

**Information Collection Request for
NPDES Animal Sectors (Renewal)**

OMB Control No. 2040-0250, EPA ICR No. 1989.07

May 2010

Prepared for
United States Environmental Protection Agency
Office of Wastewater Management
1200 Pennsylvania Avenue, NW
Washington, DC 20460

EPA Contract Number EP-C-05-046
EPA Work Assignment Number 2-24

Contents

1. Identification of the Information Collection.....	1
1(a) Title of the Information Collection.....	1
1(b) Short Characterization/Abstract.....	1
2. Need For and Use of the Collection.....	3
2(a) Need/Authority for the Collection.....	3
2(b) Practical Utility/Users of the Data.....	4
3. Non-duplication, Consultations, and Other Collection Criteria.....	6
3(a) Non-duplication.....	6
3(b) Public Notice Required Prior to ICR Submissions to OMB.....	6
3(c) Consultations.....	6
3(d) Effects of Less Frequent Collection.....	7
3(e) General Guidelines.....	7
3(f) Confidentiality.....	7
3(g) Sensitive Questions.....	8
4. The Respondents and the Information Requested.....	9
4(a) Respondents/Standard Industrial Classification (SIC) Codes.....	9
4(b) Information Requested.....	13
4(b)(i) Application/NOI.....	13
4(b)(ii) Plan Development/Special Studies.....	16
4(b)(iii) Monitoring.....	17
4(b)(iv) Reporting (including certification).....	18
4(b)(v) Record Keeping.....	21
4(b)(vi) Compliance Assessment.....	23
5. The Information Collected—Agency Activities, Collection Methodology, and Information Management.....	25
5(a) Agency Activities.....	25
5(b) Collection Methodology and Management.....	25
5(c) Small Entity Flexibility.....	26
5(d) Collection Schedule.....	27
6. Estimating the Burden and Cost of the Collection.....	29
6(a) Estimating Respondent Burden.....	29
6(a)(i) Application/NOI.....	29
6(a)(ii) Plan Development/Special Studies.....	31
6(a)(iii) Monitoring.....	32
6(a)(iv) Reporting (including certification).....	33
6(a)(v) Record Keeping.....	35
6(a)(vi) Compliance Assessment.....	36
6(b) Estimating Respondent Costs.....	37
6(b)(i) Estimating Labor Costs.....	38
6(b)(ii) Operating and Maintenance (O&M) Costs.....	39
6(b)(iii) Capital/Start-up Costs.....	39
6(c) Estimating Agency Burden and Cost.....	39
6(d) Estimating the Respondent Universe and Total Burden and Costs.....	40

6(e) Bottom Line Burden Hours and Cost Tables.....	41
6(e)(i) Respondent Tally.....	41
6(e)(ii) The Agency Tally.....	41
6(f) Reasons for Change in Burden.....	42
6(g) Burden Statement.....	43

Appendices

Appendix A. Respondents and Other Assumption

Appendix B. Respondents Activities Table

Appendix C. Agency Activities Table

Tables

Table 1.1. List of ICRs.....	2
Table 3.1. Number of Comments Received for Each ICR Included in this Consolidation.....	7
Table 4.1. CAFO Standard Industrial Classification Codes and Size Thresholds.....	10
Table 5.1. SBA and EPA Small Business Thresholds for Animal Sectors.....	26
Table 6.1. Labor Rates.....	38
Table 6.2. Respondent tally.....	41
Table 6.3. Agency tally.....	41
Table 6.4 Burden change.....	42

1. Identification of the Information Collection

1(a) Title of the Information Collection

Title: NPDES Animal Sectors
OMB Control Number: 2040-0250
EPA ICR Number: 1989.07

1(b) Short Characterization/Abstract

This Information Collection Request (ICR) is the result of an extensive analysis done to consolidate, streamline, and update the U.S. Environmental Protection Agency's (EPA's) concentrated animal feeding operations (CAFOs) and concentrated aquatic animal production (CAAP) facility ICRs into the currently approved ICR for CAFOs. The two ICRs that are being consolidated in this ICR are:

- NPDES and ELG Regulatory Revisions for Concentrated Animal Feeding Operations (Final Rule) (OMB Control No. 2040-0250)
- Concentrated Aquatic Animal Production (CAAP) Effluent Guidelines (OMB Control No. 2040-0258)

Additionally, two activities reported in the NPDES program ICR (OMB Control No. 2040-0004) that are directly related with CAAP facilities or CAFOs are now incorporated in this ICR.¹

The 2003 CAFO rule ICR covered the information collection burden imposed under the 2003 rule for the period from June 2003 to June 2006 (ICR No. 1989.02). EPA renewed that ICR in 2006 to address the paperwork collection burden from implementation of the CAFO program through 2009 (ICR No. 1989.04). On November 20, 2008, EPA published a revision to the 2003 CAFO rule to address the February 2005 *Waterkeeper* decision (*Waterkeeper Alliance et al. v. EPA*, 399 F.3d 486 [2nd Cir. 2005]) and developed a revised burden estimate for CAFOs (ICR No. 1989.06).

The Effluent Limitations Guidelines and Standards for the Concentrated Aquatic Animal Production (CAAP) Point Source Category establish specific reporting requirements for a portion of CAAP facilities through NPDES permits. The rule covers facilities which are defined as CAAP facilities (see 40 CFR 122.24 and 40 CFR Part 122) and produce at least 100,000 pounds of fish per year in flow through, recirculating and net pen systems. The special reporting and record-keeping requirements under the rule are the subject of this ICR. CAAP facility owners or operators are also required to file reports with the permitting authority when drugs with special approvals are applied to the production units or a failure in the structural integrity occurs in the aquatic animal containment system.

¹ The two activities are the Permit Application for CAAP facilities using form 2B and Other Noncompliance Reports for CAFOs.

1. Identification of the Information Collection

The two ICRs with their approved burden before consolidation, as reported in the Office of Management and Budget's (OMB's) inventory, are presented in Table 1.1. The table also includes the burden for the two activities reported in the NPDES program ICR that are now incorporated in this ICR.

Table 1.1. List of ICRs

OMB ICR No.	EPA ICR No.	Title	Annual burden (hours)
2040-0250	1989.06	NPDES and ELG Regulatory Revisions for Concentrated Animal Feeding Operations (Final Rule)	2,998,603
2040-0258	2087.03	Concentrated Aquatic Animal Production Point Source Category Effluent Guidelines Reporting and Record-keeping Requirements	44,196
2040-0004	0229.19	NPDES program ICR	1,341

This consolidated ICR for the two sectors accounts for the time required to review instructions, search existing data sources, gather and maintain all necessary data, and complete and review the information collected for both CAFO and CAAP facilities.

2. Need For and Use of the Collection

2(a) Need/Authority for the Collection

The purpose of the Clean Water Act (CWA) is “to restore and maintain the chemical, physical and biological integrity of the nation’s waters” [section 101(a)]. CWA section 402(a) establishes the NPDES program to regulate the discharge of any pollutant from point sources² into waters of the United States. Section 402(a) of the CWA, as amended, authorizes the EPA Administrator to issue permits for the discharge of pollutants if those discharges meet the following requirements:

- All applicable requirements of CWA sections 301, 302, 306, 307, 308, and 403; or
- Any conditions the Administrator determines are necessary to carry out the provisions and objectives of the CWA.

The primary mechanism to ensure that the permits are adequately protective of those requirements is the permit application process. In particular, CWA section 402(a)(2) requires EPA to prescribe permit conditions to assure compliance with requirements “including conditions on data and information collection, reporting and such other requirements as [the Administrator] deemed appropriate.”

The CWA also establishes an administrative framework for the NPDES permitting program. CWA section 402(b) authorizes *states* (which include U.S. territories and Indian tribes that have been authorized in the same manner as a state) to administer the NPDES program once EPA is assured that they meet minimum federal requirements. Authorized states are considered permitting authorities and are responsible for issuing, administering, and ensuring compliance with permits for most point source discharges within their borders. In states without an authorized NPDES program, EPA is the permitting authority and undertakes all permitting activities; although CWA section 401 requires states to certify that EPA-issued NPDES permits establish “effluent limitations, and monitoring requirements necessary to assure that any applicant...will comply with any applicable effluent limitations and other limitations (pursuant to the CWA) and with any other appropriate requirement of state law...” States, tribes, and U.S. territories may waive their right to certify permits if they wish. CWA section 510 provides that states, tribes, and territories may adopt requirements equal to or more stringent than standards established pursuant to CWA provisions.

Under the terms of the NPDES program, CAFOs are defined as point sources (33 U.S.C. Sec. 1362). Under 33 U.S.C. Section 1311 and Section 1342, a discharging CAFO must obtain an NPDES permit and comply with the terms of that permit, which may include appropriate conditions on data and information collection. EPA's NPDES regulations also define when a hatchery, fish farm, or other facility is a CAAP facility and, therefore, a point source subject to the NPDES permit program (40 CFR 122.24). Furthermore, 33 U.S.C. Section 1318 provides authority for information collection (i.e., record keeping, reporting, monitoring, sampling, and

² EPA defines a point source as, “any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, CAFO, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff” (40 CFR 122.2).

2. Need For and Use of the Collection

other information as needed), which applies to point sources; and Section 308(a) of the CWA authorizes the Administrator to require the owner or operator of any point source to file reports as required to carry out the objectives of the Act.

EPA and authorized States need the information required under the revised 2008 CAFO rule and the CAAP ELG regulations to implement the CWA requirements. The 2008 CAFO rule revises the final 2003 CAFO rule, which updated EPA's original Effluent Limitations Guidelines (ELGs) (40 CFR Part 412) and NPDES (40 CFR Part 122) regulations for CAFOs promulgated in the mid-1970s. EPA promulgated effluent limitation guidelines (ELGs) for a subset of CAAP facilities required to obtain NPDES permits. The requirements in the ELGs are incorporated into the NPDES permits issued by EPA and states.

2(b) Practical Utility/Users of the Data

This ICR includes information used primarily by permitting authorities and permittees. Much of these data must be submitted to permitting authorities, while other information must be maintained on-site by the permittee. Although different permittees submit widely differing information, this can be categorized into two sets: identification information and information related to the facility's discharges or practices. Permitting authorities use the information in the ways discussed below.

Permitting authorities collect and use information such as the name, location, and description of facilities to uniquely identify each applicant seeking individual or general permit coverage and to establish a contact person. This information will vary in its detail and scope on the basis of the type of respondent.

EPA and authorized states store basic permit information in EPA's Permit Compliance System (PCS) and the new Integrated Compliance Information System (ICIS-NPDES) database. PCS and ICIS-NPDES are used to track permit limits, permit expiration dates, monitoring data, enforcement and compliance data, and other data and to provide EPA with a nationwide inventory of permit holders. EPA uses this information to develop reports on permit issuance, backlog, and compliance rates. EPA also uses the information to respond to public and congressional inquiries, develop and guide its policies, support enforcement actions, formulate its budgets, and manage its programs to ensure national consistency in permitting. For the most part, states and territories are authorized to implement the NPDES permitting program, manage and use the data in a similar fashion to EPA and, as such, incur similar types of burdens.

Information collected by the NPDES Program Director (of either an authorized State or EPA) about CAFO facilities and operating procedures is used to develop permit conditions and to document that a permittee is in compliance with permit requirements. Information is collected using permit application forms and annual reports and through compliance evaluation inspections.

Permitting authorities collect and use information from CAAP facilities on the use of INAD and extra-label drugs, which may lead to permit requirements to prevent or minimize further discharges of the drug. Advance notice of a CAAP facility's participation in an INAD program can provide the permitting authority an opportunity to obtain information concerning the effects

2. Need For and Use of the Collection

of the drug and determine if any controls on the discharge of the INAD is warranted. If a determination is made to limit the discharge when the INAD is being used in accordance with 40 CFR §125.3, and 122.44, the facility can subsequently determine how the limits can be achieved. Furthermore, in the event that adverse environmental impacts are noted from the use of an investigational drug, the permitting authority could share the information with the Food and Drug Administration (FDA). Based on this information, FDA could determine whether to withdraw the investigational approval.

The information collected from CAAP facilities on the failure of structural integrity can provide the permitting authority with some indication of pollutant slugs discharged to the receiving streams. These slugs may include solids, carcasses, and fish. The impact on the receiving water can be severe although in most cases brief. In addition to the solids loading, the release of fish from the CAAP facility may pose concerns if the fish being produced are non-native. The permitting authority may need to alert state fish and game authorities when non-native species have been released. Early intervention can minimize the establishment of a species and thus avoid the negative economic and environmental impacts associated with establishment of a non-native species.

Other users of the data include regulated CAFOs and CAAP facilities and the general public. CAFOs and CAAP facilities will use the data they collect to improve operation efficiency and evaluate facility maintenance needs. The general public can use information collected through the NPDES permit process to support efforts to protect local environmental quality and quality of life.

3. Non-duplication, Consultations, and Other Collection Criteria

3(a) Non-duplication

Almost all information requested from respondents under this ICR is required by statute or regulation and, in most cases, is not available from other sources. EPA has examined all other reporting and record-keeping requirements contained in the CWA and 40 CFR Parts 122, 123, 124, 125, 403, 501, and 503. EPA also has consulted the following sources of information to determine if similar or duplicate information is available elsewhere:

- EPA's Inventory of ICRs;
- EPA's Information Systems Inventory;
- EPA's Permit Compliance System (PCS) and Integrated Compliance Information System-NPDES (ICIS-NPDES);
- The Government Information Locator Service;
- USDA Census of Agriculture

Examination of these databases and discussions with other Federal Agencies did not identify any reporting requirements that were duplicative with existing requirements for CAFO or CAAP facilities.

3(b) Public Notice Required Prior to ICR Submissions to OMB

In compliance with the 1995 Paperwork Reduction Act (PRA), any agency developing a non-rule-related ICR must solicit public comments for a 60-day period before submitting the ICR to OMB. These comments, which are used partly to determine realistic burden estimates for respondents, must be considered when completing the Supporting Statement that is submitted to OMB.

This ICR was published in the *Federal Register* on February 25, 2010 (75 FR 8695). The notice included a request for comments on the content and impact of these information collection requirements on the regulated community. EPA received no comments on this ICR.

3(c) Consultations

EPA finalized all regulations containing the requirements addressed in this ICR after receiving comments from the public and the regulated community as part of the notice and comment phase of the rulemaking process. The early phases of the rulemakings included consultation with the U.S. Department of Agriculture for purposes of refining and updating the burden estimates.

This ICR consolidates the burden and costs associated with activities previously reported in the CAFO and CAAP ICRs administered by EPA's Water Permits Division. EPA has solicited public comments for each ICR included in this consolidation. Table 3.1 shows the most recent date the ICRs were open for public comments and the number of comments EPA received.

3. Non-duplication, Consultations, and Other Collection Criteria

Table 3.1. Number of Comments Received for Each ICR Included in this Consolidation

OMB ICR No.	EPA ICR No.	Title	Previous FR publication date (most recent OMB action)	Number of comments
2040-0250	1989.06	NPDES Regulation and Effluent Limitation Guidelines and Standards for Concentrated Animal Feeding Operations	July 20, 2006*	1
2040-0258	2087.03	Concentrated Aquatic Animal Production Point Source Category Effluent Guidelines Reporting and Record-keeping Requirements	September 27, 2007	0

3(d) Effects of Less Frequent Collection

EPA has made every effort to establish NPDES permit and associated information collection requirements that minimize the burden on respondents while promoting the protection of water quality. NPDES permit applications are the primary form of information collection for regulated CAFOs, and these facilities must reapply for NPDES permits before their existing permits expire. Section 402(p) of the CWA requires that NPDES permits be issued for fixed terms with a maximum term of 5 years, thereby disallowing less frequent collection than anticipated by this ICR.

Reporting associated with the use of drugs or failure in the structural integrity in CAAP facilities are only required in the event one of these activities occurs. The reporting itself for either of these situations is minimal. EPA requires an oral report to be made initially, followed by a more detailed written report. EPA has determined less frequent reporting would impede the ability of the permitting authority to take action to minimize harm to the environment when warranted.

3(e) General Guidelines

This information collection complies with Paperwork Reduction Act guidelines (5 CFR 1320.5(d)(2)), except for the requirement for CAFOs to maintain the records on-site for five years to demonstrate permit compliance.

3(f) Confidentiality

Permit applications and other respondent reports, such as Nutrient Management Plans (NMPs) for CAFOs or reporting requirements associated with investigational drug use at CAAP facilities, can contain confidential business information. If this is the case, the respondent may request that such information be treated as confidential. All confidential data will be handled in accordance with 40 CFR 122.7, 40 CFR Part 2, and EPA's *Security Manual* Part III, Chapter 9, dated August 9, 1976. Any claim of confidentiality must be asserted at the time of submission. However, CWA section 308(b) specifically states that effluent data may not be treated as confidential.

Whenever possible, EPA encourages public involvement in the NPDES regulatory process. However, EPA also recognizes the legitimate concerns of operators regarding protection of CBI and potential delays in processing of applications for individual permits and Notice of Intent (NOIs) for general permits.

3(g) Sensitive Questions

Sensitive questions are defined in EPA’s ICR Handbook, *Guide to Writing Information Collection Requests Under the Paperwork Reduction Act of 1995* as “questions concerning sexual behavior or attitudes, religious beliefs, or other matters usually considered private.” The requirements addressed in this ICR do not include sensitive questions.

4. The Respondents and the Information Requested

4(a) Respondents/North American Industrial Classification (NAICS) Codes

The Clean Water Act (CWA), enacted in 1972, requires operators of point source discharges of pollutants to waters of the United States to obtain a permit to discharge. In response, EPA developed NPDES CAFO and CAAP regulations that provide the mechanisms for permitting these discharges.

EPA issues NPDES permits except where a state can demonstrate that it has adequate legal, technical, and financial capabilities in place to administer the NPDES program. As of July 2009, 46 States and one Territory (U.S. Virgin Islands) had received approval from EPA to administer the NPDES base program³. Of these, 44 are responsible for issuing NPDES permits to CAFOs.⁴ EPA continues to be the permitting authority in the other states and territories.

The two categories of respondents covered in this ICR are the owners or operators of CAFO or CAAP facilities and authorized States that issue permits to these facilities. The authorized states and territories are considered respondents for evaluating paperwork burden in this ICR.

EPA categorizes CAFOs on the basis of the primary type of animal produced by the operation. Table 4.1 lists the major categories along with their North American Industry Classification System (NAICS) codes and the corresponding four-digit Standard Industrial Classification (SIC) codes. Note that some industry classification codes may overlap more than one of the categories defined by EPA under the final regulations. For example, swine of any size have the same NAICS or SIC codes.

Table 4.1 also provides the applicable animal thresholds. EPA uses these thresholds to distinguish which AFOs are CAFOs. All Large AFOs are defined as CAFOs. An AFO in the medium size category is defined as a CAFO if it meets one of two discharge criteria:

- pollutants are discharged to U.S. waters through a man-made ditch, flushing system, or other similar man-made device; and
- pollutants are discharged directly into U.S. waters that originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the confined animals.

³ On October 31, 2008, EPA approved Alaska Department of Environmental Conservation's (ADEC) application to run the NPDES permitting program in the state. Alaska intends to implement the program using a phased approach, meaning that different components will take effect in different years. In this ICR, the burden associated with permittees in Alaska is included as part of the federal burden because of the recent nature of the authorization and the phased approach. In the next renewal cycle, this burden will be shifted to the state as appropriate.

⁴ EPA retains authority for NPDES permits for CAFO facilities in Oklahoma; thus, only 44 States are authorized to issue permits to CAFOs. EPA is not aware of any CAFOs in the U.S. Virgin Islands.

4. The Respondents and the Information Requested
 4(a) Respondents/North American Industrial Classification (NAICS) Codes

Table 4.1. CAFO Standard Industrial Classification Codes and Size Thresholds

NAICS code (SIC code)	Animal type	Size thresholds		
		Large	Medium	Small
112111 (0212, 0241), 112112 (0211)	Beef cattle, heifers, calves or veal calves for either slaughter or replacement	> 1,000	300–1,000	< 300
112111, 112120 (0241)	Dairy cattle—mature dairy cattle (whether milked or dry cows) and heifer replacement	> 700	200–700	< 200
112210 (0213)	Swine—each weighing over 25 kilograms—or approximately 55 pounds	> 2,500	750–2,500	< 750
	Immature swine—each weighing less than 25 kilograms, or approximately 55 pounds	> 10,000	3,000–10,000	< 3,000
112310 (0252)	Chickens—laying hens, using liquid manure handling system	> 30,000	9,000–30,000	< 9,000
112310 (0252)	Chickens—laying hens, if other than liquid manure handling system	> 82,000	25,000–82,000	< 25,000
112320 (0251)	Chickens other than laying hens—broilers, fryers and roasters, if other than liquid manure handling system*	> 125,000	37,500–125,000	< 37,500
112330 (0253)	Turkeys	> 55,000	16,500–55,000	< 16,500
112390 (0259)	Ducks, wet manure handling	> 5,000	1,500–5,000	< 1,500
	Ducks, dry manure handling	> 40,000	12,000–40,000	< 12,000
112410 (0214)	Sheep or lambs	> 10,000	3,000–10,000	< 3,000
112920 (0272)	Horses	> 500	150–500	< 150

*Modeling of burden impacts in this ICR does not include an industry category for broilers, fryers or roaster operations with liquid manure operations since operations in this animal sector are typically designed for dry manure handling.

An AFO in the smallest size category may become a CAFO through designation by the permit authority if the facility is a significant contributor of pollutants to waters of the U.S. Any designation must be preceded by an on-site inspection, and facilities designated as CAFOs must meet the two discharge criteria noted above. A medium AFO that is not defined as a CAFO may also be designated as a CAFO if it is a significant contributor of pollutants to waters of the U.S. Under the 2003 CAFO rule, all CAFOs had a duty to apply for an NPDES permit either by submitting an NOI to be covered by a general permit or by submitting an application for an individual permit. The final 2008 CAFO rule narrows this requirement such that only those CAFOs that discharge or propose to discharge must apply for a permit⁵ and establishes a voluntary certification process for facilities that do not discharge or propose to discharge.

Table 4-2 shows the estimates of total numbers of CAFOs used in developing the respondent universe for this ICR. In the interim period between when the 2008 CAFO rule ICR was prepared and the development of this ICR, the animal agricultural industry has continued to change. These changes have included further growth and consolidation, which has resulted in a

⁵ This change took effect following the Second Circuit decision, but was first codified under the 2008 final rule.

4. The Respondents and the Information Requested

4(a) Respondents/North American Industrial Classification (NAICS) Codes

greater number of AFOs that meet the size threshold for being defined as a Large CAFO. The projections also reflect more robust estimates from States and EPA regions on numbers of CAFOs in each State. It is important to account for changes to the industry when comparing burdens assessed in the various CAFO program ICRs.

Table 4–2 shows EPA’s estimate of the number of CAFOs that have operational or design characteristics historically associated with discharges. The information presented in Table 4–2 was generated by EPA staff using data from the 1997 and 2002 Census of Agriculture, NASS bulletins, National Animal Health Monitoring System (NAHMS) species reports, 2003 Demographics Report, and industry data sources and comments. According to this information, EPA estimates that as of 2009 as many as 15,764 CAFOs could be discharging to waters of the U.S. These figures include both facilities defined as CAFOs that have discharges or proposed to discharge, as well as facilities designated as CAFOs because they are significant contributors of pollutants to waters of the U.S.

In order to project the universe of respondents experiencing cost impacts under the different approaches for developing rates of application, EPA used as a starting point the number of CAFOs that land apply manure, litter or process wastewater by animal type. The number of discharging CAFOs in each animal sector that land apply as shown in Table 4–3 is obtained by multiplying the number of discharging CAFOs from Table 4–2 by the percentage of facilities that land apply in each sector. For costing purposes, EPA assumed that one half of discharging CAFOs that land apply would use the narrative rate approach which offers the most flexibility to operators. The other half is assumed to use the linear approach. (See table 4–3.)

For purposes of costing burden impacts of certification, the ICR assumes that all facilities that do not seek a permit (i.e., those facilities assumed to have no discharge) will seek certification. This assumption does not represent a precise breakout of facilities because there are no information sources that can help EPA determine which facilities will seek the “no discharge” certification.

The NPDES regulations also require permits covering facilities engaged in aquatic animal production. The types of CAAP facilities required to obtain NPDES permit coverage include the following:

- Finfish Farming and Fish Hatcheries: NAICS code 112511; and
- Other Animal Aquaculture: NAICS code 112519.

Not all facilities classified in these two NAICS codes will be subject to the reporting requirements included in this request, and many of these reporting requirements apply only when certain events or conditions exist at the facility. Other rules established a subset of facilities engaged in aquatic animal production as concentrated aquatic animal production facilities and by definition these facilities must obtain an NPDES permit. The definition of CAAP can be found at 40 CFR 122.24 and Appendix C of 40 CFR Part 122. The regulations covered by this ICR in turn only apply to a subset of CAAP facilities. These facilities are defined in the applicability section of the final rule at 40 CFR 451.

Table 4-2. CAFO universe and discharging CAFOs

CAFO Category	2009			2010			2011		
	CAFO Universe	Discharging CAFOs	Non-permitted facilities	CAFO Universe	Discharging CAFOs	Non-permitted facilities	CAFO Universe	Discharging CAFOs	Non-permitted facilities
Beef	3,106	2,815	292	3,191	2,891	300	3,411	3,109	302
Veal	18	14	4	18	14	4	19	15	4
Heifer	415	362	53	433	377	56	480	422	58
Dairy	3,369	3,369	0	3,511	3,511	0	3,926	3,926	0
Swine	9,289	7,563	1,727	9,639	7,843	1,796	10,800	8,896	1,904
Broilers	2,776	441	2,334	2,913	462	2,451	3,123	525	2,598
Layers(dry)	828	131	696	837	133	703	854	144	710
Layers(wet)	589	589	0	571	571	0	592	592	0
Ducks	45	36	9	45	36	9	49	40	9
Horses	401	360	40	415	373	42	459	416	44
Turkeys	526	84	442	556	88	468	591	100	492
Total	21,362	15,764	5,598	22,130	16,300	5,830	24,304	18,184	6,121

Note: Projections are based on NAHMS species reports, 2003 Demographics Report, and 2002 Census of Agriculture changes from 1997 Census. The figures by sector include both large and medium CAFOs as well as other facilities designated as CAFOs due to discharges.

Table 4-3. Discharging CAFOs that land apply and CAFOs that will use the narrative rate approach

CAFO Category	% Facilities that use land application ^a	2009		2010		2011	
		Discharging CAFOs that land apply	½ of discharging CAFOs that land apply	Discharging CAFOs that land apply	½ of discharging CAFOs that land apply	Discharging CAFOs that land apply	½ of discharging CAFOs that land apply
Beef	83%	2,336	1,168	2,400	1,200	2,580	1,290
Veal	100%	14	7	14	7	15	8
Heifer	100%	362	181	377	189	422	211
Dairy	78%	2,628	1,314	2,739	1,370	3,062	1,531
Swine	80%	6,050	3,025	6,275	3,138	7,117	3,559
Broilers	69%	305	153	319	160	362	181
Layers (dry)	47%	62	31	63	32	68	34
Layers (wet)	47%	277	139	268	134	278	139
Ducks	100%	36	18	36	18	40	20
Horses	100%	360	180	373	187	416	208
Turkeys	61%	51	26	54	27	61	31
Total		12,481	6,242	12,918	6,462	14,421	7,212

a. Estimates from EPA ICR 1989.04

4(b) Information Requested

This section presents the data items, including record-keeping requirements, and required respondent activities involved in preparing and submitting those data items. Throughout this subsection, codes will be presented in brackets (i.e., [1.3]). These codes correspond to the reference code in the Respondents Activities Table in Appendix B in which the first number represents the type of activity and the second the specific activity listed in the table.

All activities reported in the two ICRs consolidated in this supporting statement were analyzed and allocated to one of six types of activities related to the NPDES program:

- Activities directly related to individual permit applications or permit coverage under a general permit (NOIs) [respondent activities codes 1.1–1.46];
- Activities associated with plans development or special studies [respondent activities codes 2.1–2.61];
- Monitoring [respondent activities codes 3.1–3.30];
- Reporting, including certification [respondent activities codes 4.1–4.29];
- Record keeping [respondent activities codes 5.1–5.9]; and
- Activities resulting from compliance assessments actions [respondent activities codes 6.1–6.]

All activities were divided and allocated on the basis of the type of respondent. Below is a list of the possible types of respondents. Please note that all types of respondents do not have activities under all types of activities.

- (A) CAFO
- (B) CAAP
- (C) NPDES-authorized States.

4(b)(i) Application/NOI

4(b)(i)(1) Data Items

Federal regulations at 40 CFR 122.21 and 122.28 detail the application and NOI requirements, respectively, for NPDES permits. This section includes specific application requirements related to NPDES discharge permits [40 CFR 122.21], and NOI requirements [40 CFR 122.28].

4(b)(i)(1)(A) CAFO

Start-up Activities [1.1-1.6]

All facilities will need to perform start-up activities such as: reading the CAFO rule and planning for the implementation of the rule. Owners or operators of facilities that are potentially affected by the rule will need to familiarize themselves with the NPDES CAFO program to determine whether they need to apply for a permit and implement the effluent guideline requirements. Activities performed during the permit application process will be performed only once during each ICR period. However, these application activities will be repeated again during the fifth year of the permit cycle as part of the permit renewal process.

In accordance with the final 2008 rule, all CAFO operations that discharge or propose to discharge have a duty to apply for an NPDES permit by preparing and submitting either an application for an individual NPDES permit for CAFOs under 40 CFR 122.21 or a NOI for coverage under the general NPDES permit for CAFOs under 40 CFR 122.28.

Individual Permit Application for CAFOs [1.7-1.11]

The individual permit application for CAFOs comprises two standard NPDES forms: Forms 1 and 2B. On Form 1, applicants provide basic information necessary to all EPA permit programs, including name, address, type of facility, and number of outfalls. Applicants must also submit topographic maps and lists of all EPA and State permits presently held. Form 2B requires applicants to provide industry-specific information specified in 40 CFR 122.21(i)(1). As part of an NPDES permit application for CAFOs seeking coverage under an individual permit, an NMP must be submitted to the permitting authority.

NOI to be Covered Under a CAFO General Permit [1.12-1.16]

The NOI pertains to coverage under a general permit, which a permitting authority uses to cover multiple permittees requiring similar permit conditions. Completing the NOI requires that CAFO applicants provide the information specified in 40 CFR 122.21(i)(1) (i.e., the NOI requests the same information as the application form for an individual permit). Furthermore, an NMP must be submitted as part of an NOI for CAFOs seeking coverage under a general permit.

4(b)(i)(1)(B) CAAP

Form 2B [1.17]

CAAP facilities must complete Form 2B as part of their NPDES application process. These facilities are required to provide data on the flow rates; the number of ponds, raceways, and similar structures; the species held at the facility; and the total pounds of production.

NOI to be Covered Under a CAAP General Permit [1.18]

The NOI pertains to coverage under a general permit, which a permitting authority uses to cover multiple permittees requiring similar permit conditions.

4(b)(i)(1)(C) State-Only Activities

Individual Permit Activities [1.19-1.25]

Authorized States will incur burdens to perform the following activities for CAFOs or CAAP facilities that submit applications for individual permits:

- reviewing the permit application for completeness;
- providing public notice of receipt of applications and addressing all significant public comments prior to issuing a permit;
- holding public hearing(s), as necessary, when there is significant public interest in the NMP provisions of a draft NPDES CAFO permit;
- determining the terms of the NMP that are to be incorporated into the permit

- issuing the individual permit (analytical burden for issuing permits is not included as part of this ICR); and
- perform record keeping that includes all notices and reports required of permittees and other regulated persons.

Individual Permit Application Activities Due to Significant NMP Modifications [1.26-1.38]

The requirements for activities due to significant NMP modifications for individual permits are essentially the same as the requirements for individual permit activities, as discussed above.

General Permit Activities [1.29-1.37]

Authorized States will incur burdens to perform the following activities for CAFOs that submit NOIs for general permits:

- reviewing the NOI for completeness;
- providing public notice of the NOI and addressing all significant public comments prior to issuing a permit;
- holding public hearing(s), as necessary, when there is significant public interest in the NMP provisions of a draft NPDES CAFO permit;
- determining the terms of the NMP that are to be incorporated into the permit;
- issuing the general permit (burden for issuing permits is not included as part of this ICR); and
- perform record keeping that includes all notices and reports required of permittees and other regulated persons.

CAFO General Permit and NOI Activities Due to Significant NMP Modifications [1.38-1.40]

The requirements for activities due to significant NMP modifications for general permits are essentially the same as the requirements for general permit activities, as discussed above.

Nutrient Management Plan Review [1.41-1.46]

The permitting authority must review the NMP, as part of the permit application or NOI, for compliance with applicable NPDES CAFO regulations. In addition, authorized States must determine the terms of the NMP that are to be incorporated into the permit.

When changes are made to an NMP, the Director must review the changes and determine whether changes to the terms of the NMP are required and whether such changes are substantial. EPA believes that the new narrative rate approach introduced in the 2008 final rule will translate into a 50 percent reduction in permit modifications that need to be processed by permit authorities compared to the similar burden presented in the 2006 CAFO ICR. This burden reduction is a consequence of allowing operators to make changes to the rates of application in the NMP without needing to process these changes as substantial modifications. This reduction in modification will also reduce the State burden to respond to public comments.

4(b)(i)(2) Respondent Activities

Respondent activities can vary substantially depending on the type and characteristics of the respondent and of the authorized state or territory. This ICR explains these activities, in terms of

the type of information submission they require, in detail in Section 4(b)(i)(1) above. However, any respondent can engage in preparing basic information. This includes reading and reviewing instructions and regulatory requirements, gathering general information, consulting technical and legal officials, reviewing guidance materials, typing or filling out forms, drafting letters, reviewing applications or other materials, maintaining records, and mailing completed submissions. Each of these requirements is described in more detail in Section 6 of this ICR.

4(b)(ii) Plan Development/Special Studies

4(b)(ii)(1) Data Items

4(b)(ii)(1)(A) CAFO

Develop/Update a Nutrient Management Plan [2.1-2.44]

CAFOs are required to develop/update and implement an NMP that addresses, at a minimum, the best management practices and procedures necessary to implement applicable effluent limitations and standards [40 CFR 122.42(e)(1)]. All CAFOs that discharge or propose to discharge must submit an NMP as part of their NPDES permit application. In addition, NOIs submitted to obtain coverage under an NPDES general permit must include an NMP.

For a CAFO seeking the no discharge certification option, the CAFO must develop and implement an up-to-date NMP that addresses, at a minimum, the elements of section 122.42(e)(1)(i)-(ix) and 40 CFR 412.37(c), and that includes all land application areas under the control of the CAFO where the CAFO will land-apply manure, litter, or process wastewater, and that includes all operation and maintenance practices necessary to ensure that the CAFO will not discharge or propose to discharge.

Modifications to the Nutrient Management Plan [2.45-2.55]

When changes are made to an NMP, the CAFO must provide a copy of the revised NMP to the Director. Certain changes need not be provided where such changes are consistent with specified land application rates; however, a current copy of the NMP must be maintained on site, or be readily available.

4(b)(ii)(1)(B) CAAP

Develop a Best Management Practices Plan [2.56-2.61]

The ELG for the CAAP category is based on requirements to reduce the discharge of solids, avoid spills of materials, and ensure the facility is being properly operated and maintained through implementing BMPs. Each of these requirements is based on the presumption that the CAAP facilities will achieve compliance by implementing BMPs. EPA required all facilities subject to this regulation to develop a BMP plan which identifies the BMPs and documents any associated activities such as record keeping, and training associated with the BMPs. The Plan will be maintained at the CAAP facility, but must be made available to the permitting authority upon request. EPA also required that CAAP facilities certify in writing to the permitting authority once upon issuance of a permit that the BMP plan has been developed.

4(b)(ii)(2) Respondent Activities

Respondent activities can vary substantially depending on the type and characteristics of the respondent and of the authorized state or territory. This ICR explains these activities, in terms of the type of information submission they require, in detail in Section 4(b)(ii)(1) above. However, any respondent may engage in generating detailed information. Detailed information gathered can include topographic maps, water flow process line drawings, data on production levels, data on effluent characteristics, local development patterns, management programs, financial estimates (i.e., available funds and staff resources), engineering data, or other information required by permitting authorities, such as developing an NMP or BMP plan.

4(b)(iii) Monitoring

4(b)(iii)(1) Data Items

4(b)(iii)(1)(A) CAFO

Effluent Limitation Guideline (ELG) Data Collection [3.1-3.30]

Permitted CAFOs will perform various activities to meet data collection and record-keeping requirements. Large CAFO operators will conduct weekly visual inspections of the waste storage and storm water diversion facilities and daily inspections of water lines to identify maintenance needs. EPA assumed that these inspections can be primarily conducted in the course of every day operations and, therefore, they do not impose a substantial incremental burden on CAFOs beyond the need to document inspection findings. Manure application equipment must be inspected annually and the activity documented. Soil samples must be collected at least once every five years from all fields receiving manure and analyzed for nutrient content. Manure samples must be collected annually and analyzed for nutrient content. Large CAFOs must retain manure and soil sampling results on-site. Large CAFOs must also document other production area and land application area activities. Although Small and Medium CAFOs are not subject to the ELG requirements in 40 CFR 412, EPA assumes that the ELG burdens provide upper bound estimates for the burdens for Small and Medium CAFOs because many of the ELG information elements also provide documentation for the NMP and information for the annual report. Certified unpermitted large CAFOs are also subject to these data collection requirements, and therefore the burden is accounted for in this ICR.

4(b)(iii)(1)(B) CAAP

Feed Monitoring

The CAAP ELG requires that all net pen facilities conduct some form of feed monitoring. This monitoring can be in the form of real-time monitoring such as video monitoring to observe feed passing beneath the net, sediment or benthic sampling, and physical devices designed to capture uneaten feed that passes below the net or other good husbandry practice that is approved by the permit authority. The objective of this requirement is to minimize the discharge of uneaten feed from the net pen system. Based on available information and existing permits, all existing net pen facilities are currently using one of these techniques to minimize the discharge of uneaten feed, therefore, there is no burden associated with this type of monitoring.

4(b)(iii)(2) Respondent Activities

Respondent activities can vary substantially depending on the type and characteristics of the respondent and of the authorized state or territory. This ICR explains these activities, in terms of the type of information submission they require, in detail in Section 4(b)(iii)(1) above. However, any respondent may engage in the following types of activities:

- Sampling and analyzing discharges and sludge. This can involve pollutant scans, biological toxicity testing, impact analyses, field monitoring, or other scientific analyses.
- Performing routine inspections. This could involve routine site inspections to assess the site for information required by the permitting authorities, such as effectiveness of BMPs in protecting water quality.

4(b)(iv) Reporting (including certification)

4(b)(iv)(1) Data Items

4(b)(iv)(1)(A) CAFO

No Discharge Certification Option [4.1-4.6]

If an owner or operator elects to pursue the voluntary option of certifying that their CAFO does not discharge or propose to discharge, they must document, based on an objective assessment of the conditions at the CAFO, that the CAFO is designed, constructed, operated, and maintained in a manner such that the CAFO does not discharge or propose to discharge. Additional activities would include:

- The CAFO's production area must be designed, constructed, operated, and maintained so as not to discharge or propose to discharge. The CAFO must maintain documentation on site or be made readily available: EPA estimates that this activity will require a simple engineering analysis consisting of a description of a non-discharging facility.
- The CAFO develops and implements an up-to-date NMP that addresses, at a minimum, the elements of section 122.42(e)(1)(i)-(ix) and that includes all land application areas where the CAFO will land-apply manure.
- The CAFO implements operation and maintenance practices necessary to satisfy the requirements of paragraphs 122.23(h)(2)(i)-(ii) for the CAFO production area and land application areas. There are no added costs to CAFOs—this is presumed to be part of standard business operations.

Under 122.23(i)(3), the CAFO owner or operator who chooses to certify must complete and submit to the Director a certification that includes, at a minimum, the following information:

- The legal name, address and phone number of the CAFO owner or operator;
- The CAFO name and address, the county name and the latitude and longitude where the CAFO is located;
- A statement that describes the manner in which the CAFO satisfies the eligibility requirements identified in 122.23(i)(2);
- The certification statement as specified in 122.23(i)(3)(iv); and

- Signatures in accordance with the signatory requirements of 40 CFR 122.22.

Annual Reports [4.7]

Federal regulations at 40 CFR 122.42(e)(4)(i)-(viii) outline the annual reporting requirements for CAFOs and specify that a CAFO permittee must prepare and submit an annual report to the Director. This report provides an annual update to data items contained in the permit application forms as well as a summary of any production area discharges.

Noncompliance Report [4.8-4.9]

Requirements in 40 CFR 122.41(l)(6)-(7) specify that a permittee must provide 24-hour oral reporting of any noncompliance that could endanger human health or the environment (with a written follow-up submission within 5 days). The following must be reported within 24 hours to the permitting authority: (1) any unanticipated bypass that exceeds any effluent limitation in the permit; (2) any upset that exceeds any effluent limitation in the permit; and (3) violation of a maximum daily discharge limitation for any of the pollutants listed by the Administrator in the permit.

4(b)(iv)(1)(B) CAAP

BMP Plan Certification [4.10-4.12]

All CAAP facilities subject to the Effluent Guidelines Regulations are required to develop and implement a BMP plan that addresses specific aspects of the facility. Facility owners or operators are required to certify to the permitting authority that the BMP plan has been developed and is being implemented. This certification will take the form of a letter addressed to the permitting authority.

INAD Program Sign-up Report [4.13-4.15]

EPA established reporting requirements associated with the application of INAD and extra-label drugs. When a CAAP facility agrees to participate in an INAD program EPA requires the owner or operator to notify the permitting authority in writing within 7 days of the date that the facility signed up to participate in this program. The report would include the name of the INAD, the method of application, the dosage and the disease or condition it is intended to treat. Reporting is not required if the INAD or extralabel drug use does not exceed the approved dosage for the same drug if used under similar conditions.

INAD or Extra-Label Use Report [4.16-4.18]

When an INAD or extra-label drug that does not meet the exception is used at a CAAP facility, the owner or operator must file two reports with the permitting authority concerning this use. The first report is made orally and must be made no later than 7 days after initiating treatment. The facility owner or operator must notify the permitting authority that either an INAD or extra-label drug application is occurring at the facility. The report must identify the drug and the reason for its addition.

The second report is a written report which must be provided to the permitting authority within 30 days of concluding treatment. The written report must include the identity of the drug, the reason for treatment, the date(s), time(s) and duration of the treatment, the total amount of active

ingredient added, or the total amount of medicated feed added when this is the method of application and the estimated number of animals treated.

Structural Failure Report [4.19-4.21]

EPA requires facilities to report to the permitting authority any time the facility experiences a failure or damage to the aquatic animal containment system resulting in a material discharge to waters of the United States. A failure of the containment system that results in a material discharge must be reported within 24 hours of discovery of the failure. This report should be made orally to the permitting authority and should describe the cause of the failure in the containment system and identify materials that may have likely been released to the environment as a result of this failure. The facility is also required to provide a written report within seven days of discovery of the failure documenting the cause, the estimated time elapsed until the failure is repaired, an estimate of the material released as a result of the failure, and steps being taken to prevent a reoccurrence.

EPA requires reporting of failures and damage that lead to a material discharge to ensure that permitting authorities are alerted to the release of significant pollutant loads over a relatively short time frame. EPA does not expect this type of failure to occur very frequently at flow through and recirculating facilities. EPA anticipated that there are a greater number of these events occurring at net pen facilities. The location of these facilities in open water makes them vulnerable to damage from predators and accidents. Failures at net pen facilities have the potential to release the contents of the nets including fish and fish carcasses.

Spill Report [4.22-4.24]

Reporting of spilled drugs, pesticides or feed that result in a discharge to waters of the United States, must be reported orally to the permitting authority within 24 hours of occurrence, followed by a written report within 7 days. The report must identify the material spilled and an estimated amount. EPA does not expect spills will occur very often, since facilities are required to implement proper storage and implement procedures for proper cleaning, containing and disposing of the spilled material.

4(b)(iv)(1)(C) State Reporting & Certification

Permitting Authorities will keep the written reports received through the CAAP ELG regulation in the permit file. The information may be made available to the public unless it is subject to a claim of CBI. EPA anticipates that there may be such claims attached to reports related to the participation or use of INADs.

BMP Plan Certification Receipt [4.25]

The permitting authority will process certifications that BMP plans have been developed and document receipt of the certification.

INAD Program Sign-up Report Receipt [4.26]

Permitting authorities will document receipt of the INAD program sign-up report when permittees apply either INAD or a drug that has been prescribed extra-label by a veterinarian to treat aquatic animals at the CAAP facility.

INAD or Extra-Label Drug Report Receipt [4.27]

Permitting authorities will document receipt of oral and written reports filed by the permittee concerning INAD and extra-label drugs.

Spill Report Receipt [4.28]

Permitting authorities will document receipt of oral and written reports filed by the permittee concerning spilled drugs, pesticides or feed that result in a discharge to waters of the United States.

Structural Failure Report Receipt [4.29]

Permitting authorities will document receipt of oral and written reports filed by the permittee concerning structural failures at the CAAP facility.

4(b)(iv)(2) Respondent Activities

Respondent activities can vary substantially depending on the type and characteristics of the respondent and of the authorized state or territory. This ICR explains these activities, in terms of the type of information submission they require, in detail in Section 4(b)(iv)(1) above. However, any respondent preparing and submitting reports may engage in the following types of activities:

- Preparing basic information. This can include reading instructions and regulations for report requirements, consulting technical, legal, and political staff, reviewing guidance materials, gathering general information, typing or completing forms or generating reports, and mailing or electronic submission of completed forms or reports to the NPDES permitting authority.
- Gathering detailed information. Detailed information gathered can include progress reports from those persons/governmental departments responsible for implementing the chosen BMPs, financial estimates, monitoring data, visual inspection data, compliance data, public opinion and awareness surveys, or any information required by the NPDES permitting authorities to be submitted with the annual reports.

4(b)(v) Record Keeping

4(b)(v)(1) Data Items

4(b)(v)(1)(A) CAFO

ELG Data Collection Record Keeping [5.1-5.2]

Federal regulation in 40 CFR 122.42(e)(2)(i)(B) mandates that, in association with ELG requirements, CAFOs must keep records of all monitoring data and reports, including copies of all original monitoring information, for 5 years. Data that must be retained includes records related to sampling and monitoring, inspections, and results of such analyses. These data must be readily available to the permitting authority during site inspections or at any other time they are needed.

Requirements Related to Transfer of Manure or Process Wastewater to Other Persons [5.3]

Prior to transferring manure, litter, or process wastewater to other persons, Large CAFOs must provide the recipient of the manure, litter, or process wastewater with the most current nutrient

analysis consistent with the requirements of 40 CFR 412. Large CAFOs must retain for five years records of the date, recipient name and address, and approximate amount of manure or process wastewater transferred to a third party [40 CFR 122.42(e)(3)].

4(b)(v)(1)(B) CAAP

Record Keeping of Inspection, Cleaning, Maintenance & Repair [5.4-5.5]

The CAAP ELG includes a requirement that facilities inspect and provide regular maintenance of the production system and the wastewater treatment system to ensure that they are properly functioning. EPA assumes the inspections will be performed by each facility while production is occurring. For the flow through and recirculating facilities, EPA believes that inspections would occur on each rearing unit and wastewater treatment structure. Net pen inspections require divers to inspect the facility underwater.

In addition, EPA has requirements for flow through and recirculating commercial and non-commercial facilities that address the structural maintenance of the aquatic animal containment system and a requirement that facilities keep records on the frequency of inspections, maintenance and repairs to the facility to avoid structural failures. The type of records this requirement includes is a log of dates when inspections occur and brief notations when something is found. Also records are to be kept on maintenance and repair activities, including the date and the actions taken. EPA also requires these facilities to keep records on the frequency of cleaning the rearing units and changing the nets at net pen facilities.

Record Keeping of Feed Management [5.6-5.7]

In addition to the record keeping described above related to the inspections, maintenance and repair of the facility, EPA also requires flow through and recirculating commercial and non-commercial facilities to keep records on the amount of feed added to each rearing unit along with an estimate of the number of animals contained in the unit and the weight of the animals. From these records the facility should calculate a representative feed conversion ratio for the animals produced at the facility.

4(b)(v)(1)(C) State Record Keeping

Record Keeping of No Discharge Certifications [5.8-5.9]

If a CAFO chooses to certify that it does not discharge or propose to discharge, the CAFO owner or operator must complete and submit to the Director the required certification. Directors must then log and file each certification/recertification.

4(b)(v)(2) Respondent Activities

Respondent activities can vary substantially depending on the type and characteristics of the respondent and of the authorized state or territory. This ICR explains these activities, in terms of the type of information submission they require, in detail in Section 4(b)(v)(1) above. However, all respondents have certain record-keeping requirements This includes keeping records of the data for at least 3 years, developing record-keeping systems, collecting and entering data, training personnel, filing information, or other record-keeping requirements, such as maintaining a BMP plan on-site for the duration of the permit.

4(b)(vi) Compliance Assessment

4(b)(vi)(1) Data Items

4(b)(vi)(1)(A) CAFO

Inspections Conducted by Permitting Authority [6.1]

This ICR also incorporates the potential burden to CAFO owners or operators participating in on-site inspections by the permit authority. During this time, the inspector may want to review records and inspect waste management and land application equipment. It is likely that the CAFO owner or operator will incur some burden during the inspection to make records available and show the facility to the inspector.

4(b)(vi)(1)(B) CAAP

EPA has not identified any unique activities associated with compliance assessment for these permittees.

4(b)(vi)(1)(C) State-Only Activities

Inspections [6.2]

To assure compliance with State NPDES permit programs, the permitting authority will conduct on-site inspections of the permitted CAFO facility.

Annual Report Review [6.3]

In addition to conducting inspections at permitted CAFOs, the permitting authority will also perform reviews of the annual reports submitted by the permitted CAFO.

Research on Environmental Affects of INAD [6.4]

Upon receipt of a notification report of participation in an INAD program, the permitting authority may choose to gather information on the potential environmental effects of the INAD. EPA anticipates that this could involve some combination of web searching, contacts with the FDA and academics and contacts with the EPA regional office or Headquarters.

Determination of Site-Specific Limits for INAD [6.5]

Based on findings from the above research, the permitting authority may choose to establish site-specific controls for the discharge when the INAD is being used that limits or restricts the discharge of the reported drug in the receiving stream.

Notify State Fish & Wildlife Department [6.6]

Reporting requirements associated with a failure in the aquatic animal containment system will provide the permitting authority with information concerning the release of large quantities of pollutants over a short span of time. It can provide the permitting authority with the ability to anticipate possible stream impacts that could result from this release and if possible take steps to mitigate them. A release of live fish that are not native to the region may pose a threat to native species. EPA anticipates that the permitting authority will notify the State Department of Fish and Wildlife so that appropriate action may be taken to mitigate this release in a timely manner.

Review Cause of Failure and Past Reports to Evaluate Effectiveness of Practices [6.7]

When subsequent structural failures of the aquatic animal containment system occur at the same facility, the permitting authority may refer to reports on file in the event that subsequent reports are filed. For example, previous reports of failures may be reviewed upon oral notification of a failure. If the permitting authority determines that sufficient steps may not have been taken to avoid further failures from occurring, the authority may require the facility to take specific actions.

4(b)(vi)(2) Respondent Activities

Respondent activities for compliance assessment/certification information can vary substantially depending on the type of permittee and its ability to comply with its NPDES permit. However, to submit the required information, a respondent can engage in preparing basic information, generating detailed information, sample collection, and reporting and maintaining records. Facilities with regulatory alternatives such as certification and BMPs should expect to be involved in developing, reviewing, and certifying plans; periodically reviewing and revising plans; submitting additional monitoring reports; and conducting refresher training. The specific requirements and activities for Compliance Assessment/Certification are outlined in section 4(b)(vi)(1) above.

5. The Information Collected—Agency Activities, Collection Methodology, and Information Management

5(a) Agency Activities

EPA's activities as the NPDES permitting authority for non-authorized states and territories are the same as the activities performed by the authorized states and the territories. Authorizations vary by program. For example, the assumption for this ICR is that the Agency has permitting responsibilities in the six States where it is the permitting authority for CAFOs and five States where it is the permitting authority for CAAP facilities.

5(b) Collection Methodology and Management

EPA maintains some application data in databases such as PCS, ICIS-NPDES, and the NOI database. These systems provide EPA with a nationwide inventory of all permit holders. EPA headquarters uses this information to assess permit compliance. This technology also reduces the burden to EPA and the states for gathering and analyzing national permit and water quality data.

CAFO respondents will submit the requested information to their NPDES permitting authority. EPA will manage a portion of the information collected electronically. In collecting and analyzing the information associated with NPDES permit coverage applications, EPA will use PCS, ICIS-NPDES, and electronic NOI (eNOI) systems; paper-based forms; personal computers; and databases to ultimately store the information. EPA will ensure accuracy and completeness of the information by reviewing each submittal upon receipt and is responsible for ensuring that applicable data are entered into PCS or ICIS-NPDES. Any form that is considered inaccurate or incomplete will not be accepted and will be returned to the sender with a letter requesting the missing or inaccurate information.

Upon request to EPA, the public may access certain information via PCS, ICIS-NPDES, Online Tracking Information System (OTIS), or Enforcement and Compliance History Online (ECHO). Some of the information is available to the public through Web-based interfaces of these databases or other EPA Web-based tools such as Envirofacts.

For CAAP facilities, the permitting authorities will maintain records of reports made under the Special Reporting Requirements for INADs described above in Section 4. This data may be made available to the public consistent with EPA's regulations concerning the protection of Confidential Business Information (CBI) (40 CFR Part 2).

INADs can be considered CBI during the investigative studies. Reports required to be filed with the permitting authority under this regulation that contain CBI should be clearly marked and should be handled by the permitting authority in accordance with 40 CFR 122.7, 40 CFR Part 2 and EPA's Security Manual, Part III, Chapter 9.

5(c) Small Entity Flexibility

The current NPDES program distinguishes small CAFOs on the basis of the number or concentration of animals and their environmental impact. Small, Medium, and Large operations are defined in Table 4.1.

Whereas EPA establishes thresholds on the basis of the number of animals, the Small Business Administration (SBA) uses revenue-based thresholds to distinguish small agricultural operations from larger operations. Consequently, EPA developed a model to convert the SBA's revenue thresholds to the number of animals by sector. EPA used the SBA's revenue-based definitions (except for laying hens) and data from USDA and the industry for this effort. The SBA and EPA thresholds are shown for each sector in Table 5.1. A comparison of the SBA-based animal thresholds with EPA's animal thresholds indicates that most medium and small CAFOs are small entities and some Large CAFOs will be small entities as well.

Table 5.1. SBA and EPA Small Business Thresholds for Animal Sectors

NAICS code (SIC code)	Animal sector	SBA threshold (revenue in millions) ^a	Corresponding SBA animal threshold (number of animals)	CAFO Size Threshold (number of animals)
112112 (0211)	Beef cattle feedlots	\$1.5	1,400	Large > 1,000
112111, 112120 (0241)	Dairy farms and dairy heifer replacement production	\$0.75	300 ^b	Large > 700 Medium > 200
112210 (0213)	Hogs	\$0.75	2,100 ^c	Large > 2,500 Medium > 750
112310 (0252)	Chicken eggs	\$1.5 ^d	61,000	Large > 30,000
112320 (0251)	Broiler, fryer, roaster chickens	\$0.75	375,000	Large > 125,000
112330 (0253)	Turkeys and turkey eggs	\$0.75	37,500	Large > 55,000

a. SBA thresholds effective February 22, 2002. Classification is met if the operation has revenue equal to or less than the threshold cited.

b. Mature dairy cattle.

c. Each weighing over 25 kilograms.

d. EPA consulted with SBA on the use of this alternative definition; the original threshold is \$9.0 million.

Note: Certain animal sectors (e.g., sheep and lambs, horses, and ducks) are not subject to ELG requirements, and EPA has not developed corresponding small business animal thresholds for those sectors.

EPA's premise continues to be that any regulatory burden should focus on those operations posing the greatest risk to water quality and public health—especially operations with large numbers of animals. As section 6 shows, the current CAFO regulations will result in a net reduction in burden on CAFO respondents, including small entities, due to the reduced number of operations required to obtain a permit. In addition, new estimates of burden on small entities described below are relatively small. The rule does not alter the fact that the CAFO ELG requirements apply to Large CAFOs, and that permitting authorities, which are mainly State agencies, will establish technology-based requirements for small and medium CAFOs on the basis of best professional judgment (BPJ).

For the CAAP ELG rule, EPA conducted analyses required by the Regulatory Flexibility Act of 1980 (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). See section IX.B of the preamble in the final rule for a summary of these analyses.

EPA believes the burden on small facilities is minimal since reporting is only linked with specific conditions or occurrences at the facility.

5(d) Collection Schedule

The collection schedule for the activities presented in this ICR varies greatly depending on the type of activity and respondent. For this ICR, annual burden estimates are based on universe of CAFO respondents estimated to exist in the 3-year period spanning January 2009 through December 2011.

This ICR assumes that one-fifth of existing permitted CAFOs and CAAP facilities would renew their permits in each year covered by the ICR (based on the 5-year NPDES permit term). In addition, a specific number of new and designated CAFOs were assumed to seek permits in each of these years.

Before EPA added the narrative rate approach for NMPs presented in the final 2008 CAFO rule, it estimated in the 2006 renewal ICR that 11 percent of permitted CAFOs would need permit modifications each year due to substantial changes to their NMPs. For that ICR, EPA assumed that each year one percent of NMPs would change enough to trigger a substantial modification of the permit. Based on subsequent consultations with USDA, EPA revised this projection upwards to 11 percent. (This estimate was based on USDA estimates that such modifications would take place once per permit cycle for 45 percent of facilities, and twice for between 0 and 10 percent of facilities.) EPA estimates for purposes of this current ICR that CAFOs choosing the narrative approach (one half of discharging CAFOs that land apply) to express rates of application will experience a 50 percent reduction in permit modifications. This is because the narrative approach results in fewer changes to the NMPs that would later necessitate substantial permit modifications.⁶

The CAAP ELG rule requires the development of a BMP plan to assist in compliance with the requirements along with a certification that a BMP plan has been developed. These activities will occur upon coverage under an NPDES permit that incorporates the ELG requirements. This BMP plan must be completed and certification filed once during the term of the NPDES permit. Reporting requirements associated with INAD and extra-label drugs are related to specific events. Likewise the reporting associated with an aquatic animal containment system failure is linked to a specific event. The reporting requirements do have a related time frame on which the report must be filed. INAD study participation must be reported within 7 days after agreeing to participate in an INAD study or initiating the use of an INAD or extra-label drug chemical. In conjunction with the use of the INAD or extra-label drug, a written report must follow the initial oral report within 30 days of initiation the use. Likewise reporting associated with a failure damage resulting in a material discharge must be made orally within 24 hours of discovery followed by a written report within 7 days of the event. EPA considers this collection schedule to be reasonable. The certification of the BMP plan should be a straightforward document, most likely taking the form of a letter from the owner or operator at the CAAP facility addressed to the

⁶ This is a significant increase in the frequency the Agency uses for significant modifications in other industries, which is typically 1 percent of permits. This is because of the dynamic nature of NMPs and the resulting need for more frequent changes to the portions of permits relating to NMPs.

5. The Information Collected—Agency Activities, Collection Methodology, and Information Management

permitting authority. This letter need only be submitted once for each permit cycle which is typically 5 years. Likewise the effort associated with developing the BMP plan is expected to be expended once during the permit cycle.

The reporting of participation in an INAD program is required to occur within 7 days of agreeing to participate in the program. This time lapse provides the CAAP owner or operator ample time to assemble the required information and prepare a letter that will serve to notify the permitting authority. Facilities are generally not expected to require the application of the INAD immediately, however, if agreeing to participate in the INAD program coincides with use of the INAD, the facility would report consistent with the use reporting requirements. INAD and extra-label drug use reporting requires that an oral report be filed as soon as possible, but no later than 7 days after beginning treatment. EPA recognizes that facility owners and operators will be focusing on the health and welfare of the aquatic animals being treated and thus may not be able to file a report immediately, however, within the first 7 days of treatment, the owner or operator can provide an oral report.

The written report related to the use of INAD or extra-label drugs must be filed within 30 days following completion of the treatment. EPA does not expect this time period will impose any hardship on facilities to compile the required information into a letter that can be sent to the permitting authority.

The occurrence of a failure in the aquatic animal containment system must be reported orally through a phone call to the permitting authority within 24 hours of discovery. The urgency associated with this reporting is to allow the permitting authority to take rapid action to mitigate any harmful effects that could occur as a result of the failure's releasing pollutant slugs into the receiving stream. The subsequent written report describing the failure and steps taken to prevent its reoccurrence among other things, is due within 7 days of discovering the failure. EPA expects that operators will be busy taking steps to address the failure, but also believes filing a prompt report will ensure that the facility is actively addressing the causes and looking for ways to prevent reoccurrences to the extent possible.

Spills of drugs, pesticides and feed that result in a discharge to waters of the United States, must be reported orally to the permitting authority within 24 hours of occurrence. A written report must be submitted within 7 days. The report must identify the material that spilled and an estimated amount.

6. Estimating the Burden and Cost of the Collection

6(a) Estimating Respondent Burden

This section presents the estimated respondent burden for each information request. Throughout this subsection, codes will be presented in brackets (i.e., [1.1]). These codes correspond to the reference code in the Respondents Activities Table in Appendix B. This table presents all assumptions, calculations, and results discussed in this subsection. Facilities subject to CAFO and CAAP requirements and authorized states are included as respondents in this section. The breakdown of cost and burden by labor category is provided in Section 6(b).

This ICR calculates annual burden and costs to respondents. In this section EPA presents estimated burden on the CAFO and CAAP facilities and NPDES authorized States based on the requirements included in the final regulations. In most cases the total burden per activity is estimated on an annual basis and then multiplied by three to derive the total burden associated with this ICR. There are some requirements in the regulations that are expected to occur only once during the permit cycle which is typically five years long.

6(a)(i) Application/NOI

6(a)(i)(A) CAFO

Start-up Activities [1.1-1.6]

Start-up activities are steps that a CAFO owner or operator takes in preparation to comply with the information collection requirements of the CAFO rule. Owners or operators of new facilities that are potentially affected by the rule will need to familiarize themselves with the NPDES CAFO program to determine whether they need to apply for a permit and implement the effluent guideline requirements. This is a one-time burden. EPA assumes that it will take CAFO operators three hours to read and understand the relevant portions of 40 CFR 122 and 40 CFR 412 and related guidance.

Individual Permit Application for CAFOs [1.7-1.11]

Permit application activities involve gathering information and completing and submitting an application for an individual permit. EPA estimates that respondents will spend nine hours to complete and submit the individual permit application. All permitted CAFOs must submit an NMP as part their individual permit application (40 CFR 122.21(i)(1)(x)). EPA estimates that new requirement for submittal of an NMP will require 0.5 hours every 5 years.

NOI to be Covered Under a CAFO General Permit [1.12-1.16]

EPA estimates that respondents will spend 9 hours to file an NOI for a CAFO general permit. In addition, NOIs to obtain coverage under an NPDES general permit must include an NMP. EPA estimates that new requirement for submittal of an NMP will require 0.5 hour every 5 years.

6. Estimating the Burden and Cost of the Collection
6(a)(i) Application/NOI

6(a)(i)(B) CAAP

Form 2B [1.17]

EPA estimates that respondents will spend 6 hours reading the instructions, gathering the necessary information, and completing and mailing Form 2B. EPA estimates that there are 245 CAAP facilities. From PCS and ICIS-NPDES, EPA estimates that 23 percent of CAAP facilities file for general permits. Of the remaining 189 CAAP facilities, on average one-fifth of these facilities will file an application annually (i.e., 38).

NOI to be Covered Under a CAAP General Permit [1.18]

EPA estimates that respondents will spend 2 hours to file an NOI for a CAAP general permit.

6(a)(i)(C) State-Only Activities

States will incur burden related to two categories of activities: Implementation of individual permits and implementation of general permits.

Individual Permit Activities [1.19-1.25]

EPA assumed State administration costs for individual CAFO permits include 100 hours per permit to review Forms 1 and 2B, issue public notices, and respond to comments. EPA also estimated that the hearing time for an individual permit would be 200 hours. This is the same figure as was used in the 2006 ICR. Updated information from EPA Regions confirms this figure as being an accurate estimate of the labor burden for conducting hearings. The burden estimate in this case must account for personnel both to manage the logistics of the hearing and to attend the hearing. Typically, the staff attending a public hearing includes a presiding officer, technical staff, legal counsel, and a court reporter. All these personnel must travel to the hearing site, which often requires overnight travel depending on the venue for the hearing. Logistics tasks for the public hearing include selecting the venue, publicizing the meeting, coordinating attendance, and managing the public record. Permitting authorities should provide public notice when they receive individual permit applications. EPA estimates a burden of 5 hours per application for public notice.

For individual permit applications associated with CAAP facilities, EPA estimates that authorized states will spend 0.5 hour reviewing Form 2B.

Individual Permit Application Activities Due to Significant NMP Modifications [1.26-1.38]

The annual burden for activities due to significant NMP modifications for individual permits includes the following:

- review and approve permits/record keeping (20 hours)
- public hearings (40 hours)
- public notice and response to comments (1 hour)

General Permit Activities [1.29-1.37]

CAFOs seeking coverage under a general permit submit completed NOI forms that the permitting authority needs to review and make a determination of coverage. EPA estimated that NOI review and record-keeping activities would require four hours. EPA has assumed that 12

6. Estimating the Burden and Cost of the Collection 6(a)(i) Application/NOI

percent of the NOIs submitted would result in a public hearing related to the general permit; and that the labor burden associated with the hearing, should one be called for, would be 200 hours. The magnitude of the public hearing burden for the general permit is assumed to be the same as the burden in the active ICR for public hearings for individual CAFO NPDES permits. Permitting authorities should provide public notice when they receive NOIs. EPA estimates a burden of 5 hours per NOI for public notice.

For CAAP facilities covered under a general permit, the agency estimated 0.5 hours to process the NOIs.

CAFO General Permit and NOI Activities Due to Significant NMP Modifications [1.38-1.40]

The annual burden for activities due to significant NMP modifications for general permits includes the following:

- review and approve NOIs/record keeping (4 hours)
- public hearings (40 hours)
- public notice and response to comments (1 hour)

Nutrient Management Plan Review [1.41-1.46]

Authorized States must review CAFOs' NMP as part of the permit application or NOI to determine compliance with applicable NPDES CAFO regulations. In addition, authorized States must determine the terms of the NMP that are to be incorporated into the permit. EPA estimates that the authorized state will spend 20 hours reviewing the NMP and determining NMP terms, every five years.

In addition, authorized States must review any subsequent changes to NMPs and determine whether changes warrant a substantial modification to the permit. The burden to review subsequent changes is assumed to be 4 hours per review. They also must provide an opportunity for public comment when changes are substantial.

6(a)(ii) Plan Development/Special Studies

6(a)(ii)(A) CAFO

Develop/Update a Nutrient Management Plan [2.1-2.44]

CAFO operators need to develop an NMP that contains the minimum measures specified in 40 CFR 122.42(e)(1). They will also need to maintain the plan on-site. The burden to develop the nonengineering portion of the NMP depends on the type of CAFO. These estimates come from the earlier CAFO NPDES ICR (OMB No. 2040-0250, EPA ICR No. 1989.02). This burden, which does not apply to CAFOs that do not land apply manure generated on-site, is incurred in the first year an operation requests coverage under the CAFO regulations and repeated at least once every five years for the NMP updates.

Modifications to the Nutrient Management Plan [2.45-2.55]

EPA also estimates that any permit modifications required by permitting authorities following NMP review may necessitate changes to NMPs that will result in an added burden to CAFOs. To

6. Estimating the Burden and Cost of the Collection

6(a)(i) Application/NOI

determine the added burden to CAFOs for NMP modifications as directed by permit authorities, EPA estimates that the burden to CAFOs to modify and update an NMP would be 20 percent of the original NMP development burden. EPA calculated average plan development burden for an average discharging CAFO using the same burden estimate for NMP development as in the CAFO NPDES ICR (OMB No: 2040-0250, EPA ICR: 1989.04).

In addition, when a permitted CAFO changes its NMP, the CAFO must provide a copy of the current (i.e., changed) NMP to the Director (certain changes need not be provided where such changes are consistent with specified land application rates). For purposes of this ICR, EPA's burden estimate for submitting any revised plans is 30 minutes.

6(a)(ii)(B) CAAP

Develop a Best Management Practices Plan [2.56-2.61]

All facilities subject to CAAP regulation will be required to develop, and implement BMPs which address a variety of aspects of their facility. These BMPs must also be documented in a BMP plan, and a letter certifying that the Plan has been developed must be sent to the permitting authority. EPA estimates that these activities will require 40 hours to accomplish. This activity is expected to be done once over the term of the permit which is typically five years. In addition, EPA estimates that CAAP facilities will spend 6 hours per year conducting training.

6(a)(iii) Monitoring

6(a)(iii)(A) CAFO

Effluent Limitation Guideline (ELG) Data Collection [3.1-3.30]

CAFO owners or operators will perform various activities to meet data collection and record-keeping requirements. Large CAFO operators will spend 13 hours conducting weekly visual inspections of the waste storage and storm water diversion facilities and daily inspections of water lines to identify maintenance needs. EPA assumed that these inspections can be primarily conducted in the course of every day operations and, therefore, they do not impose a substantial incremental burden on CAFOs beyond the need to document inspection findings. Operators will spend 4 hours, annually, inspecting manure application equipment and documenting the activity. Soil samples must be collected at least once every five years from all fields receiving manure and analyzed for nutrient content. Each soil sampling will take 8 hours. Manure samples must be collected annually and analyzed for nutrient content. Each manure sampling will take 2.2 hours. Large CAFOs must retain manure and soil sampling results on-site. Large CAFOs must also document other production area and land application area activities, as noted in above Section 4(b)(i).

6(a)(iii)(B) CAAP

Feed Monitoring

All net pen facilities are required to conduct some form of feed monitoring. This monitoring can be in the form of real-time monitoring such as video monitoring to observe feed passing beneath the net, sediment or benthic sampling, and physical devices designed to capture uneaten feed that

6. Estimating the Burden and Cost of the Collection
6(a)(i) Application/NOI

passes below the net or other good husbandry practice that is approved by the permit authority. The objective of this requirement is to minimize the discharge of uneaten feed from the net pen system. Based on available information and existing permits, all existing net pen facilities are currently using one of these techniques to minimize the discharge of uneaten feed. There is no burden associated with this type of monitoring since facilities were already required to perform the feed management practices and associated record keeping.

6(a)(iv) Reporting (including certification)

6(a)(iv)(A) CAFO

No Discharge Certification Option [4.1-4.6]

For purposes of calculating the burden and cost of voluntary certification, EPA assumed that every year one fifth of facilities choosing to certify will do so. EPA estimates that respondents will spend two hours preparing the paperwork for certification; four hours performing the engineering analysis; and 0.5 hours submitting the information to the permitting authority every five years.

Annual Reports [4.7]

All CAFOs prepare and submit an annual report to the permitting authority. The report provides an annual update to several data items contained in the permit application forms as well as a summary of any production area discharges. Many CAFO operators or owners will be able to copy information directly from the application form or their records to their report. EPA assumes that the annual report will require two hours to complete and submit, on average.

Noncompliance Report [4.8-4.9]

EPA expects very few CAFO respondents to be affected annually. EPA expects approximately 1 percent of permitted CAFO facilities to submit one report per year at 5 hours per response. EPA estimates that an average of 2 hours is required for the permitting authority to receive and process each CAFO report.

6(a)(iv)(B) CAAP

BMP Plan Certification [4.10-4.12]

The certification of the BMP plan should be a straightforward document, most likely taking the form of a letter from the owner or operator at the CAAP facility addressed to the permitting authority. This letter need only be submitted once for each permit cycle which is typically 5 years. EPA estimates that respondents will spend 1.25 hours for BMP Plan certification.

INAD Program Sign-up Report [4.13-4.15]

The number of facilities that reported participating in INAD programs in response to EPA's detailed survey indicates that there would likely be less than 20 facilities annually affected by EPA's INAD or extra-label reporting requirement. The rule specifies that facilities report when an INAD and extralabel drug is used and they would file less than 40 reports on the use of an INAD or extra-label drug in any given year. All of the facilities that reported participation in an INAD study were non-commercial facilities that were either State or Federal hatcheries. EPA's

6. Estimating the Burden and Cost of the Collection 6(a)(i) Application/NOI

data do not provide the details on the use of extra-label drugs at CAAP facilities. Thus, EPA is making an assumption that facilities will use either extra-label or INAD drugs in any given year, and the number of applications requiring reporting will be less than 40. EPA is assuming that the facilities that will apply extra-label drugs will not be just non-commercial facilities. The number of commercial facilities is likely to be substantially smaller than non-commercial facilities in part due to withdrawal concerns. EPA estimates that each program sign-up report will require one hour to prepare and submit to the permitting authority.

INAD or Extra-Label Use Report [4.16-4.18]

The burden associated with reporting for INADs and extra-label drugs will include an hour of a manager's time to prepare and mail a letter notifying the permitting authority that the facility is participating in an INAD study. EPA estimates that a manager will spend half an hour filing the oral report on either INAD or extra-label drug use and subsequently an additional hour writing the letter that notifies the permitting authority when the treatment is concluded. EPA also anticipates that unskilled labor will spend some time keeping records throughout the application of the drug. This data will be used by the manager in the written report. However, EPA expects that this staff will also be doing these activities to respond to requirements of the INAD agreement or simply for the purposes of good husbandry in the case of extra-label drug applications.

Structural Failure Report [4.19-4.21]

EPA assumes that few flow through and recirculating facilities will experience structural failures in their aquatic animal containment systems. This is in part based on the very small number of facilities that EPA is aware of that have experienced such failures in the past. EPA is estimating that 22 facilities will experience a reportable failure each year. Failures are unlikely to affect only non-commercial or commercial facilities; thus, EPA is assuming that the failures will be distributed between non-commercial and commercial facilities. Net pen facilities are expected to experience reportable failures at a much higher rate due to the inherent vulnerabilities of the system. EPA is assuming that each net pen facility will have one reportable failure each year. EPA estimates that respondents will spend 5 hours per year preparing and submitting structural failure reports.

Spill Report [4.22-4.24]

Reporting of spilled drugs, pesticides or feed that result in a discharge to waters of the United States, must be reported orally to the permitting authority within 24 hours of occurrence, followed by a written report within 7 days. The report must identify the material spilled and an estimated amount. EPA does not expect spills will occur very often, since facilities are required to implement proper storage and implement procedures for proper cleaning, containing and disposing of the spilled material. Again for the purpose of estimating the burden, EPA is assuming that more net pen facilities will experience a spill in any given year, and non-commercial flow through and recirculating facilities may experience a slightly higher rate of spills, since they tend to report a higher rate of drug and pesticide use. EPA estimates that respondents will spend 2 hours per year preparing and submitting spill reports.

6. Estimating the Burden and Cost of the Collection
6(a)(i) Application/NOI

6(a)(iv)(B) State Reporting & Certification

BMP Plan Certification Receipt [4.25]

EPA estimates that authorized states will spend 0.25 hour processing certifications that BMP plans have been developed and documenting receipt of the certification

INAD Program Sign-up Report Receipt [4.26]

EPA estimates that authorized states will spend 0.5 hours documenting receipt of the INAD program sign-up report when permittees apply either INAD or a drug that has been prescribed extra-label by a veterinarian to treat aquatic animals at the CAAP facility.

INAD or Extra-Label Drug Report Receipt [4.27]

EPA estimates that authorized states will spend 0.5 hours documenting receipt of oral and written reports filed by the permittee concerning INAD and extra-label drugs.

Spill Report Receipt [4.28]

EPA estimates that authorized states will spend 0.5 hours documenting receipt of oral and written reports filed by the permittee concerning spilled drugs, pesticides or feed that result in a discharge to waters of the United States.

Structural Failure Report Receipt [4.29]

EPA estimates that authorized states will spend 0.5 hours documenting receipt of oral and written reports filed by the permittee concerning structural failures at the CAAP facility.

6(a)(v) Record Keeping

6(a)(iv)(A) CAFO

ELG Data Collection Record Keeping [5.1-5.2]

All permitted and unpermitted CAFOs subject to the ELG requirements are required to conduct and maintain records of their ELG data collection. EPA expects that these activities will result in an annual burden of 80 hours per respondent.

Requirements Related to Transfer of Manure or Process Wastewater to Other Persons [5.3]

Large CAFOs that transfer manure, litter, and process wastewater to another party also need to collect the following information for each transfer: the date of transfer, the recipient's name and address, and the quantity transferred. They will also need to provide the recipient with nutrient content information. Based on a national estimate of excess manure at Large CAFOs of 181 million tons and an average transfer amount of 100 tons, EPA estimated an average of 169 transfers per year per Large CAFO (EPA ICR No. 1989.04). EPA also estimated that recording the information required for each transfer requires 5 minutes. The resulting average burden per CAFO is 14 hours.

6(a)(iv)(B) CAAP

Record Keeping of Inspection, Cleaning, Maintenance & Repair [5.4-5.5]

Failures can be minimized through frequent inspection of the rearing units and wastewater treatment system and prompt repair of any damage identified. EPA is requiring that facilities keep records on the frequency of the inspections and any repairs and maintenance activities performed. EPA estimates that commercial facilities will spend 103 hours and non-commercial facilities 118 per year for record keeping. There is no burden associated with this activity for net pen facilities.

Record Keeping of Feed Management [5.6-5.7]

Other record keeping required by the CAAP regulation involves recording the amount of feed added to each rearing unit and tracking the number of animals and the weight of the animals contained in the rearing unit. The feed inputs are assumed to be tracked on a weekly basis during periods when feeding occurs. The number of animals and weight of the animals will be tracked less frequently. Animal numbers can be estimated using the approximate number added to the unit when stocking occurred less the mortalities removed from the unit over time. The weight can be measured at the time of harvest. These values in aggregate by facility or by species shall be used to calculate a representative feed conversion ratio. The feed conversion ratio represents the proportion of feed provided in relation to the amount of weight gained. These records shall be maintained at the facility and provided to the permitting authority when requested or made available to inspectors. The facility owner or operator should also use this data to evaluate whether the feeding regime is achieving the intended results. EPA estimates that commercial facilities will spend 103 hours and non-commercial facilities 118 per year for record keeping. There is no burden associated with net pen facilities for feed management records.

6(a)(iv)(B) State Record Keeping

Record Keeping of No Discharge Certifications [5.8-5.9]

If a CAFO owner or operator wishes to certify that a CAFO does not discharge or propose to discharge, they must complete and submit to the Director a no discharge certification. EPA estimates 0.5 hours for States to log and file each certification.

6(a)(vi) Compliance Assessment

6(a)(vi)(A) CAFO

Inspections Conducted by Permitting Authority [6.1]

This ICR also incorporates the potential burden to CAFO owners or operators of participating in on-site inspections conducted by the permit authority. It is likely that the CAFO operator or owner will incur some burden during the inspection to make records available and show the facility to the inspector. EPA assumes a burden to CAFOs of four hours per inspection.

6(a)(vi)(B) CAAP

EPA has not identified any unique activities associated with compliance assessment for these permittees.

6(a)(vi)(C) State-Only Activities

Inspections [6.2]

EPA assumed that the average inspections for CAFOs covered by either a general or an individual permit would be close to 16 hours. This estimate includes 6 hours for round-trip travel time, 2 hours to review State records and prepare for the inspection, 4 hours to conduct the on-site inspection of records and operation, and 4 hours to report on the inspection and maintain records.

Annual Report Review [6.3]

The burden and cost for authorized states is based on the time to review the reports. EPA estimates that the review time is 4 hours per report.

Research on Environmental Affects of INAD [6.4]

EPA anticipates that permitting authorities will spend a minimum of two hours researching the potential environmental effects of the drugs being reported. If there is some concern that warrants further research and the establishment of some effluent controls, the permitting authority may spend as much as an additional 8 hours. For the purpose of this ICR, EPA is assuming an average of 3 hours to conduct research.

Determination of Site-Specific Limits for INAD [6.5]

In addition to conducting research on INAD, EPA estimates that permitting authorities will spend an additional 3 hours to determine limits or restrictions on the discharge of the drug.

Notify State Fish & Wildlife Department [6.6]

A release of live fish that are not native to the region may pose a threat to native species. EPA anticipates that the permitting authority will notify the State Department of Fish and Wildlife so that appropriate action may be taken to mitigate this release in a timely manner. The burden associated with this activity is 0.5 hours.

Review Cause of Failure and Past Reports to Evaluate Effectiveness of Practices [6.7]

When subsequent structural failures of the aquatic animal containment system occur at the same facility, the permitting authority may refer to reports on file in the event that subsequent reports are filed and to determine whether the facility's BMP plan needs to be updated. The burden and cost for authorized states is based on the time to review the reports. EPA estimates that the review time is one hour.

6(b) Estimating Respondent Costs

With burden hour estimates in place from Section 6(a), the next step is to estimate the labor cost per respondent and the capital costs required to complete each activity. The total cost for each respondent activity is composed of the following:

6. Estimating the Burden and Cost of the Collection
 6(a)(i) Application/NOI

- Labor Cost;
- Operating and Maintenance (O&M) Cost; and
- Capital/Start-up Cost.

The results of the respondents' costs analysis are presented in the Respondents Activities Table in Appendix B.

6(b)(i) Estimating Labor Costs

The cost imposed on respondents for the requirements discussed in this ICR is a function of the burden placed on them for completing and reviewing the information described above and the wages of a typical worker performing these activities. Table 6.1 show the labor rates used in this ICR.

Table 6.1. Labor Rates

Labor Rates, including overhead	Labor rate (\$/hour)	Source/Notes
CAFO		
General labor	\$16.94	2008 National Industry-Specific Occupational Employment and Wage Estimates: 45-2093 Farmworkers, Farm and Ranch Animals. Adjusted to March 2009 dollars using the Employment Costs Index for Private Industry workers and a fringe rate of 50 percent.
Farm Manager	\$29.30	2008 National Industry-Specific Occupational Employment and Wage Estimates: 45-1011 First-Line Supervisors/Managers of Farming, Fishing, and Forestry Workers. Adjusted to March 2009 dollars using the Employment Costs Index for Private Industry workers and a fringe rate of 50 percent.
Agronomist	\$42.44	2008 National Industry-Specific Occupational Employment and Wage Estimates: 19-1013 Soil and Plant Scientists. Adjusted to March 2009 dollars using the Employment Costs Index for Private Industry workers and a fringe rate of 50 percent.
CAAP		
<i>Flow-through and Recirculating (Commercial)</i>		
Management	\$25.12	2004 ICR (EPA ICR No. 2087.02) updated to March 2009 dollars using the BLS Employer Costs Index for private sector.
General Labor	\$14.51	
<i>Flow-through and Recirculating (Non-commercial)</i>		
Management	\$34.16	2004 ICR (EPA ICR No. 2087.02) updated to March 2009 dollars using the BLS Employer Costs Index for state and local workers.
General Labor	\$24.27	
<i>Net Pens</i>		
Management	\$32.91	2004 ICR (EPA ICR No. 2087.02) updated to March 2009 dollars using the BLS Employer Costs Index for private sector.
General Labor	\$15.72	
State		
State	\$41.10	May 2007 National Industry-Specific Occupational Employment and Wage Estimates: 19-2041 Environmental Scientists and Specialists. Adjusted to March 2009 dollars using the Employment Costs Index for Private Industry workers and a fringe rate of 60 percent.

6(b)(ii) Operating and Maintenance (O&M) Costs

Most calculations in this ICR account for labor costs only. The ICR does, however, account for purchasing equipment and certain testing/analysis costs incurred by respondents that perform activities outside the normal operation practices. All costs presented in this section have been adjusted with the Consumer Price Index to March 2009 dollars.

6(b)(ii)(1) CAFO O&M Costs

A CAFO facility incurs O&M costs when it regularly uses services, materials, or supplies needed to comply with the rules' reporting and record-keeping requirements that the facility will not use otherwise. Any cost for the operation and upkeep of capital equipment is considered O&M costs. O&M costs include laboratory analysis of soil and manure and a general record-keeping cost. CAFO O&M costs are presented in the Respondents Activities Table in Appendix B. EPA has not estimated any O&M costs associated with CAAP facilities.

6(b)(iii) Capital/Start-up Costs

Most calculations in the ICR account for labor costs only. The ICR does, however, account for certain capital and start-up costs incurred by respondents that perform activities outside the normal operating practices. All costs presented in this section have been adjusted with the Consumer Price Index to March 2009 dollars. These costs are linked to two distinctive activities. EPA has not estimated any capital and start-up costs associated with CAAP facilities.

6(b)(iii)(1) CAFO Capital Costs

CAFO operators incurs capital costs when they purchase equipment or one-time services or builds structures that are needed specifically for compliance with the rule's reporting and record-keeping requirements.

Capital costs relevant to this ICR are the purchase of a soil auger to collect soil samples and a manure sampler. CAFOs will also need to install depth markers in their lagoons. All operations will need to develop the NMP elements that pertain to the production area, including performing an engineering analysis of the waste storage volume requirements needed to comply with the CAFO rule. This burden will occur the first time a facility requests coverage under the revised regulations and should not need to be updated unless the operation undergoes a significant change in operation.

To incorporate capital expenditures in EPA's estimate of annual burden, all capital costs have been amortized over a 10-year period assuming a 7 percent interest rate. CAFO capital costs are presented in the Respondents Activities Table in Appendix B.

6(c) Estimating Agency Burden and Cost

EPA's estimate of its burden and costs are from the activities described in Section 5(a). When calculating the Agency cost, EPA makes the following assumption:

EPA used an hourly wage rate for a GS12, Step One Federal employee to estimate the cost of the Agency staff. The U.S. Office of Personnel Management 2009 General Schedule reported an

6. Estimating the Burden and Cost of the Collection
6(a)(i) Application/NOI

hourly rate of \$28.45. Multiplying this rate by 1.6 to incorporate typical Federal benefits (OPM, 1999), EPA obtained a final hourly rate of \$45.52. Burden and costs incurred by EPA are presented in the Agency Activities Table in Appendix C.

EPA's activities as the NPDES permitting authority for non-authorized states and territories are the same as the activities performed by the authorized states and territories. These burdens and costs are identical to those for authorized states and territories, with the exception of certain activities performed only by EPA as described below.

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

Detailed information describing the universe and basis for burden and costs is provided in Section 6(a). Results are presented in the Respondents Activities Table in Appendix B. The Respondents Table in Appendix A provides the respondents universe and the source of information for all respondent categories used throughout this ICR.

CAAP facilities in the flow through and recirculating subcategory are subdivided by commercial facilities and noncommercial facilities. The majority of noncommercial facilities are publicly owned State or Federal hatcheries that are producing fish for stocking or restoration purposes. The burden and costs estimates for these two types of facilities are presented separately because of the different wages paid to employees of these two types of facilities which has a significant effect on the overall estimated costs of the reporting requirements.

As discussed above in Section 4.b., there are some different assumptions made in the frequency of reporting at noncommercial flow through and recirculating facilities as well. Based on data provided by CAAP facilities in response to EPA's detailed survey, noncommercial facilities have a higher use of INAD drugs. Survey responses from commercial facilities give no indication that INAD or extra-label drugs are used at these facilities; however, EPA is assuming that one facility each year will use an INAD and will incur the burden of reporting for that drug.

EPA's final CAAP regulation requires all facilities to develop a BMP plan and to certify to the permitting authority that this plan has been developed. EPA is including the burden for the plan development for all CAAP facilities subject to this regulation except for flow through and recirculating facilities located in the States of Washington and Idaho. Facilities in these two States are already required to develop BMP plans under existing NPDES permits. Likewise facilities in these two States are already required to perform the feed management practices and associated record keeping.

All of the existing net pen facilities indicated that they currently keep records on the feed inputs and inspections, net changes and maintenance and repairs.

6(e) Bottom Line Burden Hours and Cost Tables

6(e)(i) Respondent Tally

The bottom line burden hours and costs for facilities and authorized states are the average annual hours and costs collectively incurred for all activities during the 3-year period covered by this ICR. Table 6.2 provides a summary of the average annual number of respondents, burden hours, and costs.⁷ A more detailed summary is in the Respondents Activities Table in Appendix B.

Table 6.2. Respondent tally

	Permittees	States/tribes/territories	Totals
Unique Respondents (number) ^a	22,844	45	22,889
Responses (number)	2,934,438	36,641	2,971,079
Burden (hours)	2,810,266	463,412	3,273,677
Costs (labor)	\$56,708,595	\$8,135,833	\$64,844,427
Costs (capital)	\$228,971	\$0	\$228,971
Costs (O&M)	\$6,705,593	\$1,845,831	\$8,551,424
Total costs	\$63,643,158	\$9,981,664	\$73,624,822

6(e)(ii) The Agency Tally

The bottom line burden hours and costs for the Agency are the total annual hours and costs collectively incurred for all activities during the period covered by this ICR. Table 6.3 provides a summary of the average annual Agency burden hours and costs. A more detailed summary is in the Agency Activities Table in Appendix C.

Table 6.3. Agency tally

Responses (number)	1,303
Burden (hours)	15,188
Costs (labor)	\$691,350
Costs (capital)	\$0
Costs (O&M)	\$62,463
Total costs	\$753,813

6(f) Reasons for Change in Burden

This consolidated ICR does not include any programmatic changes to the NPDES permit program.

The current burden approved by OMB for the ICRs being consolidated is 3,044,140 hours. This consolidated ICR estimates a total burden that is 229,537 hours more than the currently approved burden for the same two ICRs. This increase in burden corresponds to 7.5 percent of the overall burden. Table 6.4 presents the change in burden for each of the nine ICRs included in this analysis.

Table 6.4 Burden change

OMB No.	Name	Annual	Updated	% change
---------	------	--------	---------	----------

⁷ The number of unique respondents is slightly different than the number presented in the FR notice. The difference is the result of a correction in the summary tables and does not affect the burden and costs presented.

6. Estimating the Burden and Cost of the Collection
6(a)(i) Application/NOI

		Burden in OMB's Inventory (hours)	annual burden (hours)	
2040-0250	NPDES and ELG Regulatory Revisions for Concentrated Animal Feeding Operations	2,998,603	3,228,048	7.7%
2040-0258	Concentrated Aquatic Animal Production (CAAP) Effluent Guidelines	44,196	44,224	0.1%
2040-0004	NPDES Program*	1,341	1,406	4.8%
TOTAL		3,044,140	3,273,678	7.5%
* The burden from the NPDES program ICR presented is only for those activities directly related to CAAP facilities or CAFOs that will be migrated to this Animal Sectors ICR.				

Some specific ICRs' burdens were affected in the following ways:

- NPDES and ELG Regulatory Revisions for Concentrated Animal Feeding Operations (OMB Control No. 2040-0250):
 - o The animal agricultural industry has continued to change. These changes have included further growth and consolidation, which has resulted in a greater number of AFOs that meet the size threshold for being defined as a Large CAFO. The projections also reflect more robust estimates from States and EPA regions on numbers of CAFOs in each EPA estimates that the industry will grow at an average annual rate of 5.6% over the life of this ICR; with permitted CAFOs growing at an average annual rate of 6.0%. The industry growth accounts for all the change in burden coming from the activities originally presented in this ICR (229,445 hours)
- Concentrated Aquatic Animal Production (CAAP) Effluent Guidelines (OMB Control No. 2040-0258):
 - o The previous version of the CAAP ICR did not account for the time to submit an NOI to obtain coverage under a general permit or the time for the permitting authority to process the NOIs. This ICR now account for this burden, adding 28 hours. [1.18-1.37]
- NPDES Program (OMB Control No. 2040-0004):
 - o The increase in the number of CAFOs and CAFO permits will proportionally increase the number of noncompliance reports. The impact is 65 additional hours per year. [4.8-4.9]

6(g) Burden Statement

The calculations made for this ICR cover the burden and costs for EPA, authorized states, and operators of regulated facilities. This ICR estimates a burden of 2,810,266 hours annually for 22,844 operator respondents at a cost of \$63.6 million (\$56.7 million burden cost and \$6.9 million capital and O&M cost). Burden for the state respondents is 463,412 hours annually at a cost of \$10.0 million (\$8.1 million burden cost and \$1.8 million capital and O&M cost). Agency burden is 15,188 hours annually at a cost of \$0.8 million. The annual reporting and record-keeping burden for this collection of information is estimated to average 1.1 hours per response.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, 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

6. Estimating the Burden and Cost of the Collection
6(a)(i) Application/NOI

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 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 Number EPA-HQ-OW-2008-0719, which is available for online viewing at www.regulations.gov, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OW-2008-0719 and OMB Control Number 2040-0250 in any correspondence.