MS4s. Under CWA sections 402(p)(2)(B), 402(p)(2)(E), and 402(p)(6) EPA can and does regulate stormwater discharges into MS4s. For example, stormwater associated with industrial activity that is discharged to an MS4 is independently regulated by EPA or the States. 40 CFR 122.26(b)(14). As early as the preamble to the Phase I stormwater rule EPA stated “storm water from an industrial facility which enters and is subsequently discharges through a municipal separate storm sewer system is a ‘discharge associated with industrial activity’ which must be covered by an individual or general permit pursuant to [EPA regulations].” 55 Fed. Reg. 47,990, 47996-97 (November 16, 1990). EPA has the authority to regulate stormwater that is discharged into MS4s. In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.

**Congress did not grant EPA authority to determine how MS4 operators should control indirect stormwater discharges into their systems as long as the MS4s meet their applicable permitting requirements for their own discharges.**

EPA disagrees with commenter to the extent that EPA is required to ensure that permits for discharges from MS4s require controls to reduce the discharge of pollutants to the maximum extent practicable and require such other provisions as the EPA Administrator or State determines appropriate for the control of such pollutants. See CWA section 402(p)(3)(B)(iii). In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.

**EPA lacks the authority to regulate post-construction sites unless they independently generate a regulated stormwater discharge by meeting the definition of an industrial activity or MS4.**

EPA disagrees with commenter. EPA has the authority under CWA section 402(p) to regulate discharges of stormwater other than those that are defined as “industrial” or from a “municipal separate storm sewer system.” Specifically, EPA derives independent legal authority from CWA sections 402(p)(2)(E) and 402(p)(6) and EPA regulations at 40 CFR 122.26(a)(9)(i)(C)-(D) to regulate stormwater discharges from developed sites. For example, in the Phase II stormwater regulations under the authority of CWA section 402(p)(6) EPA designated and currently regulates stormwater “discharges associated with small construction activity,” which are neither industrial discharges nor discharges from MS4s. 40 CFR 122.26(b)(15). In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.

**Post-construction stormwater discharges should be considered nonpoint source discharges or diffuse stormwater discharges that are not regulated under the CWA.**

EPA disagrees with commenter. “Point source” is defined as “any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” See CWA section 502(14). EPA has the discretion to further define what is a point source. See National Wildlife Federation v. Gorsuch, 693 F.2d 156, 175 (D.C. Cir. 1982). The vast majority of developed sites contain pipes, ditches, swales or other types of discrete conveyances; through which pollutants are or may be discharged. Under CWA section 308 EPA has the authority to collect information from point sources. In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.

**EPA can only regulate using standard industrial classification codes which don’t exist for subdivisions, etc.**

EPA disagrees with commenter. There is nothing in the CWA that requires EPA to regulate stormwater discharges based on the standard industrial classification (SIC) codes. In the Phase I stormwater rule EPA used SIC codes to categorize discharges associated with industrial activity; however the Agency was not required to do so then and is not required to do so in any future rulemaking. Any stormwater rulemaking will discuss further how EPA intends to classify discharges from developed sites (or any other stormwater point sources addressed in the proposal) for regulation under the CWA.

**EPA has not clearly articulated its statutory authority to develop stormwater management regulations nor demonstrated that an information collection effort and rulemaking are necessary. EPA has not designated post-construction stormwater discharges as requiring a permit. EPA has not provided a clear definition of what the information will be used for.**

EPA disagrees with commenter. EPA has authority under CWA section 402(p)(6) to designate stormwater discharges in order to protect water quality and develop a comprehensive program to regulate those designated stormwater discharges. Designation of stormwater discharges from developed sites is being considered as part of any rulemaking. Additionally, EPA has the authority under CWA section 402(p)(3)(B) to require discharges from MS4s to require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system design and engineering methods, and such other provisions as EPA determines are appropriate for the control of stormwater discharges. The information collected in this Information Collection Request will be used to assist EPA in developing a regulation to address discharges from developed sites, including, but not limited to, performance or design standards for those designated discharges from developed sites as part of a comprehensive program under section 402(p)(6); benefits of any performance or design standard; costs of any performance or design standard; the prevalence, utilization and effectiveness of stormwater controls that retain, detain or infiltrate stormwater (i.e., low impact development or green infrastructure); and characterize the current scope,

components, and implementation of existing state or regional NPDES stormwater programs. EPA would like a sound record basis for any regulation it proposes and promulgates. This information request is reasonably related to helping create a record for that decision-making.

**EPA’s intention to change the Phase I and Phase II stormwater program based on the ICR constitutes a breach of the program evaluation agreement reached through the Stormwater Phase II FACA as well as the current NPDES regulations resulting from that agreement. Until the provisions of Section 122.37 are satisfied, changes to Phase I and II regulations may be precluded or prohibited.**

EPA disagrees with this comment. As stated in the Preamble to the Phase II Rule, EPA was asked by the Phase II FACA to demonstrate its commitment to revisit the small MS4 requirements in the Phase II Rule and to make changes where necessary after evaluating the stormwater program and researching the effectiveness of municipal BMPs. 64 Fed. Reg. 68722, 68771 (Dec. 8, 1999). EPA did so by committing to revisit the rule after completion of the first two permit terms, *i.e.*, after December 10, 2012. See 40 CFR 122.37. This was an affirmative commitment to revisit the Phase II MS4 program after evaluating its effectiveness, as of a date certain, not a promise not to make changes before a certain date. Nothing in the preamble or section 122.37 requires EPA to refrain from an ICR process to collect information about implementation or effectiveness of the stormwater program or from changing the regulations prior to that time. Although in 1999 EPA expressed its intention to wait until completion of two permit cycles except under certain circumstances, this was only a stated intention, an expectation, and not a commitment. As EPA explained in the Phase II preamble, some commenters requested that EPA reevaluate the program much sooner; some commenters supported waiting two permit cycles, but EPA anticipated that two full permit cycles would be necessary to obtain enough data to significantly evaluate the rule. However, in the ten years since the rule was promulgated and in light of the significant information provided by *Urban Stormwater Management in the United States* (National Academy of Sciences Press, October 2008), including the strong information indicating EPA should improve how it controls discharges of stormwater, EPA has obtained enough data to begin the reevaluation process at this time.

Many commenters provided alternative sources to obtain data and/or explained that they did not have the information to respond to certain questions. Others commented that the format in which EPA requested the information is extremely burdensome because they do not track information in that way. EPA carefully reviewed each of the questions in each of the survey instruments to remove or revise its questions, where appropriate, accordingly.

Some suggested EPA’s possible universe of questionnaire recipients is flawed. In some cases, commenters provided information on additional categories of possible recipients (other possible sources of the requested information) while others explained why certain categories were inappropriate recipients (because they do not have the requested information). EPA reviewed and revised its universe of possible questionnaire recipients and concludes that the entities included in the survey design will

provide the best information to aid EPA in this rulemaking effort. See Part B of this ICR for additional information on the proposed universe of questionnaire recipients.

Various commenters requested additional definitions or suggested revised definitions. EPA agrees that additional and/or revised definitions would improve understanding of the terms used in specific questions and would likely improve the quality of the data obtained. EPA has revised the questionnaire definitions accordingly.

Several commented on the burden and the 60 day response deadline. During consultations with developers/owners, MS4s, and states, EPA gathered valuable insight on the overall questionnaire burden and the burden of specific questions. EPA has revised the questionnaires with an eye on burden reduction. For example, EPA has reduced the amount of questions in the owner/developer survey considerably and developed both a long and short version. EPA estimates that the average burden per questionnaire ranges from 10 hours to 74 hours with an average of 30 hours. A 60 day response period allows ample time for even the most burdensome questionnaire respondents. See Section 7 for additional discussion on burden.

Various commenters provided suggestions for revisions of specific questions or additional questions or stormwater issues for which EPA should request data. Where appropriate, EPA revised the questions accordingly.

Many provided comments on the rulemaking itself. While EPA appreciates these comments, they are outside the scope of this ICR.

**c. Consultations**

The Agency will continue to solicit comments and consult with interested stakeholders following publication of this notice and throughout development of this rule. Following the first Federal Register Notice, EPA hosted a number of teleconferences and meetings with representatives from the National Association of Home Builder's (NAHB), The Association of General Contractors (AGC), Association of State and Interstate Water Pollution Control Administrators (ASWIPCA), National Association of Clean Water Agencies (NACWA), Natural Resources Defense Council (NRDC), and various states. In addition, between January and March, EPA conducted listening sessions in Chicago, San Francisco, Denver, Dallas, DC, and Boston which enabled it to obtain feedback directly from a variety of interested stakeholders including large and small municipalities and developers. EPA also held a virtual listening session with approximately 1,900 participants. The main purpose of the listening sessions was to obtain input on the rulemaking considerations described in Section 1a. However, these listening sessions were invaluable to this effort as well because they provided EPA with a more complete picture of existing stormwater management and permitting throughout the U.S., including local geographic and legal considerations. EPA also received input on the questionnaires themselves as well as other data sources during these listening sessions. EPA plans to conduct additional teleconferences and meetings to solicit any further comments on the questionnaires.

**d. Effect of Less Frequent Data Collection**

These questionnaires are to be administered one time only. If this information collection is not conducted, the specific data sought in these questionnaires will not be available for EPA's use in

decision making about the need for and scope of potential regulation to prevent or reduce long term stormwater discharge impacts from new and redevelopment. Reliance on public data alone would significantly impair EPA's ability to establish a baseline of existing state and local stormwater programs and requirements, current new and redevelopment projects and associated long term stormwater controls; and incremental costs, pollutant reductions, impacts, and benefits of potential rulemaking.

**e. General Guidelines**

EPA will conduct data collection in accordance with the Paperwork Reduction Act guidelines in 5 CRA 1320.6 and EPA's Quality Assurance Guidance. Information to be disseminated would comply with EPA's Information Quality Guidelines which were developed for implementing OMB's Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of the Information Disseminated by Federal Agencies.

**f. Confidentiality**

The owner/developer questionnaires inform respondents of their right to claim information confidential in accordance with 40 CFR part 2, subpart B, Section 2.203. Because MS4s and NPDES Permitting Authorities are public entities, none meet the definition of a business as defined in 40 CFR part 2, subpart B, Section 2.201. The owner/developer questionnaires provides instructions for claiming confidentiality and informs respondents of the terms and rules governing Confidential Business Information (CBI) under the Clean Water Act and 40 CFR 2.203(B). EPA does not expect stormwater management practices or project related conditions (such as project size, predominant soil type and land cover use) to be claimed as CBI. However, financial data requested through the questionnaire may be subject to a CBI claim. Each question which requests potentially confidential business information is accompanied by a CBI checkbox. Questionnaire respondents are directed to check the CBI checkboxes which accompany the responses they claim as confidential.

EPA and its contractors will follow existing procedures to protect data labeled as CBI. These procedures include the following:

- Ensure secure handling of completed questionnaires to preclude access by unauthorized personnel.
- Store completed questionnaires and databases in secured areas of offices, and restrict access to authorized EPA and contractor personnel only.
- Restrict any publication or dissemination of confidential study results or findings to aggregate statistics and coded listings.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent of, and by means of, the procedures set forth in 40 CFR Part 2, Subpart B. In general, submitted information protected by a business confidentiality claim may be disclosed to other employees, officers, or authorized representatives of the United States concerned with implementing the Clean Water Act. Exemption 4 of the Freedom of Information Act (FOIA) protects from disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential." See 5 U.S.C. 552(b)(4).

Information covered by a claim of confidentiality will be made available to EPA contractors supporting this rulemaking to enable them to perform the work required by their contracts with EPA. Each EPA contractor that collects, possesses, or stores CBI is responsible for the proper handling of that data. Each contractor will safeguard information as described in Section 2.211(d) of Subpart B and is obligated to use or disclose information only as permitted by the contract under which the information is furnished.

**g. Sensitive Questions**

No sensitive questions pertaining to private or personal information, such as sexual behavior or religious beliefs, would be asked in the questionnaire.

**4. The Respondents and the Information Requested**

**a. Respondent NAICS Codes**

The target population for the Owner/Developer Questionnaires is all development establishments in the United States. For the selection of establishments by construction type, EPA is focusing on the following eight North American Industry Classification System (NAICS) codes:

- 236115: New Single-Family Housing Construction (except operative builders);
- 236116: New Multifamily Housing Construction (except operative builders);
- 236117: New Housing Operative Builders;
- 236210: Industrial Building Construction;
- 236220: Commercial and Institutional Building Construction;
- 237210: Land Subdivision;
- 237310: Highway, Street and Bridge Construction; and
- 237990: Other Heavy and Civil Engineering Construction.

EPA has identified over 738,000 possible developers/owners of new and redevelopment.

The target population for the MS4 Questionnaires is owners and operators of Municipal Separate Storm Sewer Systems (MS4), including both those regulated under EPA's NPDES Phase I and Phase II regulations and those not currently regulated. EPA has identified 6,645 federally regulated MS4s (including state and county DOTs) and approximately 29,400 non-federally regulated MS4s. Finally, the target population for the NPDES Permitting Authority Questionnaire is all 55 states and EPA regions that serve as NPDES Permitting Authorities.

Also see Part B of this support statement.

**b. Information Requested**

**i. Data Items, Including Record Keeping Requirements**

EPA has developed six survey instruments for this data collection effort: a Long and Short Owner/Developer Questionnaire, two MS4 Questionnaires<sup>2</sup>, a Transportation MS4 Questionnaire, and a

---

<sup>2</sup> The universe of respondents for the two MS4 questionnaires is different. The target population for the Federally Regulated MS4 Questionnaire is all county and local government MS4s that are currently regulated by EPA's municipal stormwater

NPDES Permitting Authority Questionnaire. The Owner/Developer Questionnaire responses will primarily provide information to evaluate the standards for long term stormwater discharges from newly developed and redeveloped sites. MS4s (including transportation agencies) would be asked to provide information that will be used to evaluate existing local stormwater programs, long term stormwater control requirements including retrofits, local ordinances, and annual costs incurred by MS4s for implementing, maintaining and enforcing stormwater programs. The MS4 questionnaires will also help assess the capacity of MS4s to implement any additional proposed regulatory measures or expansion of current coverage. The NPDES Permitting Authority questionnaire would request similar information to, among other things, characterize state stormwater programs, requirements, coverage, oversight, enforcement, capacity, and budgets. Collectively, EPA would use the MS4 and NPDES Authority questionnaires to estimate the impact of regulatory options at the local, county, and state level.

EPA is planning to distribute the owner/developer questionnaires, the Federally Regulated and Non-Federally Regulated MS4 Questionnaires, and the Transportation MS4 Questionnaire to a statistical sample of the four population categories. EPA is planning to distribute the NPDES Permitting Authority questionnaire to a census of all U.S. NPDES Permitting Authorities. Part B of this document details EPA's plans for selecting questionnaire recipients.

EPA is evaluating various methods for distributing the questionnaires. EPA may distribute the questionnaires through the mail or may request response through a secure web site. In the event that EPA elects to distribute the questionnaires via the mail, questionnaires may be provided in a paper or a PDF fillable format (such as a CD or flash drive).

Descriptions of the data requested in each of these questionnaires are provided below:

### **OWNER/DEVELOPER QUESTIONNAIRES**

The following section provides detailed information on and justification for each of the questions in the Owner/Developer Questionnaires. The potential population of questionnaire recipients is the same for both the long and short version. However, selected recipients will be requested to respond to the long or short version, but not both. The short version of the questionnaire is the same as the long version, but includes fewer questions. In particular, questions in the short questionnaire are aimed at covering basic, key operational and financial characteristics of potentially in-scope business and the projects they perform.

### **LONG OWNER/DEVELOPER QUESTIONNAIRE**

#### **SECTION A: GENERAL INFORMATION**

Questions 1-11 cover basic, key operational and financial characteristics of potentially in-scope business and the projects they perform.

Questions 1 and 2 request contact information for the establishment to identify the responding establishment and enable follow-up on erroneous/incomplete answers.

---

program (Phase 1 or Phase II MS4). The target population for the Non-Federally Regulated MS4 Questionnaire is county and local government MS4s that are not currently regulated by EPA's municipal stormwater program.

Several questions in the questionnaire will ask the respondent to report financial information for each year in which the respondent was in business from 2005 – 2009. Recognizing that some respondents may find it less burdensome to report financial information on a fiscal year basis rather than on a calendar basis (i.e., if their fiscal year doesn't begin in January), Question 3 simply asks the respondent to indicate their choice for reporting this information. If the respondent selects the *fiscal year* option, then they must check a box to indicate which month begins their fiscal year. EPA will then use this information to assign establishment financial information to specific calendar years of business activity.

Question 4 is the primary screener question in the survey instrument. This question will be used to determine whether the respondent is required to complete the rest of the questionnaire. The respondent will continue with the questionnaire if they have completed one or more phases of at least one project during the period 2005 – 2009. In addition, these project(s) must meet four criteria: (1) the project was a new or redevelopment project; (2) the establishment was the owner or developer for one or more project phases (either as the sole responsible party or as participant in a joint venture or other multiple party structure); (3) the project disturbs one or more acres or resulted in 5,000 or more square feet of impervious surface; and, (4) the project was NOT a pipeline or other utility related activity where the original land cover was replaced at the end of the project. If the respondent answers *No* to this question, they are finished with the questionnaire.

Question 5 requests that the respondent indicate the state(s)/territories in which the establishment operates. The state in which the establishment is a legal entity may be different than the state or states that in which it operates. This information will be used to characterize the distribution of development activity and existing stormwater regulations geographically. This information will also support the development of model projects and model firms, which will be differentiated by Census region.

Question 6 asks about whether the establishment is independently owned and operated, or owned by a parent firm. Although the questionnaire is targeted to the establishment level, if the establishment is owned by a parent firm, it is also important to collect basic revenue information about the parent firm in order to link establishments to firms in the industry-level economic impact analysis and to understand the operating structure of owners and developers. If the respondent indicates that they are owned by a parent firm, they are prompted to answer three follow-up questions about the parent firm:

*If NO to Question 6*, then question 7 asks for contact information for the parent firm to identify the firm.

*If NO to Question 6*, then question 8 asks for the state in which the firm is organized as a legal entity. EPA will use this information to establish which state commerce regulations apply to the firm for use in the economic/financial analysis.

*If NO to Question 6*, the question 9 asks for the parent firm's total revenue for each year from 2005 through 2009. The respondent may flag this information as CBI. Revenue information will be used to define the size of the firm in the economic/financial analysis, and determine if the firm qualifies as a small business.

Question 10 asks if the respondent is a publically traded company. EPA will use this information in the industry-level economic/financial analysis to further characterize the baseline financial performance and



structure of model firms and to estimate certain financial information required in the analysis (for example, costs of capital).

Question 11 requests that the respondent indicate their type of business organization from a menu of choices. EPA will use this information to identify the tax status of the business for use in the economic/financial analysis and to understand the business operating structure(s) characteristic of the industry.

Questions 12 through 15 focus on *establishment* level financial information.

Question 12 asks for the respondent's total revenue. The respondent may flag this information as CBI. Revenue information will be used to define the size of the responding business in the economic/financial analysis and characterize model firms' operating economic structures and baseline financial performance and conditions. EPA will use revenue data along with financial statement data from RMA's eStatement Studies to map survey respondents to model firm financial statements. This question asks not only for total revenue, but also for the subset of revenue associated with activities that meet the in-scope criteria set forth in Question 4. In so doing, this question also functions as a mechanism for narrowing the focus of the questionnaire in anticipation of subsequent, more detailed questions specifically targeted at in-scope activities. It is also important to isolate the respondent's in-scope revenue to gauge the fraction of the respondent's business that may be affected by the regulation.

Question 13 asks the respondent to report how much of their revenue (i.e., in-scope revenue from question ) is generated from performing different project roles: owner only, developer only, owner and developer. This information will be used to support the development of model in-scope businesses and the assignment of model projects to model businesses. The role of the business in the project is important because it influences the potential cost pass-through possibilities and partly determines the proportion of project compliance costs assigned to the model business.

Question 14 asks the respondent to report their revenue (i.e., in-scope revenue from ) by the category of development activity: new development, redevelopment, or alteration/expansion. This will be used to characterize the proportion of model business activity that occurs in these categories and, as in question 13, support the assignment of model projects to model businesses.

Question 15 asks the respondent to report their revenue (i.e., in-scope revenue from ) by type of development (e.g., single-family, multi-family, commercial, industrial, and various mixed-use options). This question will be used in developing the industry profile and also in further identifying the respondent's business activities that could be affected by a long term stormwater discharge regulation and the extent of potential effect given their participation in these activities.

Questions 16 through 20 request summary project level technical and financial information:

Question 16 asks the respondent to report the number of in-scope projects they were actively participating in on the last day of calendar year 2009. EPA will use this information to support the development of the baseline snapshot of in-scope development activities presently underway. The respondent may flag this as CBI.

Question 17 asks the respondent to report the total number of projects that they completed participation in each year from 2005 – 2009, by project size and across key development categories. This information will serve multiple purposes in the economic impact analysis. EPA will develop distributions from this data to support the development of model in-scope projects (e.g., the size and frequency of projects in different categories), and it will be used similarly to characterize the kinds of projects typically performed by different categories and sizes of in-scope businesses.

Question 18 is a follow-up question to that focuses specifically on the respondent’s residential projects, and instead asks them to report the number of projects in which they completed participation by categories describing the number of housing units in the project (as opposed to the project size in acres). In addition to supporting the same analysis activities described in , this question will also be used to support the analysis of affordability affects on single-family housing units.

Question 19 asks the respondent to report the total number of projects that they completed participation in each year from 2005 – 2009 that used LID practices. This information will be used to support development of the baseline profile of new and redevelopment activities and the general trend in the frequency of LID implementation.

Question 20 asks for the total value of projects that the respondent participated in (1) where their participation ended in each year indicated, and (2) that satisfy the criteria set out in Question 4. The respondent may flag this information as CBI. Recognizing that there are many variations in the configuration of business entities involved in a given project (e.g., establishment’s may only participate in one phase and/or partner with other entities), revenue alone (from Question 12) is not sufficient for characterizing the size of projects in which the respondent might engage. For instance, due to the presence of phasing and partnership, EPA cannot reasonably determine whether a \$1 million dollar firm is able to or likely to participate in a \$25 million dollar project – unless this is explicitly asked about in the questionnaire. This information will therefore be used to further characterize the size/type of projects performed by in-scope businesses.

The remaining questions request detailed technical and financial information about individual projects. The respondent is asked to complete one copy of these questions (Part 2) for each project that meets question 4 criteria, and that was on-going on a randomly selected date<sup>3</sup> in the 2005-2009 time period. Questions 21 through 47 request project specific technical information while questions 48 through 50 request project specific financial information.

Questions 21 – 27 identify the project for which information will be provided including the project name and location, NPDES NOI/NOC permit information specific to the project, the respondent’s role (e.g., owner for the entire project or just certain phases), and, if non-residential, who ownership was transferred to upon project completion. These questions will help EPA identify instances in which information may be received for the same project from multiple sources as well as appropriately identify the project and match it to the permit.

---

<sup>3</sup> Each questionnaire recipient will be asked to respond for a different randomly selected data. EPA will select the date for each recipient prior to questionnaire distribution.

Questions 28 and 29 ask for the timing of the project. This information will be used in the economic impact analysis to assess the length of time that costs will be incurred.

Question 30 requests project type and approximate size while Question 31 requests information on the number of residential dwellings units, if applicable. EPA will use this question to categorize each type of project reported.

Questions 32 and 33 ask for pre- and post-development land cover areas (for both impervious and pervious site components). Questions 34 and 35 ask whether the project site has direct access to a water body or a vegetative buffer zone. Question 36 asks whether a soil survey had been conducted at the project site and, if yes, then Questions 37 and 38 request information on the soil type and distribution of hydrologic soil groups at the project site. This information, along with precipitation data from the National Oceanic and Atmospheric Administration (NOAA), will allow EPA to estimate the volume of long term stormwater discharges generated as a result of new and redevelopment projects in comparison to the volume of long term stormwater discharges that was generated prior to the new or redevelopment project. Information on the proximity to water bodies and presence of vegetative buffer zones will allow EPA to estimate the pollutant loads discharged to surface waters and the potential impacts of the long term stormwater discharges.

Question 39 asks where the project discharges its stormwater. These questions will help determine whether the project site would be subject to a MS4's stormwater management requirements.

Question 40 asks for information on the type of long term stormwater performance standards that applied to the project (e.g., water quality, flood control) and design criteria for the system of long term stormwater controls implemented for the project (e.g., 1-year, 2-year, 5-year or 10-year storm event, number of inches of rainfall). This information will be used to identify trends in long term stormwater management requirements and practices among sectors of the industry (e.g., residential vs. commercial).

Questions 41 – 45 request information specific to retention practices considered and/or implemented for long term stormwater discharge control. They request information on the challenges and policies that impacted their use for the project as well as information on alternative land use if stormwater controls had not been implemented at the project. The information in this set of questions will be used, along with the data collected in the MS4 questionnaire, to evaluate long term stormwater controls by characterizing the state of current regulations for development and redevelopment projects, the use of retention practices in the industry nationally, and the driving forces and impediments to the use of such practices. EPA anticipates it may contact certain respondents for additional follow-up for some of these questions. For example, where a respondent responds that they performed a cost comparison between traditional stormwater post construction controls (i.e. basins) and stormwater practices that retain runoff onsite (i.e. bioretention, rain gardens, etc) for this project, EPA may contact them to request the cost comparison.

Questions 46 and 47 request information on whether certain long term stormwater controls are included in the project's stormwater control system and their associated costs, as applicable. This information will help assess the current usage of various long term stormwater controls, evaluate potential technology options, and potential costs. EPA anticipates it may contact certain respondents to both of these 11 questions for additional information.

Questions 48 through 50 request project-specific financial information.

Question 48 asks the respondent to indicate in which phase(s) of the project that they actively participated. This information will be used to support development of the model in-scope firms in terms of identifying the typical roles performed by different types of establishments in different types of projects. Information on percent ownership in the project will be used to further define the typical roles of model establishment in projects.

Question 49 asks the respondent to report the cost of services in the different project phases (land acquisition, land development, and construction), for each phase in which they performed activity. This information will be used in the economic impact analysis to develop the model projects and specifically determine the sequence of costs incurred during the projects.

Question 50 asks for information to characterize the financial structure and financing terms of each phase of the project in which the respondent was an active participant. This information will be used to define key model project characteristics such as typical interest rate structures and information on equity financing, both of which will be factored into EPA's economic analysis of industry- and firm-level impacts.

### **SHORT OWNER/DEVELOPER QUESTIONNAIRE**

Questions 1-11 cover basic, key operational and financial characteristics of potentially in-scope business and the projects they perform.

Questions 1 and 2 request contact information for the establishment to identify the responding establishment and enable follow-up on erroneous/incomplete answers.

Several questions in the questionnaire will ask the respondent to report financial information for each year in which the respondent was in business from 2005 – 2009. Recognizing that some respondents may find it less burdensome to report financial information on a fiscal year basis rather than on a calendar basis (i.e., if their fiscal year doesn't begin in January), Question 3 simply asks the respondent to indicate their choice for reporting this information. If the respondent selects the *fiscal year* option, then they must check a box to indicate which month begins their fiscal year. EPA will then use this information to assign establishment financial information to specific calendar years of business activity.

Question 4 is the primary screener question in the survey instrument. This question will be used to determine whether the respondent is required to complete the rest of the questionnaire. The respondent will continue with the questionnaire if they have completed one or more phases of at least one project during the period 2005 – 2009. In addition, these project(s) must meet four criteria: (1) the project was a new or redevelopment project; (2) the establishment was the owner or developer for one or more project phases (either as the sole responsible party or as participant in a joint venture or other multiple party structure); (3) the project disturbs one or more acres or resulted in 5,000 or more square feet of impervious surface; and, (4) the project was NOT a pipeline or other utility related activity where the original land cover was replaced at the end of the project. If the respondent answers *No* to this question, they are finished with the questionnaire.

Question 5 requests that the respondent indicate the state(s)/territories in which the establishment operates. The state in which the establishment is a legal entity may be different than the state or states that in which it operates. This information will be used to characterize the distribution of development activity and existing stormwater regulations geographically. This information will also support the development of model projects and model firms, which will be differentiated by Census region.

Question 6 asks about whether the establishment is independently owned and operated, or owned by a parent firm. Although the questionnaire is targeted to the establishment level, if the establishment is owned by a parent firm, it is also important to collect basic revenue information about the parent firm in order link establishments to firms in the industry-level economic impact analysis and to understand the operating structure of owners and developers. If the respondent indicates that they are owned by a parent firm, they are prompted to answer three follow-up questions about the parent firm:

*If NO to Question 6*, then question 7 asks for contact information for the parent firm to identify the firm.

*If NO to Question 6*, then question 8 asks for the state in which the firm is organized as a legal entity. EPA will use this information to establish which state commerce regulations apply to the firm for use in the economic/financial analysis.

*If NO to Question 6*, the question 9 asks for the parent firm's total revenue for each year from 2005 through 2009. The respondent may flag this information as CBI. Revenue information will be used to define the size of the firm in the economic/financial analysis, and determine if the firm qualifies as a small business.

Question 10 asks if the respondent is a publically traded company. EPA will use this information in the industry-level economic/financial analysis to further characterize the baseline financial performance and structure of model firms and to estimate certain financial information required in the analysis (for example, costs of capital).

Question 11 requests that the respondent indicate their type of business organization from a menu of choices. EPA will use this information to identify the tax status of the business for use in the economic/financial analysis and to understand the business operating structure(s) characteristic of the industry.

Question 12 asks the respondent to report the total number of projects that they completed participation in each year from 2005 – 2009, by project size and across key development categories. This information will serve multiple purposes in the economic impact analysis. EPA will develop distributions from this data to support the development of model in-scope projects (e.g., the size and frequency of projects in different categories), and it will be used similarly to characterize the kinds of projects typically performed by different categories and sizes of in-scope businesses.

Question 13 is a follow-up question to that focuses specifically on the respondent's residential projects, and instead asks them to report the number of projects in which they completed participation by categories describing the number of housing units in the project (as opposed to the project size in acres).

In addition to supporting the same analysis activities described in Question , this question will also be used to support the analysis of affordability affects on single-family housing units.

Question 14 asks the respondent to report the total number of projects that they completed participation in each year from 2005 – 2009 that used LID practices. This information will be used to support development of the baseline profile of development activities and the general trend in the frequency of LID implementation.

Question 15 asks for the total value of projects that the respondent participated in (1) where their participation ended in each year indicated, and (2) that satisfy the criteria set out in Question 4. The respondent may flag this information as CBI. Recognizing that there are many variations in the configuration of business entities involved in a given project (e.g., establishment’s may only participate in one phase and/or partner with other entities), revenue alone is not sufficient for characterizing the size of projects in which the respondent might engage. For instance, due to the presence of phasing and partnership, EPA cannot reasonably determine whether a \$1 million dollar firm is able to or likely to participate in a \$25 million dollar project – unless this is explicitly asked about in the questionnaire. This information will therefore be used to further characterize the size/type of projects performed by in-scope businesses.

Question 16 asks the respondent to complete a table summarizing the projects that they participated for a randomly assigned date, during the period 2005 – 2009, and that meet the *Question Error: Reference source not found Criteria*. The table includes key project characteristics including the NOI or NOC permit number, zip code, development category, new vs. redevelopment, percent impervious surface area at the site, number of buildings, final project value, and an LID indicator. These project characteristics represent the key differentiating concepts for model in-scope projects. This information will therefore be integral for developing model projects to support the cost and economic impact analysis.

### **FEDERALLY REGGULATED MS4 QUESTIONNAIRE**

EPA developed the Federally Regulated MS4 Questionnaire to collect information from local and county governments that are currently subject to EPA’s Phase I or Phase II stormwater requirements for MS4s. The following provides a detailed description of and justification for each of the questions in the survey.

#### **SECTION A: TECHNICAL INFORMATION**

Question A-1 collects identification information including the name, title, address, phone number and email address of the primary contact that completed the questionnaire to verify or clarify the responses as necessary.

Question A-2 collects identification information of the name of the MS4 owner or operator Department or Agency.

Question A-3 collects identification information on the type of the regulated MS4. There different types of regulated MS4s including city, town, village, county sewer district. It is important that the type of MS4 be identified to understand the information collected from the MS4.

Question A-4 collects identification information on the type MS4 permit. There are two different types of NPDES permits: individual and general permits. In addition, the regulated MS4 may be a small or medium/large MS4. It is important that the type of MS4 permit and category of the MS4 be identified to understand the information collected from the MS4 in the ICR.

Question A-5 collects information on the number of MS4 permit cycles completed to determine the amount of experience the MS4 has under the stormwater permit program; this information will be used to better understand the information collected from the MS4. In addition, this information will be used to get a nationwide sampling of the status of MS4 permit renewals (should occur every 5 years). It is important to understand the status of permit renewals to know how quickly any new permit requirements could be incorporated into the MS4 program.

Question A-6 collects information on other ways stormwater is conveyed in the jurisdiction, in addition to the separate stormwater system (combined sewer or decentralized system). This information will help us understand whether the MS4 contains both regulated and unregulated stormwater discharges. This information will be used to get a national sampling of how many MS4s manage multiple types of stormwater conveyance in order to determine if developing a program that is consistent for multiple stormwater programs is appropriate.

Questions A-7 through A-10 collect information about the extent of MS4 coverage. Under the Phase II stormwater regulations, small MS4s located within a Census-defined urbanized area are required to be regulated. Some permitting authorities, however, have extended permit coverage beyond the urbanized area to cover the entire jurisdiction if only part of an MS4 was located within an urbanized area. Some permitting authorities have also permitted based on sewer district or watershed boundaries. This information will be used to inform options for redefining MS4 coverage beyond the urbanized area to better control stormwater discharges from development occurring outside the urban center.

Questions A-7 – A-8 collect information about the basis for the MS4 boundary. This data will be used to establish a national baseline of the number of MS4 permits that extend beyond the urbanized area. This information will also be used to evaluate which MS4 boundaries states have found appropriate beyond urbanized area. This information could be used to inform options for redefining MS4 coverage.

Question A-9 collects information about the population, total area and estimated amount of impervious cover of the portion of the jurisdiction that is regulated and that is unregulated. This data will be used to establish a baseline of the current scope of coverage.

Question A-10 collects information about what components of the stormwater program that MS4s may be extending to their whole jurisdiction beyond the permitted portion. This information will be used to determine which components of the federal stormwater program are extended to areas outside of federal required boundaries and to identify which components of the federal stormwater program are viewed as most critical to MS4s. This information could be used to inform options for redefining MS4 coverage and/or stormwater program components.

Questions A-11 – A-12 collect information about discharges in the MS4 service area which flow to a private system or directly to surface waters rather than to the MS4. The data collected includes an estimate of how much area of the MS4 does not discharge to the MS4, the population that is not served by the MS4 and what type of land uses do not discharge to the MS4. Information is collected about whether the MS4 regulates these direct discharges, although they are outside of the current scope of federal regulations. This information will be used to establish an estimate of how prevalent these discharges are within MS4 physical boundaries and if they are regulated. This information could be used to inform regulatory considerations about regulating these direct discharges under the NPDES stormwater program in order to reduce their impacts to receiving waterbodies.

Question A-13 will determine if the MS4 has data to show effectiveness of the components of the stormwater program. Currently there are no specific performance standards for the components of the stormwater program and there is much discretion left to the permitting authority. Some permits may require a measure of effectiveness. This information will be used to determine for which components effectiveness data has been collected. EPA may follow up with the MS4 to collect the effectiveness data, as applicable, to aid in its evaluation of program component effectiveness in protecting waterbodies from stormwater impacts and to inform decisions about expansion of the program to additional areas.

Questions A-14 – A-15 collect information about whether the MS4 collaborates with other agencies to carry out parts of the stormwater program and whether or not they have oversight of those activities. This information will help determine the how the workload of implementing the stormwater program is distributed between different agencies in the municipality. Different types of regulated MS4s (city, town, county, or sewer district) may operate differently. It is important to understand who carries out these activities in order to inform decisions about redefining the MS4 program.

Questions A-16 – A-20 collect information about specific activities that the MS4 has implemented in order to meet the minimum measure requirements of the stormwater program including public education, outreach, illicit discharge detection, pollution prevention, and record keeping. This information will help determine how the stormwater program is implemented by the MS4. Information about what activities are carried out by the MS4 will be used to supplement the baseline cost estimate for each component of the stormwater program.

Questions A-21- A-22 collect information about the industrial components of the stormwater program. This information is important to distinguish the various activities between Phase I and Phase II MS4s. Although industrial inspections are not required under the federal Phase II stormwater programs, the data will be used to estimate the number of MS4s carrying out these activities. Information is also collected to determine the number of industrial facilities located within the MS4 and how many have been inspected. This information would be used to determine the current level of oversight of MS4s on industrial facilities to have a better understanding of the capacity of small MS4s to carry out this component of the stormwater program.

Questions A-23 – A-24 collect information about the active construction components of the stormwater program carried out by MS4s. The data will be used to determine which type of activities are carried about by the MS4 regarding construction site oversight. Data will be collected regarding the size of the construction site that must be covered by a stormwater permit and how many construction sites have



occurred in the last five years. This data will be used to estimate the amount of new construction occurring within the MS4 and if the MS4 tracks that information. This information would be used to inform options for implementation of a specific standard for discharges from newly constructed sites. Estimates of how much construction is occurring within the MS4 boundary will inform options about implementing the standard through the MS4 program and by other means for sites outside the MS4 boundary.

Questions A-25- A-26 collect information about the post construction components of the stormwater program carried out by MS4s. The data will be used to determine which type of activities are carried about by the MS4 regarding post construction practices and oversight. Information is specifically collected about the size of project for which site plan review for stormwater controls is required. This information will be used to estimate how many projects are reviewed for stormwater measures. This information would be used to inform options for implementation of a specific post construction standard for discharges from newly constructed sites and whether procedures are in place to review site plans, in which the standard could be incorporated.

Questions A-27 – A-34 collect information about the MS4’s level of oversight of post construction controls located on public vs. private property. Data will be collected about whether the MS4 tracks, inspects or maintains stormwater controls on public vs. private property and the criteria for selecting which controls are operated and maintained. EPA will use this information to estimate the extent of maintenance of controls located on private property. In addition, data will be collected on which type of property owners (private homeowners, homeowner associations, homebuilders, commercial entities, private institutions) must maintain its own post construction controls. Information will be collected if the MS4 currently has an ordinance or other legal mechanism of operating and maintaining controls on private property and if they have the authority to require maintenance in legal ownership documents. This information will be used to determine what is the current practice of MS4 regarding oversight of post construction controls. This information can give insight into who is currently maintaining and overseeing maintenance of post construction controls on private property, and the extent to which MS4s currently have mechanisms to perform such activities. Ultimately, this will help inform regulatory options for maintenance and operation of post construction stormwater controls on private property.

Questions A35 – A-37 collect information about how the MS4 distinguishes new development and redevelopment projects and how the MS4 defines these activities. This information will be used to inform options about determining standards for new development and redevelopment. This data will provide a national sampling of how MS4s define the two types of development and if MS4s have the same or different requirements for them. An estimate of the amount (in acreage) of new development and redevelopment that has occurred over the last five years in the MS4 will be gathered. This information will be used to determine the potential for increased stormwater impacts due to development in the MS4. Particularly, this data will be used to estimate the amount of development occurring within the MS4. This information would be used to inform options for implementation of a specific standard for discharges from newly constructed sites. Estimates of how much has occurred within the MS4 boundary will inform options about implementing the standard through the MS4 program and by other means for sites outside the MS4 boundary.

Questions A-38 – A-46 are designed to gather information on post construction control performance standards or design criteria currently implemented in the MS4. These questions ask about post

construction standards for new development and redevelopment in MS4s; specifically, what (if any) performance or design standards are required, for what types of development (commercial, industrial, residential, institutional), and whether they differ between new and redevelopment. Data is also gathered regarding how such standards are implemented (e.g., through the MS4 permit, construction permit or another regulation or permit). This information could be used to determine the extent to which MS4 currently have post construction standards, how they are currently implemented, and the types of standards in place. This information can provide crucial insight into existing requirements and will inform regulatory options for standards for long term discharges from new and redevelopment.

Questions A-47 – A-49 are follow-up questions regarding the MS4’s post construction standard. Question 47 collects information about whether or not the post construction standard requires specific stormwater controls or practices or requires choosing from a menu of stormwater controls. This information will provide more detailed information on the prevalence of specific control requirements, if at all, and the types of requirements.

Question A-48 collects information about how the MS4 enforces their post construction program including site inspection, site plan review or self- reporting. This information would be used to inform options for implementation of a specific post construction standard for discharges from newly constructed sites and whether procedures are in place to enforce such a standard.

Question A-49 requests information about whether the MS4 has any alternative to compliance with their post construction standard, if applicable, such as stormwater mitigation programs or payment in lieu to identify which MS4s are currently implementing these practices. This information would be used to inform options for implementation of a specific post construction standard for discharges from newly constructed sites and how prevalent are mitigation programs for stormwater discharges.

Questions A-50 – A-56 ask about whether the MS4 has a retrofit program, the components of the program, implementation on private property and drivers and incentives of the program. Data will be used to determine how prevalent these programs are to establish baseline information and possible regulatory options.

Question A-57 collects information about specific long term stormwater discharge controls and practices that exist in the MS4 including both detention and retention practices. This information can be used to evaluate how prevalent these practices are, which are most commonly used and where, and whether or not the MS4 maintains these various types of controls or practices. EPA is also asking whether or not the MS4 has cost or performance data for these controls or practices. In the event that the MS4 does have such data, EPA may follow up with the MS4 to collect it. In general, the information collected in Question A57 will indicate how prevalent these practices are in various geographic areas and to assess how readily MS4s may be able to implement and maintain such practices to comply with any standard to control long term stormwater discharges from developed sites.

Question A-58 asks whether the MS4 has compared the costs of traditional stormwater practices against the costs of alternative stormwater practices for any municipal projects. The data will help in determining the extent to which such cost comparisons are being conducted on a site-specific basis and the possible availability of those comparisons. EPA may follow up with the MS4 to collect more data based on the answer of this question. Such data would help inform EPA’s cost estimates.

Question A-59 collects data about what are the drivers for the implementation of stormwater retention practices. This information will identify any programs in addition to stormwater have been successful in implementing these practices. EPA will follow up with these MS4 to collect more information and lessons learned regarding the most effective way to promote stormwater retention practices.

Questions A-60 – A-61 ask whether there are any regulatory obstacles or contraindications for the use of retention practices or maintenance concerns within a jurisdiction, to establish what factors may prevent the implementation of retention practices and how prevalent these barriers are. EPA would use this information in its evaluation of controls and practices upon which it may (or may not) base standards for long term stormwater discharges from developed sites.

Question A-62 collects information about groundwater impacts from stormwater discharge, specifically if MS4 has excluded area or categories of areas from infiltrating stormwater. The information will help determine the prevalence of stormwater infiltration concerns. EPA would use this information in its evaluation of controls and practices upon which it may (or may not) base standards for long term stormwater discharges from developed sites.

Question A-63 collects information about stormwater impacts to source water protection areas. The information will determine the prevalence of discharges to these areas and if owners or operators of MS4s that discharge stormwater to these areas recognize the location of these drinking water protection areas. This information will be used to evaluate options for implementing a post construction standard for discharges from develop areas which may include options for MS4 to identify locations for retention practices. It is important to evaluate the understanding of source water protection areas, so that stormwater discharges to these areas can be minimized.

Questions A-64 - A-68 identify any incentives that may be implemented in the MS4 to encourage retention practices for new development, redevelopment, and retrofitting. These data will help in analyzing which (if any) incentives have been effective for encouraging stormwater retention practices and provide baseline information about which incentives are most common. This information will be used to evaluate options for implementing a post construction standard for discharges from developed areas which could be met by the use of stormwater retention practices. It is important to evaluate in what circumstances, use these practices has been successful.

Questions A-69 - A-72 request estimates about whether a MS4's capacity may be exceeded during the year and cause problematic flooding and how often it typically occurs. These data will help determine whether use of green infrastructure and other alternate stormflow management methods may help avert the need for upgrades to 'typical' stormwater control measures, thus potentially saving costs and resources in some areas.

Questions A-73 - A-79 refer to monitoring practices within MS4s and the results of that monitoring (if applicable). This data can be used to help verify cause-and-effect between certain stormwater practices and their effects on water quality. This data can also be used to distinguish the type and scope of monitoring carried out by Phase I and II MS4s. Although, there are more federal monitoring requirements for Phase I MS4s, many Phase II are doing monitoring. This information will be used to evaluate options for implementing a single set of requirements for both Phase I and II MS4s.

EPA developed the MS4 Questionnaire to collect information from local and county governments that are currently subject to EPA's Phase I or Phase II stormwater requirements for MS4s. The following provides a detailed description of and justification for each of the questions in the survey.

## **SECTION B: FINANCIAL INFORMATION**

Question B-1 requests information about the MS4's total operating and stormwater related budget for five fiscal years (2005-2009). This question will provide data on the cost of undertaking activities that were specified by the MS4 in Section A (e.g., permitting, inspecting, operations & management, etc.). Requesting both total operating budget and stormwater related budget will help in assessing the burden of stormwater management relative to other costs. These values will provide the baseline costs for the MS4.

Question B-2 requests the starting month of the fiscal year. This allows for a comparison of budgets across MS4s.

Question B-3 asks the MS4 to provide the percent of the stormwater related budget that was spent on specific activities. Using this information in combination with Question B-1 and questions in Section A will provide a range of the costs for specific activities conducted by MS4s. This information can be used in establishing baseline costs and provide a basis from which to project potential additional costs for specific activities/portions of the stormwater budget due to requirements in the possible new regulations.

Question B-4 requests information on the sources of funding for operations and maintenance activities. This information will be used to help establish baseline financial and operating structure of MS4s, and characterize likely revenue sources for costs that may be incurred due to the regulation.

Question B-5 requests information on the sources of funding for capital improvement activities. This information will be used to help establish baseline financial and operating structure of MS4s, and characterize likely revenue sources for costs that may be incurred due to the regulation.

Question B-6 request information on source of capital debt financing. This data will inform the baseline costs associated with outstanding debt and the cost of additional finances which may be needed to meet new regulatory requirements.

Question B-7 and B-8 request information about the average number of full and part time employees devoted to stormwater related activities in the past five years. This data will inform estimates of the number of employees required to conduct the activities specified in previous questions. Any additional activities that may be required as a result of the new regulation, the number of employees necessary to perform those activities and the associated costs can then be estimated.

Question B-9 asks whether the MS4 has the authority to charge and/or increase stormwater fees. This question will provide information on the MS4's ability to raise revenues for supporting new activities that may be required to comply with new regulations.

Question B-10 asks whether the MS4 charges a one-time development fee for new stormwater permit applications. This will determine whether this type of fee is already being used as a source of revenue or whether it is a potential source of revenue to meet new regulatory requirements.

Questions B-11 through B-13 request information on the amount and basis for the onetime development fees imposed by the MS4 (e.g., based on project value, impervious area, etc.). This will provide information on the potential for additional revenues available by raising fees and/or reformulating fee structures to more closely reflect the amount of stormwater generated from properties and cost associated with its management, especially one-time capital costs for expanded system capacity to accommodate new development. Since this rate structure may be significantly different for single-family, multi-family, and non-residential projects, it is important to request this information for each type of development.

Question B-14 asks what percent of the costs incurred by the MS4 related to new development are actually covered by the one-time fees. This information will be relevant to determine the financial solvency of current activities and in determining the ability of the MS4 to be able to manage additional regulatory requirements. In addition, if new regulations require on-site retention practices for new development, the burden on MS4 to provide additional capacity in their system may be reduced. The significance of this effect may be determined relative to the current expense of such capital expenditures.

Question B-15 asks whether the MS4 charges recurring stormwater fees to property owners. This will determine whether this type of fee is already being used as a source of revenue or whether it is a potential source of revenue to meet new regulatory requirements.

Questions B-16 through B-18 request information on the amount and basis for the recurring stormwater fees imposed by the MS4 (e.g., based on project value, impervious area, etc.). This will provide information on the potential for additional revenues available by raising fees and/or reformulating fee structures to more closely reflect the amount of stormwater generated from properties and cost associated with its management. Since this rate structure may be significantly different for single-family, multi-family, and non-residential projects, it is important to request this information for each type of development.

Question B-19 asks what percent of the costs incurred by the MS4 related to operations and maintenance of stormwater infrastructure are actually covered by the recurring fees. This information will be relevant to determine the financial solvency of current activities and in determining the ability of the MS4 to be able to manage additional regulatory requirements. In addition, if new regulations require on-site retention practices for new development and/or redevelopment, the quantity of flow that the MS4 must manage may not increase and/or be reduced. The significance of this effect may be determined relative to the current expense of such operations and maintenance expenditures.

Question B-20 and B-21 request information about the amount of money spent on system capacity expansion projects in the years 2005 through 2009 and the amount of the system addressed by these activities. This data will provide information on the cost of capacity expansion and inform potential avoided costs calculations for future system expansion if on-site retention practices are required by the new regulation.

Question B-22 and B-23 request information about the amount of money spent on stormwater retrofit projects in the years 2005 through 2009 and number of projects completed with these funds. Information from these questions will provide data on the cost of retrofit activities and provide evidence for the cost of mitigating stormwater discharges from the existing built environment from the aggregate effects of unregulated and/or under-regulated development. This data may also inform avoided cost calculations for MS4s if retrofit practices are required by the new regulation and MS4s do not have implement and fund such projects.

Questions B-25 through B-27 request information about the amount of money spent on stream restoration projects in the years 2005 through 2009, the number of miles restored and purpose of these projects. Information from these questions will provide data on the cost of restoration of urban streams and the characteristics and/or functions of the stream that the activities targeted restoring. These data will demonstrate the value of urban streams and their associated services and functions.

Question B-28 provides space for additional comments to be provided by the MS4.

### **NON-FEDERALLY REGULATED MS4 QUESTIONNAIRE**

EPA developed a shorter version of the MS4 Questionnaire to obtain data from MS4s (e.g., counties and localities) that are likely not currently subject to EPA's Phase I or Phase II stormwater management requirements. EPA needs to collect minimal information to estimate the impact of any options that may expand the MS4 program requirements to additional MS4s. With few exceptions, the questions posed are a subset of those posed in the previously described MS4 Questionnaire.

Question A-1 collects identification information including the name, title, address, phone number and email address of the primary contact that completed the questionnaire to verify or clarify the responses as necessary.

Question A-2 collects identification information of the name of the MS4 owner or operator Department or Agency.

Question A-3 collects identification information on the type of the MS4. There different types of MS4s including city, town, village, county sewer district. It is important that the type of MS4 be identified to understand the information collected from the MS4.

Question A-4 collects information about the population, total area and estimated amount of impervious cover of the jurisdiction. This information will be used to inform options for redefining regulated MS4 coverage. Currently regulated MS4 coverage is based on population density criteria, however, a new criterion based on a lower population density threshold or impervious could be developed. The survey will provide an estimate of these parameters coupled with information about the MS4's existing stormwater program.

Question A-5 collects information on other ways stormwater is conveyed in the jurisdiction, in addition to the separate stormwater system (combined sewer or decentralized system). This information will help us understand whether the MS4 contains both regulated (combined system) and unregulated stormwater

discharges (separate sewer and/or decentralized). This information will be used to get a baseline of how stormwater is managed in the unregulated MS4.

Question A-6 collects information about whether the MS4 has an ordinance or regulatory mechanism to manage stormwater. This information will be used to establish a baseline of the existing authority of unregulated MS4s. This information will be used to inform options for redefining MS4 regulatory coverage. If the unregulated MS4s currently have these authorities in place, the burden of implementing the stormwater program in these MS4s could be reduced.

Question A-7 collects information about whether or not the MS4 reviews site plans for construction projects for stormwater controls. This information will be used to establish a baseline of the existing oversight practices of unregulated MS4s to review development plans for stormwater controls. This information will be used to inform options for redefining MS4 regulatory coverage. If the unregulated MS4s currently have these review practices in place, the burden of implementing the stormwater program in these MS4s could be reduced.

Question A-8 asks if the MS4 has a stormwater management program. If the respondent answers no, then they have completed the survey. Respondents that answer yes are required to answer the remaining questions which provide EPA with some detail on the components of the MS4's stormwater program. This information will be used to establish a baseline of the existing stormwater programs of unregulated MS4s. This information will be used to inform options for redefining MS4 regulatory coverage. If the unregulated MS4s currently have stormwater programs in place, the burden of implementing the stormwater program in these MS4s could be reduced.

Question A-9 asks how many years the MS4 has had a stormwater management program in place. This information will be used to establish a baseline of the experience level for implementing stormwater programs at unregulated MS4s. This information will be used to inform options for redefining MS4 regulatory coverage. If the unregulated MS4s currently have some level of experience implementing a stormwater programs, the burden of implementing the stormwater program in these MS4s could be reduced.

Questions A-10 – A-17 collect information about specific activities that currently regulated MS4s must implement in order to meet certain of the minimum measure requirements of the stormwater program including public education, outreach, illicit discharge detection, pollution prevention, and an active and post construction program for addressing stormwater discharges. This information will help determine if the MS4 includes these activities as part of their existing stormwater management program. Information about what activities are carried out by non- federally regulated MS4s will be used to supplement the baseline cost estimate for extending existing requirements to additional MS4s. Specifically, question A-14 collects data regarding the number of the active construction site starts that has occurred in the last five years. This data will be used to estimate the amount of new and redevelopment projects occurring within the MS4 and if the MS4 tracks that information. This information would be used to inform options for implementation of a specific standard for discharges from newly and redeveloped sites. Estimates of how much development is occurring within the MS4 boundary will inform options about implementing the standard through the MS4 program and by other means for sites outside the MS4 boundary.

Question A-18 collects information about specific long term stormwater discharge controls and practices that exist in the MS4 including both detention and retention practices. This information can be used to evaluate how prevalent these practices are, which are most commonly used and where, and whether or not the MS4 maintains these various types of controls or practices. EPA is also asking whether or not the MS4 has cost or performance data for these controls or practices. In the event that the MS4 does have such data, EPA may follow up with the MS4 to collect it. In general, the information collected in Question A-18 will indicate how prevalent these practices are in various geographic areas and to assess how readily MS4s may be able to implement and maintain such practices to comply with any standard to control long term stormwater discharges from developed sites.

Question B-1 requests information about the MS4's total operating and stormwater related budget for five fiscal years (2005-2009). This question will provide data on the cost of undertaking activities that were specified by the MS4 in Section A (e.g., permitting, inspecting, operations & management, etc.). Requesting both total operating budget and stormwater related budget will help in assessing the burden of stormwater management relative to other costs. These values will provide the baseline costs for the MS4.

Question B-2 requests the starting month of the fiscal year. This allows for a comparison of budgets across MS4s.

Question B-3 asks the MS4 to provide the percent of the stormwater related budget that was spent on specific activities. Using this information in combination with Question B-1 and questions in Section A will provide a range of the costs for specific stormwater management program activities conducted by MS4s. This information can be used in establishing baseline costs and provide a basis from which to project potential additional costs for specific activities/portions of the stormwater budget due to possible requirements in the new regulations.

Question B-4 requests information on the sources of funding for operations and maintenance activities. This information will be used to help establish baseline financial and operating structure of MS4s, and characterize likely revenue sources for costs that may be incurred due to the regulation.

Question B-5 requests information on the sources of funding for capital improvement activities. This information will be used to help establish baseline financial and operating structure of MS4s, and characterize likely revenue sources for costs that may be incurred due to the regulation.

Question B-6 request information on source of capital debt financing. This data will inform the baseline costs associated with outstanding debt and the cost of additional finances which may be needed to meet new regulatory requirements.

### **TRANSPORTATION MS4 QUESTIONNAIRE**

EPA developed the Transportation MS4 Questionnaire for state and county DOTs that are currently subject to EPA's Phase I or Phase II stormwater requirements. In general, much of the information requested in the Transportation Questionnaire is the same as that requested in the MS4 Questionnaire for MS4s currently subject to EPA's Phase I and Phase II stormwater requirements



(Federally Regulated MS4 Questionnaire). However, EPA developed this separate questionnaire for DOTs partly in response to public comment and also to tailor the questions more appropriately to DOT related activities. The following section provides detailed information and justification for each question. Where a question and justification are the same as one in the MS4 Questionnaire detailed above, EPA has not repeated that justification, but refers to the previous discussion.

Question A-1 collects identification information including the name, title, address, phone number and email address of the primary contact that completed the questionnaire to verify or clarify the responses as necessary.

Question A-2 collects identification information of the name of the DOT.

Question A-3 collects identification information on the type of the regulated DOT. There different types of regulated DOTs including state, county, or local DOT. It is important that the type of DOT be identified to understand the information collected from the DOT.

Question A-4 requests information on the DOT's hierarchy in regards to stormwater management. This question will provide information on how transportation entities are currently organized with respect to stormwater management. This information will allow EPA to more appropriately tailor regulatory text to address differing situations, as appropriate, in order to ensure continuity in the application of the regulations. For example, if most of the respondents delegate stormwater requirements down to the district level, then communication between the districts and the DOT headquarters is key to ensuring that the stormwater requirements are met. The current stormwater regulations do not specifically take this into consideration. In this case, EPA may want to consider tailoring any DOT education/outreach requirements to include a specific staff training component.

Question A-5 collects information on the number of MS4 permit cycles completed to determine the amount of experience the DOT has under the stormwater permit program; this information will be used to better understand the information collected from the DOT. In addition, this information will be used to get a nationwide status of MS4 DOT permit renewals (should occur every 5 years). It is important to understand the status of permit renewals to know how quickly any new permit requirements could be incorporated into the MS4 program.

Question A-6 collects information on other ways stormwater is conveyed in the jurisdiction, in addition to the separate stormwater system (combined sewer or decentralized system). This information will help us understand whether the DOT receives both regulated and unregulated stormwater discharges. This information will be used to characterize stormwater conveyance in the DOTs in order to determine if developing a program that is consistent for multiple stormwater programs is appropriate.

Questions A-7 – A-9: See MS4 Questionnaire justifications.

Question A-10 asks if they have a GIS map showing the area covered by their permit. EPA will use this data along with data provided in the Long MS4 Questionnaire to estimate the total area that is currently subject to Phase I or Phase II municipal stormwater regulations. By doing so, EPA will have a baseline with which to compare any potential changes in regulatory coverage.

Questions A11-A12: See MS4 Questionnaire justifications.

Question A-13 asks if the respondent allows other entities to construct in its right of way (area under its control) to which it would apply the components of the stormwater program? This question will help EPA determine how frequently this situation occurs and if the respondent applies the stormwater program to these areas. The current Phase I stormwater regulations require an industrial component for medium/large MS4s. The responses received would help indicate if this industrial component is necessary (if they allow other entities to construct in their rights of way) or unnecessary for DOTs (if they do not allow other entities to construct in the rights of way). Another option would be that if the industrial component is necessary, then perhaps the requirements should be better tailored to account for DOT activities.

Questions A14-A21: See MS4 Questionnaire justifications.

Question A-22 asks if the respondent uses contractors or another government entity to complete parts of its stormwater program. This question will provide a baseline to indicate who is actually performing the activities specified and is a lead in to Question A-23. EPA believes that almost all respondents will use contractors for some aspect of their program, but would like to assess to extent to which this happens. If contractors or others are responsible for the actions specified relating to stormwater controls then the stormwater requirements would need to be related to those entities. This is another area in the stormwater program where transportation departments may be different from traditional municipalities.

Question A-23 requests information on whether or not the respondent includes stormwater requirements in its contractual agreements, as applicable. EPA included this question to inform whether or not specific requirements should be added to the regulations to ensure that contractors are aware of and meet the DOT's stormwater requirements.

Question A-24 asks the respondent to indicate what other mechanisms (as opposed to ordinances) it uses use to implement its stormwater program (such as internal policies and cooperative agreements. The results of this question will provide information on how transportation entities have ensured their programs are implemented and enforced since DOTs do not have the authority to create, implement, and enforce ordinances like traditional MS4s. The regulations may be further refined for transportation entities so that they have separate requirements that take into consideration these other mechanisms rather than continuing to categorize the DOTs with municipalities.

Question A-25 asks "When planning, developing, and designing transportation projects, when is stormwater management first considered?" Understanding when stormwater is first considered in transportation planning is pivotal since it will give EPA a baseline for current actions. Depending on the responses, the stormwater regulations may need to be revised to ensure that stormwater is considered in the early planning phases to meet water quality objectives.

Questions A-26 - A-29: See MS4 Questionnaire justifications.

Question A-30 asks about major roadway projects that are either under construction or in the process of being funded which have the potential to open rural portions of their state to suburban or urban

development over the next three decades. For projects that meet these criteria, this question then asks for some project specific information (i.e. project type, anticipated completion date and web address for additional information, if applicable). This information, in addition to information requested in the other questionnaires, will enable EPA to predict where future development will occur. The location of new residential developments is largely driven by ease of access to regional job centers. New roadways and expansions of existing roadways often result in greater access to job centers from rural areas, thereby making these areas more attractive for future development. State departments of transportation are in a unique position to provide information on roadway projects that have the potential to open rural portions of the state to future urban/suburban growth.

Questions A-31: See MS4 Questionnaire justifications.

Question A-32 asks who reviews the DOT's site plans with respect to stormwater control structures. Traditional municipalities usually have their site plan reviews completed by the State and perform site plan reviews of construction activities within their jurisdiction. Transportation entities, particularly roads controlled/owned by State departments of transportation cross many boundaries and likely do not typically oversee other entities' activities other than their own. This question will allow provide EPA with a baseline for the current practice to determine who currently performs these activities and if DOT site plans are treated any differently than traditional MS4 reviews.

Questions A-33: See MS4 Questionnaire justifications.

Question A-34 asks the respondent if they have stormwater controls located on privately-owned properties. The responses to this question will enable EPA to determine if transportation entities must own all the land on which they build or if they have easements or other agreements that enable them to construct on privately owned property. EPA believes that state and county departments of transportation need to acquire the land prior to construction, but is not sure about some of the other respondents. How will we use this information?

Questions A-35 – A-53: See MS4 Questionnaire justifications.

Question A-54 requests information on how stormwater controls are approved for use on their projects. The answers will tell EPA if respondents have a formal process for approving stormwater controls for use on their project sites and if they are then included in the manuals. This will help EPA figure out how stormwater controls, including green infrastructure practices, may be incorporated into existing programs. Sometimes States have design manuals, but they are not specific for transportation sites. EPA is interested in finding out how transportation-related entities determine which stormwater controls are appropriate for the transportation environment.

Questions A-55 – A-82: See MS4 Questionnaire justifications.

Questions B-1 – B-28: See MS4 Questionnaire justifications.

Question C-1: See MS4 Questionnaire justifications.

## **NPDES PERMITTING AUTHORITY QUESTIONNAIRE**

EPA developed the NPDES Permitting Authority Questionnaire for NPDES permitting authorities. Currently, all states with the exception of Massachusetts, New Hampshire, New Mexico, Idaho and the District of Columbia are NPDES permitting authorities. In these states and some U.S territories, EPA is the permitting authority. The following section provides detailed information and justification for each question.

### **SECTION A: GENERAL INFORMATION**

Questions A-1 – A-2 collect identification information including the name, title, address, and phone number of the primary contact at the state to verify or clarify the responses as necessary and to identify the state stormwater program department or agency.

Questions A-3 to A-6 request that the state provide their expenditure on their stormwater program over the last five years and to estimate their FY2010 stormwater budget. The state is requested to itemize how it divides the stormwater budget in both dollars and full time equivalents (FTEs) between the major activities of its program (permitting, inspections, etc). EPA would use this information for economic/financial analysis to characterize the state's baseline financial operations, including, in particular, how those funds are distributed to different stormwater tasks.

Question A-7 requests the state to identify if it contributes to the stormwater budget of MS4s. EPA would use this information for economic/financial analysis for both the State and MS4s.

Question A-8 gives the state the opportunity to provide any further information on its stormwater budget.

### **SECTION B: MUNICIPAL STORMWATER PROGRAM INFORMATION**

Questions B-1 to B-5 request information on the scope of the municipal stormwater program, including the number of Phase I and Phase II MS4s permits and permittees and the type of permittees (cities, counties, DOTs, etc). These questions will be used to provide EPA with an updated characterization of each state's municipal stormwater program.

Questions B-6 – B-15 collect information about the extent of MS4 coverage. Under the Phase II stormwater regulations, small MS4s located within a Census-defined urbanized area are required to be regulated. Some permitting authorities, however, have extended permit coverage beyond the urbanized area to cover the entire jurisdiction if only part of an MS4 was located within an urbanized area. Some permitting authorities have also permitted based on sewer district or watershed boundaries. Questions B-6 – B-7 collect information about whether the state's Phase II permit coverage is based the urbanized area or another boundary. Question B-8 asks whether the state has mapped its MS4 coverage. Questions B-9 – B-10 will collect information about what designation criteria the state uses for regulating small MS4s outside of the urbanized area and if it has used this federal authority. Question B-11 will collect information about whether the state has used its residual designation authority to federally regulate discharges based on water quality impacts. Question B-12 will collect information about whether the state has used state authority to regulate stormwater discharges that are not currently subject to federal

regulations. Questions B-13 – B-15 collects information about what states has issued permits based on watershed boundaries. This information will determine the current scope of MS4 coverage and will collect information about the criteria and unique permitting schemes used by the states for regulating stormwater impacts. This information will be used to inform options for redefining the MS4 program.

Question B-16 requests information about whether or not the state requires the Phase I MS4 to implement the six minimum measures as described in the Phase II regulations. Questions B-17 – B18 requests information about whether or not the state requires Phase II MS4s to implement an industrial program and monitoring program similar to that required for Phase I MS4s. EPA will use this information to determine how widely Phase I and Phase II regulations have been implemented for all MS4s. This data will inform considerations regarding establishing a single set of requirements for all MS4s.

Questions B-19 – B-22 collects information about what the states require in annual reports and if those reports are collected electronically and if they analyze the data in annual reports. This information will be used to evaluate the availability of the data in annual reports and determine the capacity of the states for electronic reporting. EPA may follow up with the states that have analyzed their annual reports to collect additional data about the effectiveness of the components of the stormwater program.

Question B-23 collects information whether the state requires MS4s to review their ordinances. This information will be used to identify whether the procedure exists in permits for MS4 to review ordinances where regulatory obstacles may exist that could inhibit the use of stormwater retention practices within a jurisdiction. This information will be used to inform options for creation of a standard for discharges for development.

Questions B-24 – B-25 asks the states if they have data to show effectiveness of the components of the stormwater program. Currently there are no specific performance standards for the components of the stormwater program and there is much discretion left to the permitting authority. Some permits may require a measure of effectiveness. This data will be used to determine for which parts of the program effectiveness data base been collected. EPA may follow up with the states to collect more data based on the answer of this question to determine which parts of the program has been most effective in protecting waterbodies from stormwater impacts and inform decisions about expansion of the program to additional areas.

Questions B26 – B27 ask about whether the state requires stormwater retrofits in the MS4 program and, if so, requests that the state describe their program. Data will be used to determine the prevalence of these programs to establish baseline information. EPA may follow up with the states to collect more data based on the answer of this question.

Questions B-28 – B-32 refer to any monitoring activities that state may require of MS4 and if any monitoring results are available. This data can be used to help verify cause-and-effect between certain practices and their effects on water quality. This data can also be used to distinguish the type and scope of monitoring carried out by Phase I and II MS4s. EPA may follow up with the states to collect more data based on the answer of this question.

## **SECTION C: CONSTRUCTION STORMWATER PROGRAM INFORMATION**

Questions C-1 and C-2 request information on the size criteria for obtaining a state construction permit for stormwater and the number of permittees in the state's program for the last five years. This information will be used to estimate how much construction is occurring in the state. This information will be used to inform options for creation of a standard for stormwater discharges from development that results from the construction activity. Questions C-3 to C-5 request information about how many states have set numeric limits or benchmarks in their construction general stormwater permit and if their permits require specific stormwater practices. These questions will be used to provide EPA with an updated characterization of each state's construction stormwater program.

Question C-6 gives the state the opportunity to provide any further information about its construction stormwater regulations and/or permits.

## **SECTION D: STANDARDS FOR STORMWATER DISCHARGES FROM NEW DEVELOPMENT AND REDEVELOPMENT & IMPLEMENTATION OF STORMWATER RETENTION PRACTICES**

Section D collects information about definitions of new and redevelopment and use of stormwater retention practices to control discharges from development. Question D-1 asks how the state distinguishes between new development and redevelopment and which activities fall into each category. This information will be used to determine the similarities and differences in how states distinguish between new and redevelopment if standards were developed the control discharges from these developments. Question D-2 asks if the state has a planning process, program or other mechanism that projects how much and where new development will occur. This information will help determine the scope of discharges from development that could be included in the new regulation. Question D-3 asks if the state has estimates of impervious cover. Research has shown that direct links can be made between receiving waterbody impacts and discharges from impervious cover. If new regulation was based on impervious cover, data could be collected on whether or not the states have regional estimates of impervious cover.

Questions D-4 – D-11 are designed to gather information on performance standards or design criteria for discharges from new or redevelopment currently enacted by the state. These questions ask specifically, what (if any) performance or design standards are required, for what types of development (commercial, industrial, residential, institutional), and whether they differ between new development and redevelopment. Data is also gathered regarding if those standards are implemented through the MS4 permit, construction permit or another regulation or permit. This information could be used to determine how many states currently have post construction standards and which approaches have been successful. This information can provide crucial insight into the relative burden that might be placed upon states for implements such a standard. The burden of setting a new post construction standard could be less for states which have experience with such standards.

Question D-12 collects information about if the states have any role implementing or enforcing their post construction standard including site inspection, site plan review or self-reporting.

Questions D-13 – D-15 request information about whether the state offers or prohibits any alternative to compliance with their post construction standard, if applicable, such as stormwater mitigation programs or payment in lieu to identify which states are currently implementing these practices.

Questions D-16 – D-17 request information about whether the state has a stormwater manual that addresses requirements for new and redevelopment and whether that manual includes specifications for retention practices. This information will be used to determine how many states have set consistent standards and specifications for retention practices statewide.

Questions D-18- D-19 collects data about what are the drivers and incentives for the implementation of stormwater retention practices. This information will identify any programs in addition to the stormwater program have been successful in implementing these practices which have benefits to reducing stormwater impacts.

Question D-20 asks if there are any water rights regulations in the state than may prevent the use of retention practices within the state.

Questions D-21 – D-24 asks whether there are any regulatory obstacles, maintenance concerns or other concerns that could prevent the use of retention practices within a jurisdiction. Information is also collected about whether the state requires stormwater controls on private property. Information is also collected about whether the state allows third parties to be responsible for maintenance of controls. Information is collected about whether the state has excluded areas or categories from stormwater infiltration due to groundwater concerns. This information will help to establish what factors may prevent the implementation of retention practices and the prevalence of these barriers.

## **SECTION E: INDUSTRIAL STORMWATER PROGRAM INFORMATION**

Questions E-1 and E-2 request information the number of permittees in the state’s industrial stormwater program and how many of those facilities are located within MS4 boundaries. These questions will be used to provide EPA with an updated characterization of each state’s industrial stormwater program and provide data about the feasibility of small MS4 inspecting industrial facilities.

Questions E-3 and E-4 request information about how many states have set numeric limits or benchmarks for industrial facilities. This data will provide baseline information regarding the level of oversight required by states and MS4 on industrial facilities.

Question E-5 gives the state the opportunity to provide any further information about its industrial stormwater regulations and/or permits.

### **ii. Respondent Activities**

All questionnaire respondents must read the transmittal letter with attachments citing authority of section 308 or of the Clean Water Act<sup>4</sup>, and confidentiality and handling instructions of any responses asserting a CBI claim, as applicable. Respondents will also need to read the Introduction, General Instructions, Glossary of Terms, and Certification Statement sections in the beginning of the

---

<sup>4</sup> The Authority for the NPDES Authority Questionnaire is sections 304(i) and 402(c) of the CWA, 33 U.S.C. Sections 1314(i) and 1342(c).

questionnaire. The Introduction section provides the purpose and use of the questionnaire, questionnaire outline, e-mail/help line information, and information on how to return the completed questionnaire. The General Instructions section will give the respondent guidance on completing the responses and including attachments, if needed. The Glossary of Terms provides respondents with all pertinent definitions and acronyms to understand and complete the questionnaire sections.

Each respondent will need to read and understand the questionnaire, plan response activities, gather information, compile and review information, and complete the questionnaire form. The respondent would also be required to maintain a copy and retain the completed questionnaire form for up to one year, in the event that EPA has to contact the respondent for clarification of any response.

*(a) Owner/Developer Questionnaires*

The first part of the questionnaires requires the respondent to determine whether they are within the scope of the information collection. If yes, then the remainder of the questionnaire requires the respondent to report establishment and/or firm-level financial data, and project-level technical and financial data, as appropriate. Establishment-level financial data should be available from the Establishment's balance sheet, income statement, and cash flow statement and for respondents with Firm-level ownership, from the Firm's balance sheet, income statement, and cash flow statement.

*(b) MS4 and Transportation Questionnaire*

Respondents to the MS4 or Transportation Questionnaire will be required to report on their stormwater program, stormwater related requirements, ordinances, and practices applicable to their jurisdiction and to provide annual operating budget and permit fee information.

*(c) NPDES Permitting Authority Questionnaire*

Respondents to the NPDES Permitting Authority Questionnaire will be required to report on state stormwater related requirements, permitting activities, inspection and enforcement actions, and to provide annual operating budget information.

**5. The Information Collected: Agency/Contractor Activities, Collection Methodology, and Information**

**a. Agency/Contractor Activities**

The Agency and/or its support contractors will conduct the following activities to administer the questionnaires:

- Development of the questionnaires;
- Development of the sample frames;
- Development of a sample designs;
- Development of Federal Register Notices (FRNs);
- Consultation with respondent trade associations, industry representatives, MS4s, states, environmental groups, and other stakeholders on the questionnaires;
- Review of questionnaire comments provided by the public commenters, EPA work group, and OMB;



- Development of the ICR;
- Performing the sample draws;
- Development of a mailing list database and mailing labels;
- Development of a tracking system for questionnaire mail out/e-mail sending, receipt, and return activities;
- Questionnaire distribution;
- Development and maintenance of a web-site and help line support option for respondents who require assistance in completing their questionnaire, which may include responding to questions via e-mail or call backs and documentation of the contacts;
- Development of the databases for questionnaire responses;
- Receipt and review of questionnaire responses;
- Data entry and verification or file uploading for the questionnaire responses;
- Summarization and analysis of questionnaire responses for a profile of affected entities; and
- Performance of statistical summaries and technical and economic analyses.

EPA will ultimately use the questionnaire results to inform EPA's stormwater management rulemaking under Clean Water Act (CWA) Section 402(p).

**b. Collection Methodology and Management**

Each selected questionnaire recipient will receive a paper copy, an electronic PDF version, or a letter with a link to the questionnaire for completion on line. EPA will deliver questionnaires or web link information via Federal Express or similar delivery service to each recipient to ensure that a point of contact receives and signs for it. Each respondent will be allowed 60 calendar days from the time of receipt to return the completed questionnaire (or to complete their response via the web) for all portions of the questionnaires.

EPA will provide an e-mail address to so that respondents can request assistance in completing the questionnaires. Responses to questions will be documented and, as requested by a respondent, EPA or its representatives will provide assistance by phone.

Each questionnaire respondent will be assigned a unique identification number for ease of tracking. The identification number will be used to track the mailing date of the questionnaire or, questionnaire receipt date by the respondent, follow-up correspondence and telephone calls, and EPA's receipt of the completed questionnaires. The identification number will also be used as a respondent code for file upload in the questionnaire databases.

Upon receipt of completed questionnaires, EPA and its contractors will review the questionnaire responses for completeness and CBI claims. All questionnaires will also be reviewed for consistency and reasonableness and follow up calls will be conducted as needed to clarify inconsistencies found in the responses. Reviewed questionnaire files will then be uploaded into questionnaire databases. The databases developed using the questionnaire responses will be used by EPA to perform data analysis for the purpose of developing discharge standards.

**c. Small Entity Flexibility**

In accordance with requirements of the Regulatory Flexibility Act (RFA), EPA must assess whether actions would have “a significant impact on a substantial number of small entities” (SISNOSE). Small entities include small businesses, small organizations, and small governmental jurisdictions. The target population for the Owner/Developer Questionnaires is all owners or developers that completed one or more phases of certain projects during Fiscal Year 2005- 2009. The target population for the MS4 Questionnaires and Transportation Questionnaire is all county and local MS4 communities and state, county, and local DOTs, respectively. EPA expects a significant portion of these populations to be small entities.

EPA has designed the questionnaires to minimize respondent burden while obtaining sufficient and accurate information. The questionnaires employ the use of checkboxes where feasible, or provide a set of potential responses for respondents to choose from. The questions are phrased with commonly used terminology. Questions requesting similar types of information are arranged together to facilitate review of pertinent records and completion of the questionnaire.

Because this regulation could potentially affect these small entities, EPA needs to collect information to adequately assess any impacts to them. As explained in more detail in Section 6a below, EPA has designed all of the questionnaires to include burden-reducing features. In addition, for the long Owner/Developer Questionnaire, EPA projects the burden will be less for small entities because they will likely have completed fewer projects during the requested time period as compared to large entities and would therefore be required to provide much less detailed technical and financial information on a project level.

**d. Collection Schedule**

The specific dates for distribution, response receipt, and data collection activities for the questionnaires have not yet been established but will include the following activities:

Activity	Estimate of Schedule
Questionnaire Distribution	July 2010
Receipt of questionnaire responses	60 days following receipt
Complete questionnaire follow-up	Three months after receipt

**6. Estimating the Burden and Cost of the Collection**

**a. Estimating Respondent Costs**

EPA has designed the questionnaires to minimize respondent burden while obtaining sufficient and accurate information. The questionnaires employ the use of checkboxes where feasible, or provide a set of potential responses from which respondents may choose. The questions are phrased with commonly used terminology. Questions requesting similar types of information are arranged together to facilitate review of pertinent records and completion of the questionnaire. EPA also incorporated skip patterns where possible so that respondents are directed to skip over questions for information that does not apply to their situation. Finally, for the owner/develop questionnaire, EPA designed financial

questions to solicit information in the format that would be available on an establishment's and firm's balance sheet, income statement, and cash flow statements.

(a) Owner/Developer Questionnaires

EPA developed both a short and long version of the Owner/Developer Questionnaire. The short version is the same as the long version, but requests less detailed project level technical and financial information as well as less detailed establishment level financial information. Recipients will be required to complete the short or the long version, but not both. EPA estimates it would take an average of 20 hours and 73 hours respectively for each in-scope Owner/Developer Short Questionnaire recipient and each in-scope Owner/Developer Long Questionnaire recipient to complete and review its responses. This estimate assumes that all respondents of the long questionnaire will report data for ten projects. For purposes of this burden estimate, EPA assumes that 30 percent and 15 percent of the short and long questionnaire recipients, respectively, would be out-of-scope and not need to complete the entire questionnaire. The total weighted average hour for each owner/developer respondent is 31 hours.

(b) Non-Federally Regulated MS4 Questionnaire

For the Non-Federally Regulated MS4 Questionnaire, EPA estimates that it would take an average of 23 hours for in-scope recipients to complete and review the questionnaire. EPA estimates that 25 percent of the recipients of the Non-Federally Regulated MS4 Questionnaire would be out-of-scope and that it would take an average of one hour for these recipients to complete and review the questionnaire.

(c) Federally Regulated MS4 and Transportation Questionnaires

For both the Federally Regulated MS4 and Transportation MS4 Questionnaires, EPA estimates that it would take approximately 55 hours for recipients to complete and review the questionnaire. Furthermore, EPA estimates that 100 percent of the recipients will be in-scope and complete the entire questionnaire.

(d) NPDES Permitting Authority Questionnaire

For the NPDES Permit Authority Questionnaire, EPA estimates that 100 percent of the recipients would be in-scope and that it would take an average of 43 hours to complete and review the questionnaire.

EPA would distribute the questionnaires to 2,835 owners/developers of new and redevelopment projects, 2,626 MS4s, and 55 NPDES Permitting Authorities. Because the recipients are legally obligated to complete the questionnaire under the authority of Clean Water Act, EPA expects at least an 80 percent response rate. For purposes of the burden estimate, EPA has assumed 100% response rate to develop a conservative estimate. EPA estimates that the total burden for the recipients of the Owner/Developer Questionnaires, MS4 Questionnaires, and NPDES Permitting Authority Questionnaire would be 86,811 hours, 78,488 hours, and 2,370 hours, respectively.

Table 2 presents the average hourly burden by labor category associated with all respondent activities necessary to complete the questionnaires and the total burden by labor category based on the

categories of respondents. Table 3 presents the total respondent burden estimated for the questionnaire effort.

Table 2. Estimated Respondent Burden to Complete the Questionnaires (Hours)

Respondent Activity	Hours by Job Category					Total Burden per Activity (Hours)
	Technical/ Environmental Engineer	Clerical Support	Project Manager	Financial Manager	Legal	
<b>Owner/Developer Long Questionnaire (per respondent)</b>						
Read Instructions & Review Questionnaire	0	0	1.75	1.75	1.75	5.25
General Information Section A	0	0.33	2.37	8.02	2.92	13.64
Detailed Establishment Financial Information Part I	0	0.08	0.75	3.42	1.0	5.25
Detailed Technical Project Information Part 2	21.10	1.6	7.9	0	0	30.6
Detailed Establishment Project Information Part 2	0	0.08	2.5	9.33	6.67	18.58
<b>Total for Owner/Developer Questionnaire</b>	<b>21.10</b>	<b>2.1</b>	<b>15.27</b>	<b>22.52</b>	<b>12.34</b>	<b>73.33</b>
<b>Owner/Developer Short Questionnaire (per respondent)</b>						
Read Instructions & Review Questionnaire	0	0	1.75	1.75	1.75	5.25
General Information Section A	0	1	2.0	9.0	2.75	14.75
<b>Total for Short Owner/Developer Questionnaire</b>	<b>0</b>	<b>1</b>	<b>3.75</b>	<b>10.75</b>	<b>4.5</b>	<b>20</b>
<b>Owner/Developer Questionnaires – Out of Scope (per respondent)</b>						
Read Instructions & Review Questionnaire	0	0	2	0	0	2
<b>Total for Out of Scope Owner/Developer Questionnaire</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>NPDES Permit Authority Questionnaire (per respondent)</b>						
Read Instructions & Review Questionnaire	2	2	2	2	0.75	8.75
General Information Section A	0.25	0.25	1.56	1.42	0	3.48
Municipal Stormwater Program Section B	6.68	3.38	10.56	0	0	20.61
Industrial Stormwater Program Section C	0.92	0.75	0.83	0	0	2.5
Construction Stormwater Program Section D	1.09	0.5	0.66	0	0	2.25
Complete questions and review	1	2	1	0.5	1	5.5

Table 2. Estimated Respondent Burden to Complete the Questionnaires (Hours)

Respondent Activity	Hours by Job Category					Total Burden per Activity (Hours)
	Technical/ Environmental Engineer	Clerical Support	Project Manager	Financial Manager	Legal	
<b>Total for NPDES Permit Authority Questionnaire</b>	<b>11.94</b>	<b>8.88</b>	<b>16.6</b>	<b>3.92</b>	<b>1.75</b>	<b>43.09</b>
<b>Federally Regulated MS4/Transportation Questionnaires (per respondent)</b>						
Read instructions & Review Questionnaire	2	2	2	2	0.75	8.75
Technical Information Section A	12.92	3.43	8.93	0	0	25.28
Financial Information Section B	1.92	1.5	5.18	6.18	0	14.78
Contact Information Section C	0	0.25	0	0	0	0.25
Complete questions and review	1	2	1	1	1	6.0
<b>Total for Federally Regulated MS4/Transportation Questionnaires</b>	<b>17.84</b>	<b>9.18</b>	<b>17.11</b>	<b>9.18</b>	<b>1.75</b>	<b>55.06</b>
<b>Non-Federally Regulated MS4 Questionnaire (per respondent)</b>						
Read instructions & Review Questionnaire	2	2	2	2	0.75	8.75
Technical Information Section A	2.75	0.5	2.18	0	0	5.43
Financial Information Section B	0.5	0.25	0.75	1.08	0	2.58
Complete questions and review	1	2	1	1	1	6.0
<b>Total for Non-Federally Regulated MS4 Questionnaire</b>	<b>6.25</b>	<b>4.75</b>	<b>5.93</b>	<b>4.08</b>	<b>1.75</b>	<b>22.76</b>
<b>Non-Federally Regulated MS4 Questionnaire – Out of Scope (per respondent)</b>						
Read Instructions & Review Questionnaire	0	0	1	0	0	1
<b>Total for Out of Scope MS4 Questionnaires</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
						<b>Total Burden (Weighted Average Hours)</b>
<b>Weighted Average Owner/Developer Respondent</b>	<b>5.63</b>	<b>1.09</b>	<b>6.47</b>	<b>11.74</b>	<b>5.69</b>	<b>30.62</b>
<b>Weighted Average NPDES Permit Authority Respondent</b>	<b>11.94</b>	<b>8.88</b>	<b>16.6</b>	<b>3.92</b>	<b>1.75</b>	<b>43.09</b>
<b>Weighted Average MS4 Respondent</b>	<b>9.07</b>	<b>5.43</b>	<b>8.83</b>	<b>5.10</b>	<b>1.46</b>	<b>29.89</b>



**Table 3. Total Respondent Burden in Hours**

<b>Respondent Category</b>	<b>Burden per Respondent (Weighted Average Hours)</b>	<b>Number of Respondents</b>	<b>Total Burden (Hours)*</b>
<b>Owner/Developer Respondents</b>			
All Respondents (Total)	30.62	2,835	86,811.48
<b>NPDES Permit Authority Respondents</b>			
All Respondents (Total)	43.09	55	2,369.95
<b>MS4 Respondents</b>			
All Respondents (Total)	29.89	2,626	78,488.00
<b>TOTAL for ALL QUESTIONNAIRES</b>		<b>5,516</b>	<b>167,669</b>

\* The burden per respondent in weighted average hours shown on this table is a rounded value and when multiplied by the number of respondents does not exactly equal the total burden hours.



**b. Estimating Respondent Costs**

**i. Estimating Labor Costs**

The direct cost to each respondent to complete the questionnaire equals the time required to read and understand the questionnaire, gather the information, compile and review the information, and complete the questionnaire form. EPA anticipates that the Owner/Developer respondents will submit their questionnaires by mail, therefore material costs for each Owner/Developer respondent would include photocopying and postage. EPA anticipates that the NPDES Permitting Authority and MS4 respondents will submit their questionnaires electronically and therefore material costs would not be required for those respondents. Labor costs would compose the majority of the financial burden imposed on the Owner/Developer, MS4s, and NPDES Permitting Authorities.

The Agency estimated respondent labor costs using average hourly wages derived from Bureau of Labor Statistics (BLS) Occupational Employment Statistics (May 2008) to develop labor category rates in \$/hour to use with the hour burden estimates. For Owner/Developer labor rates, EPA used median hourly earnings representative of Engineering Services. For the MS4 and NPDES Permitting Authority labor rates, EPA used median hourly earnings representative of local government.

Table 4 presents the average labor cost burden by job category and the total labor cost burden per questionnaire for the Owner/Developer in-scope, Owner/Developer out-of-scope, NPDES Permitting Authority, and MS4 respondents. Table 5 presents the total respondent labor cost burden estimated for the entire questionnaire effort.

Table 4. Estimated Per Questionnaire Respondent Burden (Dollars)

	Costs by Job Category					Total Burden (Dollars)
	Technical/ Environmental Engineer	Clerical Support	Construction Manager	Financial Manager	Legal	
Owner/Developer Long Questionnaire Respondent	\$752.20	\$27.31	\$837.57	\$1,060.06	\$757.97	\$3,435.11
Owner/Developer Short Questionnaire Respondent	\$0.00	\$13.03	\$205.73	\$505.90	\$276.57	\$1,001.22
Owner/Developer Questionnaire Out of Scope Respondent	\$0.00	\$0.00	\$109.72	\$0.00	\$0.00	\$109.72
NPDES Permit Authority Questionnaire Respondent	\$372.77	\$122.72	\$799.29	\$148.22	\$69.49	\$1,512.49
MS4/Transportation Questionnaire Respondent	\$556.96	\$126.87	\$823.85	\$347.10	\$69.49	\$1,924.27
MS4 Federally Unregulated Questionnaire Respondent	\$195.13	\$65.65	\$285.53	\$154.26	\$69.49	\$770.06
MS4 Federally Unregulated Questionnaire Out of Scope Respondent	\$0.00	\$0.00	\$48.15	\$0.00	\$0.00	\$48.15

Table 5. Total Respondent Burden in Labor Costs

Respondent Category	Burden per Respondent (Weighted Average \$)	Number of Respondents	Total Labor Burden (\$)*
<b>Owner/Developer Respondents</b>			
All Respondents	\$1,471.96	2,835	\$4,172,999.04
<b>NPDES Permit Authority Respondent</b>			
All Respondents	\$1,512.49	55	\$83,186.95
<b>MS4 Respondents</b>			
All Respondents	\$1,034.24	2,626	\$2,715,505.63
<b>TOTAL for ALL RESPONDENTS</b>		<b>5,516</b>	<b>\$6,971,692</b>

\* The burden per respondent in weighted average dollars is a rounded value and when multiplied by the number of respondents does not exactly equal the total labor burden.

**ii. Estimating Capital and Operations and Maintenance (O&M) Costs**

Because EPA would not require questionnaire respondents to purchase any goods, including equipment or machinery, to respond to the questionnaire, the Agency does not expect capital costs to result from the administration of this data collection request. Operation and maintenance costs for the Owner/Developer Questionnaire would only include photocopying and postage. EPA assumed a photocopying rate of \$0.10 per page for an estimated 60 pages for the long questionnaire and 25 pages for the short questionnaire for a total photocopy cost of \$10,129. EPA is also assuming that the respondents will return the completed questionnaire file via Federal Express or a comparable delivery carrier that requires a signature to acknowledge receipt. EPA estimates the Federal Express Saver rate at \$9.65 for a 1-lb package per respondent for a total mailing cost of \$27,358.

Since the MS4 and NPDES Permitting Authority Questionnaires will be submitted electronically there would be no O&M costs associated with those questionnaires.

**c. Estimating Agency and Contractor Burden and Costs**

Table 6 presents an estimate of the burden and labor costs EPA and its support contractors would incur to administer the questionnaires. The table identifies the collection administration tasks to be performed by Agency employees and contractors, with the associated hours required for each grouping of related tasks. EPA determined contractor labor costs by multiplying contractor burden figures by an average hourly labor rate of \$80/hour. EPA determined Agency labor costs by multiplying Agency burden figures by an average hourly labor rate of \$40.44/hour. Table 7 presents the estimated Agency total costs including labor and O&M. Total Agency costs (including contractor and O&M costs) are estimated at \$1,581,520.

**d. Estimating the Respondent Universe and Total Burden Costs**

EPA estimates a total burden of 167,669 hours and a total labor and O&M cost of \$7,009,179 for all respondents. See Tables 3 and 5.

**e. Bottom-Line Burden Hours and Cost Tables**

With 2,835 Owner/Developer Questionnaires, 55 NPDES Permitting Authority Questionnaires and 2,626 MS4 questionnaires and questionnaire follow-up information requests to clarify questionnaire responses, EPA estimates that the total burden is 167,669 hours and \$7,009,179 for the respondent community and 20,527 hours and \$1,581,520 for the Agency. See Tables 3, 5, 6, and 7.

**f. Reasons for Change in Burden**

Not applicable. This is a new collection.

**Table 6. Estimated Agency and Contractor Burden and Labor Costs**

Activity	Burden (Hours)			Labor Cost (\$)		
	Agency	Contractor	Total Hours	Agency (\$40.44/hr)	Contractor (\$80/hr)	Total Cost
<ul style="list-style-type: none"> <li>Develop the questionnaire instruments; Provide the draft questionnaire instruments to Owner/Developer for review;</li> <li>Meet with trade association representatives;</li> <li>Publish notice of anticipated ICR in Federal Register;</li> <li>Respond to all comments received;</li> <li>Revise Questionnaire instruments based on reviewer's comments.</li> </ul>	460	2,755	3,215	\$18,602	\$220,376	\$238,978
<ul style="list-style-type: none"> <li>Design sampling approach;</li> <li>Develop a mailing list database;</li> <li>Develop a system to track mailing/e-mailing and receipt activities;</li> <li>Mail questionnaire files.</li> </ul>	360	2,538	2,898	\$14,558	\$203,012	\$217,570
<ul style="list-style-type: none"> <li>Develop and maintain e-mail helpline</li> </ul>	290	768	1,058	\$11,727	\$61,413	\$73,141
<ul style="list-style-type: none"> <li>Maintain response tracking system;</li> <li>Implement appropriate procedures for handling CBI responses;</li> <li>Review responses and collect missing data;</li> <li>Engineering and economic followup to clarify responses to questionnaires.</li> </ul>	1,500	10,074	11,574	\$60,660	\$805,944	\$866,604
<ul style="list-style-type: none"> <li>Develop questionnaire database</li> <li>Upload and verify data</li> </ul>	100	1,683	1,783	\$4,044	\$134,638	\$138,682
<b>Total*</b>	<b>2,710</b>	<b>17,817</b>	<b>20,527</b>	<b>\$109,592</b>	<b>\$1,425,383</b>	<b>\$1,534,976</b>

\* Activity amounts are estimates using rounded values, total amounts were calculated using un-rounded values.

**Table 7. Estimated Agency Total Cost (Labor and O&M)**

	Agency	Contractor	Total Agency and Contractor Cost
Labor Costs	\$109,592	\$1,425,383	\$1,534,976
O&M Costs	\$0.00	\$46,545	\$46,545
<b>Total Labor and O&amp;M Costs</b>	<b>\$109,592</b>	<b>\$1,471,929</b>	<b>\$1,581,520</b>

(a) *Burden Statement*

EPA estimates it would take 73 hours and \$3,435 for each in-scope Long Owner/Developer Questionnaire respondent, 20 hours and \$1,001 for each in-scope Short Owner/Developer Questionnaire respondent, 43 hours and \$1,512 for each NPDES Permitting Authority Questionnaire respondent, 55 hours and \$1,924 for each Federally Regulated MS4 and Transportation MS4 Questionnaire respondent, and 23 hours and \$770 for each in-scope Non-Federally Regulated MS4 Questionnaire respondent to complete and review their responses to the questionnaires. EPA also estimates that it would take 2 hours and \$110 for each out of scope Owner/Developer Questionnaire respondent and 1 hour and \$48 for each out of scope Non-Federally Regulated MS4 Questionnaire respondent to complete and review their responses to the questionnaires. This estimate is based on U.S. Department of Labor, Bureau of Labor Statistics' Occupational Labor data from May 2008 for the likely range of personnel involved in responding.

EPA estimates that the total respondent burden for the six questionnaires would be approximately 167,669 hours, or \$7 million dollars. EPA estimates that there would be no start up or capital cost associated with the questionnaires described above.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2009-0817, which is available for public viewing at the EPA Docket Center Public Reading Room in the EPA Docket Center (EPA/DC), EPA West, Room Number 3334, 1301 Constitution Ave., NW, Washington, DC.. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. You can also contact the Water Docket via e-mail at [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov). An electronic version of the public docket is available through [www.regulations.gov](http://www.regulations.gov). Use regulations.gov 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. Once in the system, select "search"

then key in the docket ID number identified above. Also, you can send comments by mail to Water Docket, U.S. Environmental Protection Agency, Mail code: 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460 or hand delivery to Water Docket, EPA Docket Center, EPA West Building Room 3334, 1301 Constitution Ave., NW, Washington, DC. Please include the EPA Docket ID No. in any correspondence.

Appendix A: List of Public Commenters to First Federal Register Notice of  
Proposed ICR

**List of Commenters with Submittals to Docket EPA-HQ-OW-2009-0817**

First Federal Register Notice: ICR, Proposed Collection; Stormwater Management Including Discharges from Newly Developed and Redeveloped Sites, ICR #2366.01

EPA-HQ-OW-2009-0817-	Commenter
0009	Hal Sprague, Senior Policy Associate, Center for Neighborhood Technology
0010	Association of State Flood Plain Managers (ASFPM)
0011	Tom Ballestero, University of New Hampshire Stormwater Center
0012	Lee Epstein, Director, Lands Program, Chesapeake Bay Foundation
0013	C. M. Lake
0014	Dr. Edo McGowan, Medical Geo-hydrology
0015	Smart Growth Advocates; Paul Crabtree, PE, Crabtree Group, Inc.
0016	John Jacob, Texas Sea Grant, Texas A&M
0017	Miami Conservancy Agency; Theresa McGeady, Program Coordinator
0018	Craig DiGiammarino, Operations Environmental Coordinator, Stormwater Compliance Management Program, Technical Services, Operations Division, Vermont Agency of Transportation
0019	J. Heimburger, PE, CHMM
0020	Minnesota Cities Stormwater Coalition, Randy Neprash, PE
0021	Brent Bruggeman, Stormwater Technician, City of Sidney, Ohio
0022	Water Environment Federation (WEF), Tim Williams, Managing Director, WEF Government Affairs
0023	City of Fresno, Scott W. Krauter, PE, Assistant Public Works Director, Street Maintenance Division
0024	City of Portland, OR, David Kliewer, Bureau of Environmental Services
0025	City of Austin, Watershed Protection Department, Patricia Foran, Field Operations Division
0026	Michael Keenum, City of Lubbock
0027	Dominic J. Hanket, Assistant Director for Regulatory Compliance, Department of Public Utilities, City of Columbus, OH
0028	City of Clovis Public Utilities, Lisa Koehn, Assistant Public Utilities Director
0030	Anonymous public comment
0031	Synithia R. Williams, Environmental Coordinator, County of Lexington Public Works Stormwater Division
0032	National Association of Flood and Stormwater Management Agencies (NAFSMA), Gale William Fraser, II, PE, President
0033	Wyoming Department of Environmental Quality, Barbara L. Sahl, Storm Water Program Coordinator, Water Quality Division
0034	Neal Shapiro, Watershed Management Program's Coordinator, Watershed Management Section, Office of Sustainability & the Environment, City of Santa Monica, California
0035	Charlie Miller, P.E., Principal, Roofscapes Inc.
0036	Jessica Wall, Water Program Assistant, Natural Resources Defense Council (NRDC) for Jon Devine, Senior Attorney, Water Program, et al. Natural Resources Defense Council (NRDC)
0037	Brooks M. Smith, Hunton and Williams on behalf of Utility Water Act Group (UWAG)



EPA-HQ-OW- 2009-0817-	Commenter
0038	Margaret Doss, Water Quality Manager, Columbia County (Georgia) Water Utility
0039	Robert Swanson, Water Quality Specialist, DuPage County Stormwater Management
0040	Christine Cahill-Reams, Project Manager, Charles C. Bell, Inc.
0041	Anonymous
0042	Monica Licher et al., Virginia Polytechnic Institute and State University (Virginia Tech)
0043	Paul A. Hindman, P.E., Executive Director and Ken Mackenzie, P.E., Manager, Master Planning Program, Urban Drainage and Flood Control District (UDFCD)
0044	Ray Vaughan, Stormwater Manager, South Carolina Department of Transportation (SCDOT)
0045	Chris Crompton, Chair, California Stormwater Quality Association (CASQA)
0046	Susan Asmus, Senior Vice President, Environment and Labor, Safety & Health Policy, National Association of Home Builders (NAHB)
0047	Bob Van Wyk, General Manager-Secretary, Fresno Metropolitan Flood Control District
0048	Leah F. Pilconis, Senior Environmental Advisor to The Associated General Contractors of America (AGC of America)
0049	Gayle Killam, River Network, et al.
0050	Peter King, Executive Director, American Public Works Association (APWA)
0051	City of Myrtle Beach, South Carolina (SC), Janet Wood
0053	Massachusetts Department of Transportation (MassDOT), Kevin Walsh, Director Environmental Services
0054	City of Charlotte (NC), Storm Water Services Division, Daryl Hammock, Water Quality and Environmental Permitting Manager
0055	Beveridge & Diamond, Richard Davis
0056	Smart Growth America, Geoff Anderson, President and CEO
0059	Town of Framingham, MA Department of Public Works, Katherine R. Weeks, Senior Stormwater and Environmental Engineer
0060	City of Bellevue, WA, Denny Vidmar, Bellevue Utilities Director
0061	Tallahassee, Florida NPDES Stormwater Section, Eric H. Livingston, Program Administrator
0062	Construction Industry Coalition on Water Quality, Mark Grey, Technical Director
0063	Colorado Stormwater Council (CSC), Jill E. Piatt Kemper, Chair CSC
0064	City of Downey, CA, Gerald E. Greene, Principal Civil Engineer/Water Resources Control Specialist
0065	Federal Stormwater Association (FSWA), Jeffrey S. Longsworth, FSWA Coordinator
0066	City of San Luis Obispo, CA, Barbara Lynch, Deputy Director of Public Works
0067	University of Missouri, Environmental Health and Safety, Bill Florea, on behalf of Boone county MS4, Steve Hunt, on behalf of City of Columbia MS4, Todd Houts, on behalf of University of Missouri MS4
0069	Croton (NY) Watershed Clean Water Coalition (CWCWC), James Bryan Bacon, Attorney and Counselor at Law

---

<b>EPA-HQ-OW- 2009-0817-</b>	<b>Commenter</b>
0070	Harris County Flood Control District, Snehal R. Patel, Chief Environmental and Regulatory Affairs Section, Harris County Attorney's Office
0071	Washington Metropolitan Area Transit Authority, Sarah Kline, Director Office of Policy and Government Relations
0072	Kentucky Stormwater Association, Randy Stambough, Kentucky Stormwater Association President
0073	Las Vegas Valley Stormwater Quality Management Committee (SQMC), Kevin Eubanks, Chairman SQMC, Assistant General Manager, Clark County Regional Flood Control District
0074	StormWater Association of Maryland, Wet Weather Partnership, Paul Calamita, General Counsel
0084	Greenville County Land Development Division

Appendix B: Summary of Public Comments and EPA Response to First Federal Register Notice of Proposed ICR

General: Table B-1

State Questionnaire: Table B-2

MS4 Questionnaire: Table B-3

Industry Questionnaire: Table B-4

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
Rule Legal Authority	<p>EPA does have federal authority to regulate discharges “from” MS4s but not “into” them. [402(p)(2)(C) &amp; (D)] The only federal authority over MS4 influent is the prohibition of non-stormwater discharges into MS4s. [402(p)(3)]</p> <p>Congress did not grant EPA authority to determine how MS4 operators should control indirect stormwater discharges into their systems as long as the MS4s meet their applicable permitting requirements for their own discharges.</p> <p>EPA lacks the authority to regulate post-construction sites unless they independently generate a regulated stormwater discharge by meeting the definition of an industrial activity or MS4.</p> <p>Post-construction stormwater discharges should be considered nonpoint source discharges or diffuse stormwater discharges that are not regulated under the CWA.</p> <p>EPA can only regulate using standard industrial classification codes which don’t exist for subdivisions, etc.</p> <p>EPA has not clearly articulated its</p>	✓	✓	✓	<p>EPA agrees with commenter that CWA sections 402(p)(2)(C) and (D) give EPA the authority to regulate discharges from MS4s; indeed EPA was required to regulate medium and large MS4s under section 402(p)(4). EPA disagrees with commenter that EPA does not have the authority over stormwater discharges into MS4s or that the only authority over MS4 influent is the prohibition of non-stormwater discharges into MS4s. Under CWA sections 402(p)(2)(B), 402(p)(2)(E), and 402(p)(6) EPA can and does regulate stormwater discharges into MS4s. For example, stormwater associated with industrial activity that is discharged to an MS4 is independently regulated by EPA or the States. 40 CFR 122.26(b)(14). As early as the preamble to the Phase I stormwater rule EPA stated “storm water from an industrial facility which enters and is subsequently discharges through a municipal separate storm sewer system is a ‘discharge associated with industrial activity’ which must be covered by an individual or general permit pursuant to [EPA regulations].” 55 Fed. Reg. 47,990, 47996-97 (November 16, 1990). EPA has the authority to regulate stormwater that is discharged into MS4s. In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>statutory authority to develop stormwater management regulations nor demonstrated that an information collection effort and rulemaking are necessary. EPA has not designated post-construction stormwater discharges as requiring a permit. EPA has not provided a clear definition of what the information will be used for.</p> <p>EPA’s intention to change the Phase I and Phase II stormwater program based on the ICR constitutes a breach of the program evaluation agreement reached through the Stormwater Phase II FACA as well as the current NPDES regulations resulting from that agreement. Until the provisions of Section 122.32 are satisfied, changes to Phase I and II regulations may be precluded or prohibited.</p>				<p>EPA disagrees with commenter to the extent that EPA is required to ensure that permits for discharges from MS4s require controls to reduce the discharge of pollutants to the maximum extent practicable and require such other provisions as the EPA Administrator or State determines appropriate for the control of such pollutants. See CWA section 402(p)(3)(B)(iii). In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.</p> <p>EPA disagrees with commenter. EPA has the authority under CWA section 402(p) to regulate discharges of stormwater other than those that are defined as “industrial” or from a “municipal separate storm sewer system.” Specifically, EPA derives independent legal authority from CWA sections 402(p)(2)(E) and 402(p)(6) and EPA regulations at 40 CFR 122.26(a)(9)(i)(C)-(D) to regulate stormwater discharges from developed sites. For example, in the Phase II stormwater regulations under the authority of CWA section 402(p)(6) EPA designated and currently regulates stormwater “discharges associated with small construction activity,” which are neither industrial discharges nor discharges from MS4s. 40 CFR 122.26(b)(15). In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
					<p>other effluent limitation.</p> <p>EPA disagrees with commenter. “Point source” is defined as “any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.” CWA section 502(14). EPA has the discretion to further define what is a point source. <u>National Wildlife Federation v. Gorsuch</u>, 693 F.2d 156, 175 (D.C. Cir. 1982). The vast majority of developed sites contain pipes, ditches, swales or other types of discrete conveyances; through which pollutants are or may be discharged. Under CWA section 308 EPA has the authority to collect information from point sources. In any rulemaking process EPA will discuss further the scope of what point sources will be subject to any standard or other effluent limitation.</p> <p>EPA disagrees with commenter. There is nothing in the CWA that requires EPA to regulate stormwater discharges based on the standard industrial classification (SIC) codes. In the Phase I stormwater rule EPA used SIC codes to categorize discharges associated with industrial activity; however the Agency was not required to do so then and is not</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
					<p>required to do so in any future rulemaking. Any stormwater rulemaking will discuss further how EPA intends to classify discharges from developed sites (or any other stormwater point sources addressed in the proposal) for regulation under the CWA.</p> <p>EPA disagrees with commenter. EPA has authority under CWA section 402(p)(6) to designate stormwater discharges in order to protect water quality and develop a comprehensive program to regulate those designated stormwater discharges. Designation of stormwater discharges from developed sites is being considered as part of any rulemaking. Additionally, EPA has the authority under CWA section 402(p)(3)(B) to require discharges from MS4s to require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and system design and engineering methods, and such other provisions as EPA determines are appropriate for the control of stormwater discharges. The information collected in this Information Collection Request will be used to assist EPA in developing a regulation to address discharges from developed sites, including, but not limited to, performance or design standards for those designated discharges from developed sites as part of a comprehensive program under section 402(p)(6); benefits of any performance or design</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
					<p>standard; costs of any performance or design standard; the prevalence, utilization and effectiveness of stormwater controls that retain, detain or infiltrate stormwater (i.e., low impact development or green infrastructure); and characterize the current scope, components, and implementation of existing state or regional NPDES stormwater programs. EPA would like a sound record basis for any regulation it proposes and promulgates. This information request is reasonably related to helping create a record for that decision-making.</p> <p>EPA disagrees with this comment. As stated in the Preamble to the Phase II Rule, EPA was asked by the Phase II FACA to demonstrate its commitment to revisit the small MS4 requirements in the Phase II Rule and to make changes where necessary after evaluating the stormwater program and researching the effectiveness of municipal BMPs. 64 Fed. Reg. 68722, 68771 (Dec. 8, 1999). EPA did so by committing to revisit the rule after completion of the first two permit terms, i.e., after December 10, 2012. See 40 CFR 122.37. This was an affirmative commitment to revisit the Phase II MS4 program after evaluating its effectiveness, as of a date certain, not a promise not to make changes before a certain date. Nothing in the preamble or section 122.37 requires EPA to refrain from an ICR process to collect</p>



**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
					<p>information about implementation or effectiveness of the stormwater program or from changing the regulations prior to that time. Although in 1999 EPA expressed its intention to wait until completion of two permit cycles except under certain circumstances, this was only a stated intention, an expectation, and not a commitment. As EPA explained in the Phase II preamble, some commenters requested that EPA reevaluate the program much sooner; some commenters supported waiting two permit cycles, but EPA anticipated that two full permit cycles would be necessary to obtain enough data to significantly evaluate the rule. However, in the ten years since the rule was promulgated and in light of the significant information provided in <i>Urban Stormwater Management in the United States</i> (National Academy of Sciences Press, October 2008), including the strong information indicating EPA should improve how it controls discharges of stormwater, EPA has obtained enough data to begin the reevaluation process at this time.</p>
Unfunded Mandate	EPA is imposing an unfunded mandate with little measurable benefit which is particularly difficult during these times of reduced state budgets. Municipalities will not be able to hire additional		✓	✓	EPA disagrees with commenter. This Information Collection Request is not a federal intergovernmental mandate under the Unfunded Mandates Reform Act. However, EPA appreciates that municipalities may have

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>personnel to prepare this information, so existing staff will have to work on the project in addition to their regular duties.</p>				<p>difficulties given a lack of resources in answering all of the questions and obtaining all of the requested information. EPA would like municipalities to contact EPA and welcomes the opportunity to work with municipalities if they need assistance in answering all of the questions in the Questionnaire.</p>
308 Authority	<p>CWA Section 308 does not provide EPA with the authority to collect information from state permitting authorities.</p>			✓	<p>EPA has the authority under CWA sections 304(i) and 402(c) obtain information from State NPDES permitting authorities. Specifically, 40 CFR 123.41(a) states that “[a]ny information obtained or used in the administration of a State program shall be available to EPA upon request without restriction.”</p>
CBI	<p>All financial information should be submitted separately and automatically be given confidential protection and not be subject to the confidentiality classification changing or having to prove confidentiality if requested by a third party.</p> <p>All responses and information provided to EPA should be made confidential and unavailable to third parties for potential litigation.</p> <p>Big Box stores are different from other construction entities. Seemingly</p>	✓			<p>EPA recognizes that some of the data requested in these questionnaires is confidential business information and should be treated as such because, if released, could be detrimental to some business operations. At the same time, EPA wants to ensure transparent decision making and public access to data informing EPA’s rulemaking decisions. As a result, EPA developed its CBI procedures to protect pertinent information while ensuring public access to the extent possible.</p> <p>EPA understands the importance of financial information. However, E PA does not agree</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>innocuous data from Big Box stores can inadvertently be used to suggest the direction or planned growth of the stores which can be damaging on a broad scale.</p> <p>There is concern about the inadvertent disclosure of CBI data by the Agency based on past incidents where federal agencies inadvertently released confidential information (e.g., TSA).</p>				<p>that all financial information is CBI, Therefore, EPA is not considering all financial information to be confidential, but is providing CBI check boxes so that a respondent can claim financial responses to be CBI. In an effort to reduce burden, EPA is not requiring respondents to provide justification for the CBI claim at this time. Should EPA receive a request for information claimed CBI, the respondent will need to justify the CBI claim in accordance with procedures outlined in 40 CFR Part 2.</p>
Response Deadline	<p>The design and cost detail requested as to project specific stormwater control structures most likely cannot be assembled within the time required.</p> <p>Because some of the data may have to be obtained by the developer respondents from third parties and stormwater management entities, the effort of developers to gather this information could negatively impact the ability of MS4 respondents to meet their response deadlines.</p> <p>Unless the construction company is the owner/builder they may need to obtain data from the designer or engineer to complete Part C which will affect the timeline.</p>	✓	✓	✓	<p>EPA has revised the questions in each of the questionnaires, where possible, to reduce requests for information that will likely require lengthy time periods to assemble. For example, EPA is no longer requesting detailed cost and design information for each stormwater system component in the owner/developer survey.</p> <p>EPA is not requesting information from MS4s that will require them to collect information from third parties.</p> <p>EPA is not requesting companies that perform construction to provide technical or financial responses to any of the questionnaires.</p> <p>EPA is not asking respondents to collect new info or to provide information for questions for which data is not available.</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>Sixty days is inadequate for MS4s to review the materials and provide a response.</p> <p>Many small MS4s in TX have not fully implemented their initial Storm Water Management Programs and may not have complete information for the requested timeframe.</p> <p>120 days is more appropriate</p> <p>More time is necessary if the responses have to be approved by County Council.</p>				<p>EPA does not require or anticipate that County Councils will need to approve the responses.</p> <p>EPA concludes that 60 days allows adequate response time. Burden estimates for each questionnaire respondent ranges from 10 hours to approximately 70 hours. Sixty days to respond allows ample time even for the most burdensome questionnaire.</p>
Mandatory Response	Questionnaires should be voluntary rather than mandatory	✓	✓	✓	Based on previous experience, the response rate to mandatory questionnaires far surpasses that of voluntary surveys. In addition, mandatory response eliminates the bias of responses that may result with voluntary response.
Certification Statement	<p>EPA should add a disclaimer that the information collected will not be used in an enforcement action.</p> <p>It will be difficult for someone to sign the certification statement when they are unsure of the data they are providing, even though it is the only data they have.</p> <p>The certification statement does not</p>	✓	✓	✓	This certification statement is not unique to this ICR. Because EPA needs to obtain accurate information upon which to base any rulemaking, EPA routinely includes the certification in Office of Water ICRs. However, EPA does not expect nor does the certification statement require, that facilities respond to each question with certainty. In fact, the directions state that respondents should provide estimates if actual values are not available. EPA is only asking respondents

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>identify the level of the certifying individual. Is it the same person who must sign the annual reports?</p>				<p>to provide the best information based on their knowledge or belief.</p> <p>Identifying non-compliance of existing regulation is not the purpose of this data collection. However, this does not preclude the enforcement office from requesting information collected through this ICR.</p> <p>The certifying official must be a duly authorized representative. This may be the same person that signs the annual reports, but does not have to be.</p>
<p>Rulemaking approach</p>	<p>Neither the notice nor the supporting statement describes the scope of the proposed regulations.</p> <p>EPA should explore strategic education outreach programs, evaluate the current successes of the NPDES stormwater program and provide the necessary resources for MS4s to effectively evaluate and implement programs before mandating new regulations.</p> <p>The idea of developing national design or performance standards to control stormwater volume and flow (one size fits all approach) is contrary to the NRC recommendation of watershed based stormwater planning and implementation.</p>	<p>✓</p>	<p>✓</p>	<p>✓</p>	<p>EPA published a Federal Register Notice on December 28, 2009 (FR 74 FR 68617-68622) that describes the scope of the proposed regulation.</p> <p>Many of these comments are outside the scope of this information collection request. These comments are in blue.</p> <p>EPA has revised and/or included questions to address some of these comments. For example, the developer/owner survey requests info comparison of LID and traditional techniques. As another example, EPA has added questions to the MS4 survey to gather information on existing authority to access private property for LID inspection and/or maintenance. EPA has also added questions pertaining to watershed permitting</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>EPA is focusing too much on costs. EPA needs to include analyses on the ecosystem and community benefits of reduced stormwater-caused degradation, as well as the economic benefits to developers who adopt LID strategies in lieu of traditional hard infrastructure conveyances.</p> <p>The current economic struggles for most of the industry over the last couple of years will not adequately express the ability of the industry to adhere to or comply with regulatory standards. The right to access private property for LID inspections may be problematic and require a warrant.</p> <p>EPA has set an arbitrary deadline of November 2012, which will not allow the public ample time to become fully engaged in the process. The Agency has not provided rationale for this deadline.</p> <p>EPA should abandon the survey effort and instead use its resources on MS4 permit renewals throughout the U.S.</p> <p>EPA does not have the experience, technical knowledge, nor expertise to lead this effort. As was recognized by EPA’s original NPDES stormwater</p>				<p>and ordinances, laws, or the possibility of groundwater or drinking water contamination that may inhibit retention practices. In addition, this ICR is not EPA’s only source of information. EPA also has case studies for developers than have employed non-traditional techniques.</p> <p>EPA recognizes that the past couple of years may not adequately express the ability of the industry to comply with regulations. As a result, EPA is collecting information over the past 5 years.</p> <p>EPA is aware of other sources of information such as actual MS4 permits. However, MS4 permits are not readily available to EPA.</p> <p>EPA disagrees with the comment. The November 2012 date will be sufficient time for the public to participate in the rulemaking process. In a November 17, 2009 letter from Peter S. Silva, Assistant Administrator for the Office of Water, to the Natural Resources Defense Council and Waterkeeper Alliance, EPA committed to propose and finalize a rule that includes requirements for stormwater discharges from developed sites no later than November 2012. EPA has ample time to fully engage the public and State and local governments and collect sufficient information to support any rulemaking. The Information Collection Request is part of that</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>permitting staff, such expertise rests with the 10 to 12 states that have established comprehensive stormwater treatment regulations and by local governments which have done likewise.</p> <p>Watershed permitting has the potential to be the most efficient and effective approach to achieving water quality standards, however, watersheds cross jurisdictional lines including state lines. Empowering the MS4s as the first tier would require some states to modify powers granted those MS4s. The model with the least hurdles would be permitting at the Federal level with permit fees paid into a central system to administer the program.</p> <p>EPA has not explained how it will consider the costs associated with the recently finalized ELG in the overall costs associated with a post-construction stormwater rulemaking.</p> <p>It appears this ICR is gathering information to allow EPA to promulgate rules that potentially eliminate a community's ability to assess its own environment; evaluate the impacts that development has on the quality of its surface waters; and the opportunity to develop meaningful and effective</p>				<p>process, and EPA notes that since the November 2009 letter was sent, EPA has held 7 listening sessions in 6 different locations around the country, including a webcast, where 1900 people attended. The attendees made both oral presentation and submitted over 200 written comments regarding any EPA revisions to the stormwater regulatory program. EPA will continue to meet regularly, and solicit the opinions of, industry, environmental organizations, State, Tribal and local governments and the public in general.</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>mitigation strategies that meet a community’s unique needs.</p> <p>Areas of high density will not have places to retain water and the program may not be practical.</p> <p>There will be problems associated with enforcing private residents/citizens to maintain installed LID technologies/practices.</p> <p>EPA should not be directly involved in developing engineering requirements, test methods, codes, etc. This should remain the providence of local municipalities and industry standard setting organizations. Distributed measures, in aggregate, can modify urban hydrology.</p> <p>At present most providers of LID systems, including green roofs, are insulated from the consequences of poor performance or degradation of performance over time. By placing an emphasis on quantifying performance and on system longevity, the federal government would promote competition to provide higher quality and reliability.</p> <p>When using site-specific calculations to determine predevelopment hydrology,</p>				



**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>and/or use of regional standards to reflect local circumstances, the phosphorus export loads from various watershed land-uses should be as site-specific as possible.</p> <p>EPA should not reduce or prevent stormwater from being discharged when the development is located in, or upstream to, a basin dependent upon the runoff for the yield for a drinking water source.</p> <p>EPA should only (1) set a national standard to reduce runoff from impermeable areas to the 90<sup>th</sup> percentile, which will vary by region; (2) require the first priority be rainwater harvesting for non-potable use; (3) include LID or equivalent terminology/practices/strategies in the design of all projects; (4) require during the selling of property, a retrofit upon sale strategy, that minimal runoff mitigation measures be added, such as infiltration pits to collect a standard of runoff, like the 80th percentile; (5) require no runoff from any irrigation practice.</p> <p>To be effective, EPA must identify and account for all sources that contribute to “urban runoff” and their relative</p>				

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>percentages, and then devise a program that addresses the largest and most problematic sources first.</p> <p>Can EPA develop a “tool-box” approach such as what was used with some of the Minimum Control Measures in the Phase II program to allow local governments to choose from a set of options to implement both existing and new regulations?</p> <p>The adoption of a strict numeric standard that is easily achievable on a greenfield site might be cost-prohibitive or simply impossible to attain for a site-constrained redevelopment projects. A final rule that disadvantages redevelopment could result in a net-negative impact on water quality by shifting growth to greenfields that would otherwise have occurred through redevelopment or infill.</p> <p>Requiring additional retrofit work with no income stream to provide the funding for it will cripple cities, some of which have already declared bankruptcy.</p> <p>There is the potential for infrastructure costs to exceed expected revenues from the population that will be supporting</p>				

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>the infrastructure forever. Long term maintenance costs continually rise and could easily eclipse the cost of the initial facilities.</p> <p>There would be a significant inspection and maintenance burden on municipalities associated with on-site LID implementation.</p> <p>Other municipal costs not directly related to stormwater capital and operations cost could increase as a result of EPA mandated land use standards associated with Smart Growth and LID including transportation infrastructure, public transportation, and utility costs.</p> <p>The costs associated with placing, operating, maintaining, eventually totally replacing, keeping track of, and the inspecting of possibly millions of individual parcel-based retention practices is substantially different than the construction, operation, maintenance, eventually totally replacing, keeping track of, and inspecting of more consolidated community-wide facilities.</p> <p>Experience shows that the order of magnitude is greatly increased when</p>				

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>you consider requiring smaller, parcel-based, private/public facilities versus larger community-wide based facilities.</p> <p>The costs associated with timely maintenance are much lower than those associated with the current erratic approach to maintenance. A payoff for nurturing a service industry for LID maintenance will be a quickly enlarging pool of expertise. This will spur more efficient and reliable design and will drive down the costs of construction as well as maintenance.</p>				
Land Use	The separation of federal regulations from state/local community control of land use decisions may be lost if this rulemaking goes forward.	✓	✓	✓	EPA disagrees with the comment. EPA in no way intends for any rulemaking on stormwater discharges to interfere with state and local control over land use decisions. EPA welcomes further comment during any rulemaking process.
Burden	<p>The ICR is too costly and burdensome to the industry. The data can not be complied within EPA’s burden estimate.</p> <p>EPA should seek industry input before submitting the questionnaire to OMB.</p> <p>The O&amp;M costs and municipal costs are not even known to the respondents.</p>	✓	✓	✓	During consultations with developers/owners, MS4s, and states, EPA gathered valuable insight on the overall questionnaire burden and the burden of specific questions. EPA has revised the questionnaires with an eye on burden reduction. For example, EPA has reduced the amount of questions in the owner/developer survey considerably. In addition, EPA developed a transportation-related questionnaire that it tailored to such

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>The financial data is especially difficult to collect from small builders and may cost them \$1500 to pay for the services needed to fill out the financial portion of the survey.</p> <p>The ICR process, as proposed, is inadequate to evaluate the economic impact on states, local governments, and businesses.</p> <p>Big Box retailers often have far less information about costs and practices than do their general contractors, making it unusually difficult and costly for a Big Box respondent to address questions on those subjects. They would have to hire consultants that charge around \$100/hour which is twice the hourly rate assumed by EPA.</p> <p>The burden must be reduced for homebuilders since 95% are small businesses. Very few homebuilders typically have accounting or engineering staff on the payroll and they usually do not retain technical data on past projects. Some companies may fail if they are required to spend a week completing the questionnaire.</p> <p>It would be extremely burdensome to</p>				<p>activities in an effort to make it easier for DOTs to provide responses.</p> <p>However, based on feedback received from possible respondents, even with these revisions, EPA has increased the burden estimate per questionnaire.</p> <p>EPA expects the burden to small business developers/owners of residential properties will be less than others. EPA has incorporated a size cut-off that should eliminate developers/owners of single properties from the requirement to provide financial and technical information.</p> <p>EPA’s burden estimate includes all aspects of responding including the time required to read, comprehend, and compile the information.</p> <p>EPA is no longer requiring general contractors to provide financial or technical information requested in the developer/owner questionnaire.</p> <p>EPA anticipates it will use other readily available sources of information in addition to this questionnaire in evaluating this proposed rulemaking.</p> <p>EPA has revised its budget related questions to make it easier and less burdensome to</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>transit agencies to complete the questionnaire.</p> <p>EPA’s burden estimate does not account for the time required to read, comprehend, and compile the information.</p> <p>It may take general contractors 3 weeks to just complete Section C (for all 10 projects) because they would have to go back to each project’s civil engineering firm/design engineer to get nearly all of the technical information.</p> <p>Providing budget related information will be one of the most difficult tasks in completing the surveys. Municipalities have many departments involved in programs to ensure compliance with our stormwater permits – it would be an arduous task to try to separate out and assess a dollar amount associated with such wide ranging activities such as street sweeping, park maintenance activities, etc.</p>				respond.
Survey Recipients	EPA must expand the scope of its gathering to derive critical information from stormwater researchers, consultants, and technology providers and federal, state, and regional agencies on the forefront of the next generation	✓	✓	✓	Based on the detailed comments and on additional consultations with contractor and construction organizations, EPA agrees that entities performing only as contractors or constructors should not be targeted to respond to the owner/developer survey. EPA has

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>of stormwater control.</p> <p>The responsibilities for the O&amp;M of post-construction stormwater controls, maybe the responsibility of the Big Box retailers, a separate developer, or some aggregation of the entities in the shopping center. In many cases the Big Box firms function as both the “owner” and the “developer” of its projects. Big Box retailers do not have access to the site-specific technical data required in Section C.</p> <p>Transit agencies should not be included in this data collection effort even though they have an ongoing need for construction and/or rehabilitation of public transit passenger, maintenance and storage facilities.</p> <p>Contact national societies of the Professional Engineers, Land Surveys, and Landscape Architects to get lists of firms that actually implement the practices and can answer a detailed questionnaire more easily. Also the International Erosion Control Association, Center for Watershed Protection, American Society of Civil Engineers.</p> <p>Unless the construction company is the</p>				<p>revised the questionnaire and its survey design so that it only pertains to owners or developers.</p> <p>This ICR is not the only means by which EPA will collect information to support this rulemaking. EPA agrees that other sources of information are invaluable and has or will reach out to them. However, EPA has concluded these other sources are not appropriate questionnaire recipients because the vast majority of the requested info is not applicable to them.</p> <p>Based on comments and other outreach, EPA has revised the questions to collect information it believes is available to the vast majority of respondents. If the information is not available, respondents have the option of responding that the information is not available.</p> <p>EPA disagrees that transit agencies should not be included in this data collection effort. EPA anticipates that transit agencies will be subject to this rulemaking and needs to collect information to analyze the feasibility and impacts of the rulemaking to transit agencies. EPA has developed a separate questionnaire for transportation agencies in an effort to tailor its information collection to their activities.</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>owner/builder, it is not likely they will know the design basis of the stormwater control features on projects they have constructed.</p> <p>EPA should redesign the survey to align to the different types of builders and developers which could include a question asking what categories apply – builds on single lots developed by another company; builds on owner’s land? builds multifamily homes; land development only; develop and build in a project the company develops; develop and sell lots to other companies. The EPA can tailor the questions to the different type of builders/developers.</p> <p>EPA should develop separate questions for owner/developers and general/lead contractors.</p> <p>Financial information from a general contractor serves no purpose because they will never be paying for the permanent BMPs. EPA should eliminate Section B for general contractors.</p> <p>Random sampling of developers or municipalities will not result in a fair representation of municipalities and industry.</p>				<p>See Part B of this ICR supporting statement for EPA’s survey design and strategy for selecting questionnaire recipients.</p>



**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>Industry surveys should be solicited from knowledgeable developers with experience in incorporating post-construction stormwater controls.</p> <p>Different size developers will have different unit costs and varying degrees of understanding LID issues.</p> <p>Expand list to include others that have control over infrastructure that significantly impacts stormwater such as federal facilities, railroads, airports, and owner and operators of commercial or industrial sites of a specified size.</p> <p>Require that primary contractors obtain, where appropriate, answers to questions from their stormwater contractors.</p> <p>The strategy for selecting questionnaire recipients should be grounded in statistics and should include a statistically broad and representative cross section of the nation with regard to climatologic, topographic, geologic, economic, legal, social, political, and environmental factors. The sampling strategy should be clearly documented and made available for public comment before the questionnaires are distributed.</p>				

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>Many support EPA’s decision to exclude the electric utility industry from the stormwater ICR.</p>				
<p>Survey Approach/Format</p>	<p>The questionnaire was unclear or vague, and questions had multiple meanings and multiple potential responses. The multiple choice format is not conducive to clear and meaningful responses.</p> <p>EPA should provide clear guidance as to what should be included in the costs, otherwise data will be highly variable.</p> <p>Why is the period of interest limited to 5 years? A false assessment of cost/benefit may result if the database is skewed toward recently installed projects.</p> <p>The Agency should focus on the more problematic impacts stemming from preexisting development versus newly constructed sites that are using some stormwater control measures.</p> <p>EPA should remove the firm level financial information from the survey as EPA has not justified the need for this information.</p>	<p>✓</p>	<p>✓</p>	<p>✓</p>	<p>In response to these comments, EPA has revised its definitions and instructions, where appropriate.</p> <p>EPA has designed its questionnaires to reduce burden to recipients and to EPA in processing responses. Multiple choice format addresses both of these concerns.</p> <p>EPA typically struggles with reducing burden and collecting enough data to inform its regulations. In this case, EPA chose to collect 5 years of data in this ICR because it concludes data from the past 5 years will be sufficient to allow full consideration of this rulemaking.</p> <p>EPA is also considering retrofit of existing development as part of this rulemaking and has included questions to gather information on the extent and type of retrofit currently being incorporated.</p> <p>EPA needs firm level information to assess the possible economic impact of this rulemaking to firms.</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>EPA should eliminate the requirement to develop engineering and financial estimates for all recipients of the industry questionnaire.</p> <p>EPA should provide a phone number for to clarify questions in addition to the email address which will result in lost time.</p> <p>The BMP worksheets should address the fact that multiple BMPs may be used to satisfy one design objective and one BMP may be used to satisfy multiple design requirements.</p> <p>EPA should emphasize complete life cycle costs of all stormwater BMPs.</p> <p>It is not clear how the financial data that EPA collects will account for the many builders who have gone out of business during the period of time that the survey covers.</p> <p>The proposed surveys do not address the stormwater impacts from transportation projects in general, or highways in particular. These impacts should be the focus of a separate questionnaire.</p> <p>A separate questionnaire should be</p>				<p>EPA is not requiring owner/developer surveys to develop engineering or financial information that does not exist.</p> <p>Whether EPA provides and e-mail address or a telephone number for a questionnaire help-line, it does not typically have someone to respond immediately 24 hours per day. E-mailing the question gives EPA the chance to research its response, if necessary, and reduces “telephone tag” – both of which ultimately reduce he delay in getting clarification.</p> <p>EPA is no longer including the BMP worksheets in any of the questionnaires.</p> <p>Because developers that are out of business would not be subject to this proposed regulation, it does not need to collect information from them.</p> <p>EPA has developed a separate questionnaire for transportation projects.</p> <p>EPA has not developed a separate questionnaire from BMP manufacturers/vendors, but is reaching out to them for cost and performance data for controls/systems for which it lacks information.</p> <p>EPA appreciates the concern about the</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>developed for manufacturers/vendors of BMP systems.</p> <p>Questionnaires requesting this type of information should not be mailed out during the summer months as monitoring, permitting, and other regulatory staff members are busiest during these months when construction and related activities are at their peak.</p> <p>EPA should conduct webinars on the questionnaires within 7 to 14 days of distribution and conduct stakeholder meetings after questionnaires are submitted and initial analyses are conducted.</p> <p>Move the definitions to the back of each survey or into a separate document to un-encumber the survey.</p> <p>EPA should develop a more detailed, precise survey of a selected group of municipalities to obtain more useful information.</p> <p>EPA should develop a short questionnaire that goes to a larger sample of respondents and a detailed questionnaire to a much smaller subset. Specifically, the detailed should go to design firms who actually do</p>				<p>summer months and has minimized burden as much as possible.</p> <p>EPA is considering the comment to conduct webinars with two weeks of questionnaire distribution in order to facilitate response and clarify questions early in the process. EPA will provide its analysis of the collected data in the public record associated with this proposed rulemaking.</p> <p>EPA has not moved the definitions to the back of the questionnaires as suggested because EPA wants respondents to read the definitions before they read the questions.</p> <p>EPA has developed a survey design for all the questionnaires. This includes a long and short version of the owner/operator survey. See Appendix A.</p> <p>EPA is evaluating the use of on-line surveys for this data collection effort.</p> <p>EPA has revised specific questions in all of the questionnaires to address comments. For example, EPA is requesting information on all types of long term stormwater discharge controls and is not limiting its collection to retention practices only.</p> <p>EPA disagrees that asking how much a municipality spends as a percent of total</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>development work.</p> <p>Shorter surveys should be available for completion online.</p> <p>Retention is only one available approach; EPA should modify the survey to provide a full assessment of approaches.</p> <p>Asking how much a municipality spends as a percent of total budget provides little useful information.</p>				<p>budget provides little useful information. As explained in a previous section, EPA will be able to compare the estimated incremental costs of any rulemaking considerations in an effort to gauge increased financial burden and possible impact.</p>
Survey Alternatives	<p>EPA staff or a contractor should extract the requested information from the respondents through a series of research, interviews, and follow up questions. Using 1 entity to collect data improves the quality and usefulness of the data.</p> <p>Instead of conducting a survey EPA should be conducting a research effort and comprehensive evaluation of the new development and redevelopment programs that have been established.</p> <p>EPA should consider a separate effort to assess the effectiveness of source controls and which constituents would benefit the most from source control programs and/or new research.</p>	✓	✓	✓	<p>This ICR is one source of data for this rulemaking. For the requested information, EPA concludes these alternative sources would not provide a national baseline to use as a basis of comparison for regulatory options. However, EPA is collecting information from multiple sources including most of those provided in comment. For information not collected through this ICR, EPA is conducting research supplemented with interviews, meetings, site visits and other outreach activities.</p> <p>The MS4 and State questionnaires are designed to provide a national perspective on existing new and redevelopment requirements.</p>

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	<p>EPA should convene a national stormwater summit or strategic initiative involving scientists, engineers, regulators, MS4 permittees, and stormwater practitioners to evaluate the status of the stormwater sciences and formulate an achievable strategy for the future.</p> <p>EPA should prepare designs and cost estimates for various scenarios for different design criteria, contributing land uses and project sizes in various climatic and physiographic regions of the country. Use MEANS catalog or other industry-standard cost-estimating tools.</p> <p>Utilize case studies of several pioneer cities from each region.</p> <p>After EPA articulates the goals of the regulation, identifies the target entities for information collection, EPA should sit down with those entities to discuss how best to obtain the necessary information prior to asking OMB for ICR approval.</p> <p>EPA should work with the State and regional stormwater agencies to gather the data, the cost of the data collection</p>				

**Table B-1: ICR Comment Summary and Response: General Comments**

Topic	Comment	Owner/ Operator	MS4	NPDES Permitting Authority	Response
	could be spread across member municipalities or funded by EPA.				
Definitions - General	<p>The definitions are not detailed enough to ensure nationwide understanding and applicability.</p> <p>To generalize cost information it will be necessary to standardize the data definitions, activities, and metrics, and provide some central reporting mechanism. The definitions should be consistent for the 3 questionnaires.</p> <p>The ICR definitions should be consistent with the NRC definitions.</p>	✓	✓	✓	<p>EPA has revised its definitions to incorporate these comments.</p> <p>EPA has reviewed the definitions in the 4 questionnaires for consistency, as appropriate.</p> <p>EPA disagrees that its definitions need to be consistent with NRC. EPA’s definitions enable it to collect information in a manner which conforms to its analyses.</p>

<b>Table B-2: State<sup>5</sup> Questionnaire Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
General	Questions do not meet the stated objective; objective is overstated and more research is needed beyond the survey	N/A	Objectives revised to be more specific
General	Consistency in definitions among the three surveys	N/A	The definitions were made consistent among the surveys
General	It would be useful to have some indication of the extent to which the responses are based on actual data/numbers versus estimates [or even guesses]. EPA should encourage respondents to indicate which responses are “estimated”.	N/A	Where appropriate, the survey indicates that the state should provide its best estimate.
General	Include questions on “what works” and “what doesn’t work” and allow for description of alternative management approaches	Added B-21 and B-22	Added questions about program effectiveness
General	Survey should ask how states review effectiveness of their program and how they review annual reports	Added B-20, B-21, B-22	Added questions about program effectiveness and annual report review
General	Survey focused solely on on-site retention practices but does not include questions on regional approaches and other water quality and quantity practices. Survey should allow comparisons of different approaches.	N/A	State survey does not include questions about specific stormwater practices, this data is collected through the MS4 survey.
General	Survey should include questions on the high cost of municipal oversight/enforcement or policing/maintenance. Questions could ask about requirements of MS4 permit – do you require review ordinances, what is enforcement mechanism, do you allow third parties to be responsible for maintenance.	Added Question B-34, B-43, B-45	The MS4 survey is more appropriate for cost to MS4s, the MS4 survey does include questions about the distribution of cost for enforcement and operation and maintenance.
General	Survey should include questions on status of quality assurance of the industry practices	N/A	This data will not be collected in the ICR
General	Should be consistency between the MS4 and the state questionnaire regarding different standards for new and redevelopment	N/A	Those questions were made consistent between the two surveys
General	Should be consistency between the MS4 and the state questionnaire regarding budget period	N/A	Those questions were made consistent between the two surveys
General	Data should be normalized by regional, climatic and local conditions	N/A	The data will be reviewed based on the regional location of the state
General	EPA should gather data from state and	N/A	EPA is collecting data from

<sup>5</sup> This Questionnaire is now titled “NPDES Permitting Authority Questionnaire”



<b>Table B-2: State Questionnaire Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	regional stormwater agencies such as CASQA		many sources
General	Survey should targeted the 10-12 states with comprehensive statewide stormwater regulatory programs	N/A	The surveys will be sent to all states to ensure national coverage
General	Survey should collect more data about benefits both ecosystem, community and economic benefits	Added B-21 and B-22	Added questions to allow States to describe program effectiveness
General	Survey should collect more data about water quality impacts caused by stormwater discharges – 303d list, TMDLs: ID impairments, required BMPs and effectiveness of the BMPs	Added B-49-53	The 303d list and TMDL information is already available to EPA. Added questions to collect monitoring data on WQ impacts.
General	Survey should collect data on pollutant concentrations and if the state has benchmarks.	Added B-49-53, C-3 and D-3	Added questions to collect monitoring data on WQ impacts and benchmark data.
B-1 and B-5	Because of regional co-permitting, there may be many more permittees than permits.	N/A	Question revised
B-2 - B-4	Many permitted MS4 entities are special purpose stormwater management entities.	N/A	Question revised
B-7	List appears incomplete. There are many types of local government bodies that may be responsible for implementing MS4 programs including cities, towns and nontraditional entities (such as state DOTs, military bases and colleges).	Question deleted	This data will be collected in Questions B-3 and B-5, also added Questions A-14 and A-15 to the MS4 survey.
B-7	For consistency, suggest matching this list to that included in B-4.		
B-7	This question is unclear. Is it asking which entities implement the stormwater NPDES permit program, or which entities are empowered to manage stormwater? The options should include cities and special stormwater management districts		
B-7	There appears to be a presumption that “implementation” of the MS4 Program consists of component activities (e.g. permitting, inspection, etc). Is this question intended to capture listed jurisdictions that are responsible for any program component, or all components?		
B-10	If a state requires any of the six minimum control measures, does that mean the “yes” box is to be checked, or must it be all six? Should we break this out into 6 questions to see how many large/medium do each component?		
B-10	Include a "not applicable" selection on this item. Not all states have phase 1		Question revised

<b>Table B-2: State Questionnaire Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	MS4s. If answered "no," it would appear that a state has chosen not to require the six minimum control measures in phase 1 MS4s, rather than having no phase 1 s in which to implement the program.		
B-10	This is a federal requirement, so why is this question needed?		
B-12	How many MS4 permittees has your state audited and/or inspected in the last five years	Question deleted	This data will not be collected in the ICR
B-12	There is conflict between the question and the table. The number of inspections can be different from the number of MS4's inspected.		
B-13	The question speaks to enforcement action "other than verbal warnings." Is a warning letter categorized as an enforcement action?		
B-14	Response may be more informative if answer is split into two choices, so responder can check either "numeric" or "specific."	N/A	This question is meant to be inclusive of both numeric or specific standards.
B-14	STATEWIDE? IN SOME STATES LIKE CA SOME COUNTY STANDARDS BUT NOT STATEWIDE	N/A	Question revised
B-14	Stormwater performance standards and/or design criteria for what - new development and redevelopment?		
B-14	Unclear what this is asking – is this trying to capture if MS4 permittees have stormwater performance standards and/or design criteria, or if there are state designated performance standards and criteria?		
B-17	Reword to: Have you developed a state-wide stormwater manual that addresses stormwater management requirements for new development and redevelopment?	N/A	Question revised
B-18	Drivers of stormwater retention practices can include local watershed considerations involving storm drainage issues and NPDES driven water quality protection objectives.	N/A	Question revised
B-19	Local jurisdiction incentives	N/A	Question revised
B-21	Include a "not applicable" selection here. Wyoming does not have a policy on offsite mitigation, whether to prohibit or to allow.	Question deleted	Question deleted, data collected through the MS4 ICR
B-21	Yes, at local level		
B-21	For the majority of parcels, the natural		

<b>Table B-2: State Questionnaire Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	drainage pattern is off-site and is protected by extensive case law. A more appropriate question might be “Is off-site stormwater mitigation prohibited. . .?”		
B-21- 22	Most routinely, these issues fall within the preview of local government.		
B-23	There is some question as to the accuracy of the premise of this question given the reach of Section 402p and the existing Phase I and Phase II regulatory authority.	Question deleted	Question deleted
B-23	It would be valuable to determine how many states have in place an active stormwater science program which evaluates stormwater control structure effectiveness and sustainability, and uses this data in developing stormwater program performance standards.	Added B-21 and B-22	Added questions about program effectiveness
C-1	Consider also asking for the number or facilities with “no exposure” certifications.	N/A	No change, this data will not be collected in the ICR
C-2	Reword to: How many industrial permittees subject to the Industrial Stormwater General permit are within regulated Phase I or Phase II MS4 permit boundaries?	N/A	Question revised
C-3	Reword: How many industrial facilities subject to Industrial Stormwater permits has your state inspected from FY2005 – FY2009?	Question deleted	This data will not be collected in the ICR
C-4	How many enforcement actions (other than verbal warnings) has your state or delegated agent(s) issued from FY2005 – FY2009 to industrial operators regarding stormwater permits?	Question deleted	This data will not be collected in the ICR
	Consider adding a question on whether the state industrial stormwater permits have numeric limits or benchmarks.	Added C-3	Added question about industrial numeric limits or benchmarks

<b>Table B-3: MS4<sup>6</sup> Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
Definitions of key terms	Add, delete, or improve the clarity of the definition for several specific key terms.	N/A	EPA reviewed and adjusted the key terms and definitions as specified by the commenter.
Identification information A-1	Include basic information about each MS4's location including annual rainfall amount, climate zone, topography, and impaired receiving waters and other receiving waters. Add email field Clarify what EPA's expectation was for filling out the form if several agencies and departments are responsible for administering elements of the stormwater program	N/A	Question was revised: Email address field was added. The data will be reviewed based on the regional location of the MS4 to account for climatic conditions. EPA expects that the survey recipient will coordinate with the various departments involved in the stormwater program to obtain complete and accurate information.
Other stormwater conveyances A-2	Clarify "Road-Related MS4" Suggest change wording from "conveyed to "managed" Clarify "jurisdiction"	N/A	Question was revised to clarify these points
Extent of coverage A-4	Rephrase the question to ask "What percentage of your jurisdiction's area drains to an MS4?" Clarify what is meant by "percentage of your jurisdiction" and that we ask respondents about the percentage based on both population and land area Clarify whether they should include cities/towns located within their County that are also considered MS4s or only the percentages from the unincorporated MS4 area Question will be difficult to answer for some counties with Phase I permits since within their county are Phase II communities with separate, distinct permits Provide ranges for answering questions rather than asking	N/A	Question was revised to clarify these points and questions were added to provide further clarification.  EPA will not be collecting information about the number of building permits in the ICR.  Question will only collect information about the MS4 area for which they are the owner and operator.

<sup>6</sup> Includes Transportation-related comments

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>for a specific number Remove the option of “unknown” since MS4s should know the area that is served by their system Ask follow-up questions: “If you are a political entity (county, city or similar jurisdiction) with building permit issuing authority, how many building permits were issued in the past 5 years for projects within the MS4? If your jurisdictional boundary exceeds the MS4 boundary, how many building permits did you issue for projects outside the MS4? How many building permits were issued for redevelopment within your entire jurisdictional boundary?”</p>		
Number of outfalls A-6	<p>Change the outfall size mentioned in the question Ask only about the number of major outfalls as defined in the regulations at 40 CFR 122.26(b)(5): Major Outfall means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive storm water from lands zoned for industrial activities (based on comprehensive zoning plans or the equivalent), an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of 2 acres or more).</p>	N/A	Question was revised to clarify some of these points.

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>Suggest entirely deleting the question</p> <p>Ask the minimum size of outfall tracked by the jurisdiction and the number of tracked outfalls.</p> <p>Clarify whether outlets from natural and constructed wetlands, ponds, and lakes should be included in the requested estimate</p> <p>Provide ranges rather than requesting a single number in order to obtain more useful information</p>		
MS4 capacity A-7/ A-9	<p>Many commenters suggested entirely deleting the question for various reasons. Many commenters pointed out that there will almost always be a portion of the system that is at or near its maximum capacity.</p> <p>Clarify “stormwater conveyance system” since answers would be varied depending on whether canals and other channels were included</p> <p>Clarify “at or near maximum capacity”</p> <p>Responses will be highly variable and therefore uninformative</p> <p>Several commenters suggested that a timeframe/duration be added</p> <p>Ask about rainfall intensity</p> <p>Answer would depend on the system’s capacity</p>	N/A	Question was revised to clarify these points and additional questions added to provide clarification.
Direct discharges A-10/A-11	<p>Define “waterbody” or change to “water of the U.S. or water of the State”</p> <p>Clarify “within the boundary of the MS4” and “jurisdiction”</p> <p>Clarify “entity,” including whether it pertains to both private and public entities</p> <p>The definition of “parcels” varies greatly so the answer for this question has to take that into account (i.e. either</p>	N/A	Questions were revised to clarify these points

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>have the respondent define “parcel” or only keep the answer as a spatial unit of measurement)</p> <p>Clarify whether “discharging stormwater” meant via a conveyance/piping system or not</p> <p>Delete Question</p> <p>Why ask for this information since these entities are not included in the MS4</p> <p>Clarify whether EPA intended to collect information only on overland flow</p> <p>Change the answer to be a percentage rather than a total surface area</p>		
<p>Activities required by ordinance</p> <p>A-14</p>	<p>Add an option of “other”</p> <p>Specify what sort of projects had their site plans reviewed, including construction, new development and redevelopment</p> <p>Clarify “water control”</p> <p>The question assumes that if no ordinance or other regulatory mechanism is in place, then the activities are not being done</p>	N/A	<p>Question revised to ask about whether an ordinance or other regulatory mechanism exists for inspection and maintenance on private property.</p>
<p>Specific stormwater structural controls</p> <p>A-15</p>	<p>Add retention basin (wet pond), underground retention chambers, infiltration basins and trenches, and drywells as options</p> <p>question A-45 is redundant with question A-15 and should be combined or A-45 should be deleted</p> <p>providing this list would be a considerable effort if not already inventoried</p>	N/A	<p>Question was revised to clarify these points</p>
<p>Number of inspections of post construction controls</p> <p>A-16</p>	<p>Many commenters said there was much variability in the type and frequency of controls inspections that can be dictated by local conditions. There is great variability in how MS4s track these controls and their inspection.</p> <p>Add the following question:</p>	Question deleted	<p>The number of inspections of post construction controls will not be collected in the ICR. Questions were added to determine if site inspection and tracking was part of the post construction program of the MS4.</p>

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>“Are inspections of new development and significant redevelopment post construction controls required pursuant to your permit or stormwater management plan?”</p> <p>Suggest to ask if policies and procedures are in place for inspections, which may be carried out but are not yet tracked and documented</p> <p>Ask for an option that the inspections are “covered by another MS4 co-permittee.”</p>		
MS4 training A-17	Many commenters asked for clarification on types of training activities said there was much variability in the frequency of training.	Question deleted	This information will not be collected in the ICR.
Frequency of monitoring A-22	<p>This sort of monitoring was not cost effective and would yield meaningless data because of the great variability in stormwater quality and quantity</p> <p>Clarify whether this question was asking about water quality of the stream or of the stormwater control structures</p> <p>Many communities perform monitoring in conjunction with other community organizations and similar entities and this would not be captured in this question</p> <p>Recommend that EPA collect information on watershed monitoring</p> <p>Divide the question into two parts depending on whether the monitoring was done for water quality or water quantity</p> <p>Question is biased towards the East coast rainfall regimes where monitoring will be more stable throughout the year</p> <p>Obtaining information no frequency would be meaningless and suggested</p>	Question deleted	The frequency of monitoring will not be collected in the ICR.



<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	that EPA rephrase the question to ask if the respondent has a monitoring plan in place EPA made no distinction between the various sorts of stormwater control structures, including those that are required under the MS4 stormwater regulation, those required under the construction stormwater regulations, those required under the industrial stormwater regulation, those that are owned and operated by the MS4 and those that are experimental, or 'pilot' structural control structures		
Results of monitoring A-23/A-24	Provide explanation of chemical, biological and physical improvements. Many communities perform monitoring in conjunction with other community organizations and similar entities and this would not be captured in this question Clarify whether this question was asking about water quality of the stream or of the stormwater control structures This sort of monitoring was not cost effective and would yield meaningless data because of the great variability in stormwater quality and quantity Clarify what was meant by "type(s) of water quality improvement" and whether it meant specific analytes	N/A	Question was revised to clarify these points
Site plan review A-27/ A-28/A-29/A-30	Many commenters asked for clarification and said there was much variability in site plan review and some MS4 do not record information to this level of detail and other commented that the burden to answer this question would be larger than the time and cost burden estimated in the ICR	Question revised	The ICR will collect information about whether or not the MS4 does site plan review and the site size threshold for review. The number of site plan reviews completed will not be collected in the ICR.

**Table B-3: MS4Questionnaire Comment Summary and Response**

Topic/ Question Number	Comment	Deleted/ Added Question	Response
	<p>Add the question: “How many redevelopment projects were constructed during the past five years?”, and add a corresponding entry to the associated table</p> <p>the estimates of plan review and approval will likely be higher than the actual completed redevelopment projects</p> <p>a single project could involve more than one facility, more than one development permit, and/or more than one review (i.e., in this table, such a project could be counted multiple times) and this would be hard to capture in the table</p> <p>there are a number of reasons why a project may not be approved and that a project may be reviewed one year, but approved the following year.</p> <p>why are five years of data required for this question and suggested that EPA change the question to only ask for the last three years of data</p> <p>data respondents currently will not be identical to that being requested so it will likely take respondents a long time to complete</p> <p>some jurisdictions have the same criteria for new development and redevelopment projects and, as a result, may not be able to track and report them separately the data would likely be skewed because of the recent economic issues</p> <p>ask for the source of the data provided</p> <p>Add an option to indicate that project plans are being reviewed with an estimate of the actual numbers, as well as an option to state that the</p>		

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>inspections are “Covered by another MS4 co-permittee” rather than having respondents simply select “Unknown”.</p> <p>ask how many times respondents have had to review a project before it met all regulations and was approved</p>		
<p>Post Construction Standards A-31</p>	<p>Add mixed use to the examples and define allow respondents to answer the questions simply by saying that they follow the state-developed standards</p> <p>Add “runoff rate” and “discharge rate” to the question</p> <p>Clarify terms: “performance standard”, “specific” and “numeric”</p> <p>clarify whether the question was asking if the stormwater performance and/or design standards are specific or numeric or if the jurisdiction simply has standards</p> <p>break the question up into separate questions since some may have standards that are separate for redevelopment and new development</p> <p>Add an option that regulations were developed to prevent flooding</p> <p>add a question related to performance-based BMP selection related to whether a set of BMPs is required, or if developers are allowed to choose from the menu of BMPs to meet a specific performance objective</p>	N/A	Question was revised to clarify these points
<p>Post Construction Standards A-31/A-36/A-37/A-40</p>	<p>Clarify the difference between questions A-29 and A-37</p> <p>change the word “parcel” to “disturbed area” or “land surface disturbance”</p> <p>respondents should explain how they define redevelopment</p>	N/A	Questions were revised to clarify these points

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>Put a “check all that apply” option since there may be both state and local requirements</p> <p>respondents should not skip to A-37 if the answer was “no” since they should still answer questions A-33-A36, but that their answers would be for a single set of standards</p> <p>combine questions A-36 and A-40</p> <p>change “governmental entity” to “jurisdictional entity”</p>		
<p>Identification of post construction standard A-34/A-38/A-35/A-39</p>	<p>respondents should attach ordinances rather than selecting boxes</p> <p>Some MS4 permits do not have these requirements</p> <p>MS4s would need to consult an engineer to answer the question</p> <p>change the answers into a table format</p> <p>change the 9<sup>th</sup> bullet be changed to ““Maintain predeveloped peak runoff for a specific storm event”</p> <p>Clarify terms “maximum total volume of runoff,”</p> <p>“maximum size for retention structures,” “impervious surface” (versus effective impervious surface),</p> <p>“groundwater preservation,” and “quality improvement.”</p> <p>Recommend changing “infiltration/groundwater preservation requirement” to “groundwater recharge requirement”</p> <p>“land grading requirements or other erosion prevention specifications” applied more to construction rather than post-construction activities</p> <p>recommend grouping similar types of criteria/standards into categories to help respondents separate single family and multi-family residential</p>	N/A	Question was revised to clarify these points
Retrofit program	Clarify “retrofitting	N/A	Question was revised to

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
A-42	<p>stormwater controls”                      definition of “stormwater controls” will not capture effective off-site controls, but rather only on-site controls                      some MS4s consider changing their municipal separate storm system to eliminate illicit discharges a retrofitting project                      public and private ownership issues needed to be considered when requiring retrofits                      State transportation agencies will rarely have funding available through state agencies to perform stand alone retrofit projects</p>		clarify these points
<p>Purpose of Retrofit program                      A-43</p>	<p>Add separate questions on ordinances or regulatory mechanisms for adding new connections to the MS4 from existing parcels (e.g., changing from a UIC or combined sewer system) and incentive programs for retrofits                      Add “TMDLs” as an response option                      Clarify whether EPA wanted data on the structural stormwater controls in the jurisdiction or broader estimate of the number of each practice                      Add the following options: tree canopy and floodplain and wetlands mitigation                      add a question related to performance-based BMP selection related to whether a set of BMPs is required, or if developers are allowed to choose from the menu of BMPs to meet a specific performance objective</p>	N/A	Question was revised to clarify these points
<p>Regulations that are barriers to implementation of retention practices                      A-48</p>	<p>Add the following options: setbacks /frontages, minimum / maximum cul-de-sac radius, right of way width, rooftop runoff requirements,</p>	N/A	Question was revised to clarify these points

**Table B-3: MS4Questionnaire Comment Summary and Response**

Topic/ Question Number	Comment	Deleted/ Added Question	Response
	<p>restrictions on tree/wetland protection requirements, plumbing codes, private/municipal ownership conflicts, (including conflicts over public rights of way), water rights issues, state law, court decisions, deed restrictions, and other legal mandates, such as potential for runoff to contaminate groundwater, sole source aquifer limitations, hazardous site clean-up orders allow respondents to justify why these barriers exist</p>		
<p>Controls implemented in the jurisdiction A-50</p>	<p>Add the following options: mixed use, enterprise zones, buffer/riparian corridor, and incentives for low impact development practices add “in a watershed context” to the end of “restrictions on imperviousness” change the word “controls” to “non-structural controls” rephrase the question to “What, if any, incentives are provided for developers to use stormwater retention practices in new development projects (Commercial, Residential, Industrial, and/or Institutional) in your jurisdiction?”</p>	<p>N/A</p>	<p>Question was revised to clarify these points</p>
<p>Incentives for retention practices A-51/ A-52/ A-53</p>	<p>add “entrepreneurial or redevelopment zones” as an option restructure Questions A-51, A-52, A-53, and A-54 into categories looking at incentives that target homeowners and incentives that target developers rather than using the categories redevelopment, development, and retrofit combining Questions A-51 and A-53 and replacing “retention practice” with “management practices” ask which incentives actually</p>	<p>N/A</p>	<p>Question was revised to clarify these points</p>

**Table B-3: MS4 Questionnaire Comment Summary and Response**

Topic/ Question Number	Comment	Deleted/ Added Question	Response
	<p>work at the local level and provided specific examples, including 1) if an MS4 has reduced storm water utility fees for installing management practices on a redevelopment site, how many developers have asked for the fee reduction over the last year, 2) What has been the locality's experience administratively in implementing such a program and in terms of verification of maintenance of the practices over time</p> <p>ask "What, if any, incentives are provided for developers to use stormwater retention practices on redevelopment projects?"</p> <p>clarify "volume reductions for required stormwater management"</p> <p>add options, including "land use and economic development policies"</p> <p>question A52 is redundant with Questions A-51 and A-53 and suggested rephrasing the question to ask "What incentives, if any, are provided for use of the following smart growth development techniques: (i) high density or compact development, (ii) brownfields development, (iii) proximity to mass-transit or (iv) infill(use the space provided to specify the nature of the incentive and the trigger)"</p>		
<p>Maintenance of controls on private property A-55</p>	<p>Clarify the basis for this determination. Add a follow-up question asking for the basis of the determination Clarity on the unit of measurement and suggested EPA ask the question based on the area managed not the number of controls.</p>	<p>N/A</p>	<p>Question was revised to clarify these points</p>

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>Change the term “stormwater control practices”</p> <p>Clarify whether this referred to facilities that only drain to the MS4 or all facilities (direct discharge, drainage to a stormwater sump or combined system) and whether it included conveyance facilities</p> <p>Clarify whether this included roadside ditches and stated this would be difficult to answer</p> <p>Question is too broad and would be extremely difficult to answer, especially if the respondent did not already have an inventory of practices</p> <p>Add an “unknown” option</p> <p>Clarify that private entities included homeowners associations and property owners associations</p> <p>Move this question to the beginning of the survey since it relates to the MS4 system</p>		
<p>Inspect and maintain controls on private property A-56</p>	<p>Move this question to the beginning of the survey since it relates to the MS4 system</p> <p>An option of not applicable should be added</p> <p>Suggest the question be rephrased into three separate questions, including 1) Do you have an ordinance or some other authority to inspect stormwater control practices on privately owned properties?, 2) Do you have an ordinance or some other authority to maintain stormwater control practices on privately owned properties? 3) Do you have the authority to inspect or maintain stormwater control practices located on privately owned properties that were installed prior to the above noted ordinance/authority? If not, how are these actions</p>	N/A	Question revised



<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>addressed?                      Add a follow-up question “In the event that you do not have an ordinance or other authority to inspect/maintain stormwater control practices on privately owned properties, what specific barriers or local issues prevent you from having such authority?”                      Santa Monica’s ordinance does in fact extend to privately owned entities</p>		
Easements/deeds on private property A-57	<p>Move this question to the beginning of the survey since it relates to the MS4 system                      An option of not applicable should be added                      Question be rephrased as “Do you have the authority to place easements or deed restrictions that require homeowner associations to inspect/maintain stormwater control practices on privately owned properties?”                      Suggested “Do you have the authority to require that HOAs include stormwater maintenance obligations and rights of inspection in a recorded CC&amp;R (or equivalent recorded document) that is binding on privately owned properties?”                      Clarify why homeowner associations were the only entities referred to                      Ask about the resource and technical ability of homeowner associations to inspect and maintain structural stormwater controls.</p>	N/A	Question revised
Cost comparison A-58	<p>add a follow-up question asking if data on the municipal project cost comparisons between traditional stormwater practices and alternative retention/pervious stormwater</p>	N/A	Question was revised to clarify these points

**Table B-3: MS4 Questionnaire Comment Summary and Response**

Topic/ Question Number	Comment	Deleted/ Added Question	Response
	<p>practices is available  look at the International Stormwater Database to obtain this information  rephrase the question: “Where you have done a cost comparison between traditional stormwater practices and alternative retention or pervious stormwater practices (i.e. green infrastructure practices) on a project scale or a site-specific (such as a parking lot) scale for a municipal project, have alternative retention or pervious stormwater practices generally been cost competitive with the traditional practices?  Define “alternative retention or pervious stormwater practices”  clarify “traditional stormwater practices”  rephrase “municipal project” since it excludes entities that are not municipalities</p>		
<p>General Comments on Section</p>	<p>Look at Black and Veatch Survey  Please add a question seeking information on infrastructure commitments from consent decrees and communities’ financial positions.  Section B goes well beyond EPA’s stated intent for the rule.  Include a question identifying if a jurisdiction has the ability to implement or raise a stormwater fee.  Add a question regarding use of off-site mitigation and payment in lieu.  Add more questions on LID maintenance, management, and performance.  EPA needs to ask what</p>	<p>Added: B-4, B-5, B-6, B-10, B-11, B-12, B-13, B-16, B-17, B-18, B-9</p>	<p>EPA reviewed the survey and revised and added several questions based on this review.  EPA included a question about infrastructure commitments. However, EPA is not requesting information on why a MS4 has made such a commitment because it is not relevant to the analysis.  EPA is requesting this information to assess the financial impact of the rule requirements on municipalities, thus EPA needs information beyond that required to simply develop standards.</p>

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	investments and incentives work at the local level.		<p>EPA has added a question requesting if a jurisdiction is able to implement or raise a stormwater fee.</p> <p>Questions on off-site mitigation and payment in lieu have been added to Section A of the MS4 questionnaire.</p> <p>EPA will conduct a separate analysis on LID maintenance, management, and performance to avoid placing this burden on MS4s and to obtain consistent results.</p> <p>EPA plans to learn about what incentives and investments work through a literature review and data gathering outside the ICR.</p>
B-1	<p>Reponses will vary widely due to no “baseline” definition</p> <p>This question should reflect capital costs</p> <p>Need to ask whether respondent is multi-service agency or stormwater utility.</p>		<p>EPA revised B-3 to provide greater clarification of activities included in stormwater budget including capital costs.</p> <p>EPA requests information on the MS4 owner/operator such as whether or not it is a municipal utility district, etc.</p>
B-2	The list of items in this question is confusing.	Deleted B-2	B-3 was revised to clarify the information requested.
B-3	<p>This list should capture standard stormwater activities.</p> <p>Road salting is not a stormwater control activity.</p> <p>Mosquito control should be added as a possible option.</p>		<p>EPA has revised this question in response these comments</p> <p>EPA has removed road salting from the questionnaire.</p> <p>EPA has revised this question to better fit the how MS4s budget.</p>

<b>Table B-3: MS4 Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
			Mosquito control should fit under the revised categories if it is related to stormwater controls.
B-4	This question should be based on classifications of stormwater activities. This question should reflect equivalent full time employees.	Deleted B-4, added B-9 and B-10	Based on the Black and Veatch survey EPA believes that MS4s can answer the question in this format. EPA has revised to question to reflect that full time and part time employees may be used.
B-5	Clarify this is for operations to remain consistent with previous questions.	Deleted B-5	EPA deleted this question.
B-6	Distinguish between sources of funding for operating and capital expenses		Questions were revised to clarify these points
B-7	What does the term “general review plan mean”	Deleted B-7	EPA substantially modified the questions regarding stormwater fees based on this comment and information from the Black and Veatch survey.
B-8	What does this question apply to? Fees vary depending on project type, size, and requirements.	Deleted B-8	EPA substantially modified the questions regarding stormwater fees based on these comments and information from the Black and Veatch survey and believes the questions will now better capture available information.
B-9	Unclear what this question applies to.	Deleted B-9	EPA substantially modified the questions regarding stormwater fees based on this comment and information from the Black and Veatch survey.
B-11	It is very difficult to determine if the impacts of streams are due to urban runoff or due to naturally occurring events.		EPA revised this question to reflect this comment.
B-12	It might be more informative to ask for a general budget for	Added B-26, and B-27	EPA has revised this question, now B-25, and

<b>Table B-3: MS4Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	stream restoration work. Should only request most recent data available.		added two questions to reflect this comment. Collecting data for a longer period of time will allow EPA to better impact the affects of this rule on jurisdictions.
B-13	None of questions in section B addresses costs of constructing operating, or maintaining specific stormwater controls.		EPA will conduct a separate analysis in order to derive consistent estimates for this information

<b>Table B-4: Industry Questionnaire<sup>7</sup> Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
States w/ projects & completed project criteria A-3 & A-4	Questions should include start/stop dates and clarify whether the dates [FY 2005 through FY 2009] are federal or state fiscal years.		EPA has clarified that it is asking for information for calendar years 2005 – 2009. However, for the financial questions only, EPA is allowing the respondent to provide information for either calendar or fiscal years and to indicate the first month of the fiscal year, if being used.
Completed project criteria A-4	Question should better define “not a pipeline or other utility related activity where the original land cover was replaced at the end of the project.” All underground and above ground pipelines would eventually have the land cover restored.		Question was revised to clarify this point.
Firm financial B5 – B-14	These questions represent an unnecessary intrusion into the private business records of the targeted respondents.		EPA revised the questions to limit the financial data being collected. Financial data are required for EPA to appropriately assess the economic impacts of any proposed rulemakings on the affected industries.
Firm balance sheet B-7 & B-9	The focus should be on the total value of the relevant work completed.		Questions were revised to only collect data on total revenues generated.
FTEs B-13	The number of FTEs is not relevant for Big Box retailers. A better question would be “how many development or construction contract managers are employed by the firm and what general functions these personnel perform.”	Deleted question	EPA has deleted the question asking for the number of FTEs.
Owner/general contractor for projects C-3	Does EPA mean the owner and general contractor or the owner or general contractor?		The survey was revised to clarify that EPA is only seeking information from projects where the respondents were either the owner or developer of all or a portion of the project. General contractors may be asked by the owner/developer to provide information when available, however, they are

<sup>7</sup> Now called Owner/Developer Questionnaire

<b>Table B-4: Industry Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
			not expected to have and provide all of the information for a given project.
NPDES NOI permit holder C-5	The NOI is not a permit. EPA should include or preclude NOCs. What is the relevance of the question “were they NOI holders?”		Question was revised to clarify these points and to include NOCs.
NOI permit no. C-6	EPA can get this information from the states.		EPA believes the most efficient way to collect the NOI permit numbers is from the permittees themselves.
Project duration C-8	Phase duration – general contractors are not usually privy to land acquisition, land [site] development and design phasing information.	Deleted question	EPA has deleted the question asking for the duration of each phase of the project.
Project type, size, land cover, & impervious/pervious components C-9 – C-11	Most of this information is more readily accessible to the design engineer for a project and not always placed on the construction plans, which are the only documents available to the general contractor. C-9 & C-11 results might be easier to assess and tabulate if (a) and (b) are combined into one table. Questions should focus on both the number of homes and number of lots constructed as well as the number of acres so that equal comparisons can be made.		EPA has clarified that only owners and/or developers of projects are expected to complete the surveys.  These questions were revised to include the number of dwellings constructed.
Percolation rate C-13	EPA should consider asking for the average [percolation] rate of the most common pervious areas at the site. Project-specific data is usually not available on soil type or percolation rate.	Deleted question	EPA has deleted the question asking for the percolation rate at the project site.  The question about project-specific soil types was clarified to allow respondents to skip the question if soil information is not known.
Performance standards/ design criteria C-16	Clarify what is being requested. Infiltration rates should be distinguished as either measured (under technical specifications) or used for design (design basis).		Question was revised to clarify these points.
Cost comparison C-17	EPA should allow for respondents to include actual dollar amounts; clarification should be made on meaning of retention practices.		Question was revised to clarify the meaning of retention practices.  EPA does not believe that the actual dollar amounts of the

<b>Table B-4: Industry Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
			cost comparisons will significantly improve its analyses. Respondents, however, are allowed to provide supplemental information if they choose to do so.
Implementatio n of retention practices C-19	Simplify the question by asking for the city or county where the site was located and whether it was designed above minimum standards and if so, how.		Project-specific location information is collected in a previous question in the survey.  EPA does not believe that information on whether implemented practices were designed above minimum standards is necessary for its analyses.
Retention practices implementatio n challenges C-20	Allow respondents to provide additional information on the nature of the barrier encountered. Clarify whether financing requirements refers to conditions imposed by lenders or cost considerations.		Respondents are allowed to provide additional information that they believe is helpful.  EPA did not clarify whether “financial requirements” were specific to conditions imposed by lenders or cost considerations as that distinction is not necessary for EPA’s analyses.
Alternative land use C-21	General contractors do not have this information.		EPA has clarified that only owners and/or developers of projects are expected to complete the surveys. Respondents can select “unknown” if they do not know how the land would have been used if on-site stormwater controls were not implemented.
Design criteria C-22	General contractors do not have this information. EPA should aggregate information from the entire site or project. “Containment” and what is meant by the system design capacity should be clarified. Project-specific data is usually not available the watershed area.		Question was revised and non-watershed specific information was merged with the question asking for project-specific or numeric stormwater performance standards and/or design criteria requirements. Watershed specific information was deleted.
Stormwater control components	The percent of the site area managed should be specified for each control.		EPA does not believe that information on the percent of the site area affected by the



<b>Table B-4: Industry Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
installed C-23			post construction stormwater controls is necessary for its analyses.
Stormwater system component worksheets C-25	<p>The question is difficult to answer because developments have a bid price that will not be broken down the way EPA asked the question. Maintenance costs are also not broken down by BMP. Some cost elements are for the overall site development versus facility-specific costs. Maintenance costs should be estimated on some time interval – annual, monthly &amp; on level of maintenance – routine, periodic, rehabilitative, replacement. It is unlikely that costs will be known for each separate element of an individual practice. Planned developments and site plans are bid out to engineers and contractors and these individual costs would not be quantified. Flow rate capacity is generally expressed in cubic feet per second, not gallons. Design basins are not applicable to curbs and gutters. Clarification should be made as to whether the catch basin worksheet applies to one catch basin or all catch basins in a project. Unclear on the permeable paver worksheet what design basin refers to – retention/detention? Green Roof BMP worksheet – the same level of engineering/design detail should apply for bioretention systems and green roofs. The physical characteristics of engineered soil, under drains and drainage layers greatly affect performance. Depth of media and depth of soil are redundant terms. Media is the accepted term in the industry.</p> <p>It is also worth noting that costs for installation of stormwater controls may be difficult to separate from total project costs, because</p>	Deleted question	EPA has deleted the question and information contained in the stormwater system component worksheets.

<b>Table B-4: Industry Questionnaire Comment Summary and Response</b>			
<b>Topic/ Question Number</b>	<b>Comment</b>	<b>Deleted/ Added Question</b>	<b>Response</b>
	<p>separate accounts are not usually established for stormwater controls.</p> <p>Provide concrete description of data desired – on Curb and Gutter worksheet, what elements are to be included in “storm sewer cost”?</p> <p>What elements in “materials” cost?</p> <p>What length is requested here – length of pipe installed, length of curb and gutter installed?</p> <p>Where BMPs are installed for water quality reasons only, the BMP worksheets should ask was the contribution to controlling runoff volume or runoff volumetric discharge rate evaluated.</p> <p>Questions on the warranty period and inspection cost should be included on all BMP worksheets.</p>		
Project financial information C-30 & C-31	General contractors do not generally have this information.		EPA has clarified that only owners and/or developers of projects are expected to complete the surveys.