INFORMATION COLLECTION REQUEST
FOR
WATER QUALITY STANDARDS REGULATION
(RENEWAL)

October, 2011

EPA ICR Number 0988.11
OMB Control Number 2040-0049

U.S. Environmental Protection Agency
Office of Water/Office of Science and Technology
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1. IDENTIFICATION OF THE INFORMATION COLLECTION

1.1 TITLE OF THE INFORMATION COLLECTION

The title of this Information Collection Request (ICR) is Water Quality Standards Regulation (Renewal). This ICR updates the previous estimates of burden and costs to States and Indian Tribes presented in the ICR entitled Water Quality Standards Regulation (EPA ICR Number 0988.10, OMB Control Number 2040-0049), that expires on December 31, 2011.

1.2 SHORT CHARACTERIZATION/ABSTRACT

Water quality standards are provisions of State[1], Tribal, or Federal law which consist of designated uses for waters of the United States, water quality criteria to protect those uses, and an antidegradation policy. Water quality standards are established to protect public health or welfare, protect and enhance the quality of water, and serve the purposes of the Clean Water Act. Such standards serve the dual purposes of establishing the water quality goals for water bodies, and serving as a regulatory basis for establishing water quality-based treatment controls and strategies beyond technology-based treatment required by sections 301 and 306 of the Act.

The Water Quality Standards Regulation establishes the framework for States and authorized Tribes to adopt standards, for EPA to review and approve or disapprove them, and for implementation of regulatory controls to take place. For the purposes of this ICR, the Regulation consists of 40 CFR part 131, and portions of part 132 related to water quality standards, including 40 CFR 132.3, Appendixes A, B, C, D, E, and Procedures 1 and 2 of Appendix F. The regulation includes requirements for information collection to enable EPA, States, and Tribes to implement the regulation. This ICR is for information collection required by the Water Quality Standards Regulation and for implementing the water quality standards program.

The Regulation includes the information collection activities shown in Table 1.1.

1The Clean Water Act defines the term “State” to mean the 50 States, the District of Columbia, and specific Territories including Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Table 1.1: Overview of information collected

	Information Collected	Sections of Water Quality Standards Regulation
(A) Standards Adoption and Revisions	New and revised water quality standards, results of triennial reviews, and supporting information submitted to EPA for review and approval.	40 CFR part 131, especially sections 131.6, 131.20-131.22
(B) Tribal Program Applications	Tribal applications to be treated in the same manner as a state (TAS) to administer water quality standards programs	40 CFR 131.8
(C) Dispute Resolution Requests	Tribal or state requests for dispute resolution	40 CFR 131.7
(D) Great Lakes Water Quality Guidance:		
(D1) Great Lakes Bioassay Tests	Bioassay tests and other studies to support development of water quality criteria for the Great Lakes system	40 CFR part 132, especially sections 132.1, 132.2, 132.3, 132.5, and Appendixes A, B, C, and D
(D2) Great Lakes Antidegradation Demonstrations	Studies and demonstrations required by the antidegradation policy for the Great Lakes system*	40 CFR part 132, especially sections 132.1,132.2, 132.4, 132.5, and Appendix E
(D3) Great Lakes Regulatory Relief Requests	Requests for regulatory relief (e.g., variances) from water quality standards for the Great Lakes system*	40 CFR part 132, especially sections 132.1, 132.2, 132.4, 132.5, and Procedures 1 and 2 of Appendix F

*Items D1, D2 and D3 involve both water quality standards burden and National Pollutant Discharge Elimination System (NPDES) burden. This ICR covers only the water quality standards burden. A separate ICR, EPA ICR Number 0229.20, OMB Control Number 2040-0004, covers the NPDES burden.

2. NEED FOR AND USE OF THE COLLECTION

2.1 NEED AND AUTHORITY FOR THE COLLECTION

(A) **Standards Adoption and Revision.** Since the passage of the Water Quality Act in 1965, the States have been required by Federal law to establish water quality standards. These requirements were expanded by the Federal Water Pollution Control Act, or Clean Water Act (CWA), in 1972. Section 303(c) of the CWA, 33 U.S.C. 1313(c), governs the water quality standards program. Section 303(c) requires States and authorized Tribes[2] to review and revise their water quality standards at least once every three years, and to submit to EPA the results and revisions resulting from the reviews. EPA then reviews each State or Tribal submission for approval or disapproval.

These requirements are encompassed in 40 CFR part 131 of the Water Quality Standards Regulation. Section 131.20 establishes the requirement for State or Tribal review and revision of water quality standards. Section 131.6 establishes the minimum requirements for a water quality standards submission. Section 131.5 prescribes EPA's review of State and Tribal submission. The review criteria are: (a) whether the State or Tribe has adopted uses which are consistent with the requirements of the Act; (b) whether the State or Tribe has adopted criteria to protect the designated water uses; (c) whether the State or Tribe has followed its legal procedures for revising or adopting standards; (d) whether the water quality standards which do not include uses specified in section 101(a)(2) of the Act are based on appropriate technical and scientific data and analyses; and (e) whether the submission meets the minimum elements from section 131.6. This information collection will ensure EPA has the needed information to review standards and make approvals or disapprovals.

(B) **Tribal Program Applications.** In 1987, through the Water Quality Act (P. L. 100-4), Congress made substantial additions to the CWA. The Water Quality Act added section 518(e) which requires EPA to promulgate regulations specifying how Indian Tribes would qualify to administer the CWA section 303 water quality standards program. EPA published such regulations in 1991 in section 131.8 of the Water Quality Standards Regulation. The revisions do not require Tribes to apply for administering the water quality standards programs. However, where Tribes desire to be authorized to administer the water quality standards program, some information collection is necessary in order for EPA to fulfill the Agency's responsibilities under CWA section 518(e) in a reasonable and timely manner.

The statute and Regulation specify four criteria for an Indian Tribe to qualify to administer a water quality standards program (40 CFR 131.8): The Tribe must be Federally recognized, the Tribe must have a governing body carrying out substantial governmental duties and powers, the water quality standards program must be administered for water resources within the borders of an Indian reservation or legal equivalent, and the Tribe must be reasonably expected to be capable of carrying out the functions of an effective water quality standards

2 Tribes that have received EPA authorization to administer the water quality standards program under 40 CFR 131.8. EPA maintains a current list of such Tribes at http://water.epa.gov/scitech/swguidance/standards/wqslibrary/approvtable.cfm

program under the Act. Section 131.8(b) specifies the information a Tribe must submit in order for EPA to review and approve the application. (See section 4.2 below.)

(C) **Dispute Resolution Requests.** The 1987 amendments to the CWA also included specific requirements in section 518(e)(3) for EPA to establish a mechanism for resolution of disputes which arise between States and Tribes over water quality standards on common water bodies. EPA published such regulations in 1991 in section 131.7 of the Water Quality Standards Regulation. The revisions do not require Tribes or States to request EPA assistance in resolving State/Tribal disputes. However, where a Tribe or State desires a formal EPA dispute resolution action, some information collection is necessary in order for EPA to fulfill the Agency's responsibilities under CWA section 518(e) in a reasonable and timely manner.

(D) **Great Lakes Water Quality Guidance.** The Great Lakes Critical Programs Act of 1990 amended section 118 of the CWA. It directed EPA to publish water quality guidance for the Great Lakes system.[3] EPA published this guidance in March 1995, which is codified at 40 CFR part 132. The Guidance establishes minimum water quality criteria, implementation procedures, and antidegradation provisions for the Great Lakes system. The Great Lakes water quality standards components included in this ICR are:

(1) ***Great Lakes Bioassay Tests***. States or dischargers may choose to undertake bioassays or other studies that States may use to develop water quality criteria or values to protect waters of the Great Lakes system. For this ICR, EPA assumed that dischargers would perform the tests. If States perform the tests, the overall burden might be less. The bioassay tests are discretionary activities. If a State or discharger chooses to undertake them, they must produce data consistent with the requirements of the Great Lakes Guidance. See 40 CFR 132, Appendixes A, B, C, and D.

(2) ***Great Lakes Antidegradation Demonstrations.*** Dischargers may undertake activities in the course of their operations that would be subject to the antidegradation requirements of the Guidance. For example, a planned expansion of a manufacturing facility might produce increased loadings of bioaccumulative chemicals of concern that result in a significant lowering of water quality. In these situations, the facilities must conduct studies and demonstrations to ensure compliance with the Guidance and implementing State requirements. See 40 CFR part 132, Appendix E.

(3) ***Great Lakes Regulatory Relief Requests.*** Dischargers may choose to apply for regulatory relief (e.g., modifications to water quality criteria, or discharge variances from water quality standards) from provisions implementing the Guidance. The requests for such relief are discretionary activities. If a discharger chooses to make such a request, it must perform additional monitoring or special studies to support the request. See Procedures 1 and 2 of 40 CFR part 132, Appendix F.

2.2 PRACTICAL UTILITY/USERS OF THE DATA

3The Great Lakes system means all the streams, rivers, lakes, and other bodies of water within the drainage basin of the Great Lakes within the United States.

(A) **Standards Adoptions and Revisions.** EPA uses the new and revised water quality standards and supporting information submitted by States and authorized Tribes to carry out its responsibility under the CWA to approve or disapprove the standards.

Section 131.5 of the Regulation prescribes EPA's review of State and Tribal submissions. The review criteria are: (a) whether the State or Tribe has adopted uses which are consistent with the requirements of the Act; (b) whether the State or Tribe has adopted criteria to protect the designated water uses; (c) whether the State or Tribe has followed its legal procedures for revising or adopting standards; (d) whether the water quality standards which do not include uses specified in Section 101(a)(2) of the Act are based on appropriate technical and scientific data and analyses; and (e) whether the submission meets the minimum elements from section 131.6 (see section 4.2 below).

Once EPA approves the standards, they become effective for all purposes under the Act. EPA makes the full text of all water quality standards available on its web site, http://water.epa.gov/scitech to assist the public, States, Tribes, dischargers, and other stakeholders. EPA, States, and Tribes use the standards as the foundation for water quality protection under the CWA. Standards establish the water quality goals for specific water bodies, and provide the regulatory basis for the establishment of water quality-based treatment controls and strategies beyond technology-based levels of treatment.

In particular, water quality standards serve as the basis for EPA, States, and authorized Tribes to determine which waters are not in attainment under section 303(d) of the CWA, for establishing total maximum daily loads (TMDLs) for non-attainment waters under section 303(d), for water quality-based effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits for point source dischargers (including publicly-owned treatment works and industrial facilities) under sections 301(b)(1)(C) and 402 of the Act, and for certifications under section 401. They also help Federal, State, Tribal, and local governments develop water quality management plans and objectives, and plan for and protect water supplies.

If these information collection activities were not carried out, explicit requirements of the CWA would be violated, TMDLs could not be developed where needed, and Federal or State permit writers would be unable to establish permit limits to protect water quality where technology-based controls are not adequate.

(B) **Tribal Program Applications.** EPA uses the information supplied by interested Tribes to determine whether they qualify to administer water quality standards programs under the CWA. EPA must assess the Tribe’s applications to determine whether they meet the requirements specified in section 518(e) of the CWA and EPA’s implementing regulations at 40 CFR 131.8. If these information collection activities were not carried out, interested and otherwise qualified Tribes would be unable to implement a key program under the CWA. This would not be consistent with the CWA or Federal Indian policy.

(C) **Dispute Resolution Requests.** EPA uses the information supplied in the requests to initiate its role of attempting to resolve disputes arising from differing water quality standards on

common bodies of water. If this information collection activity were not carried out, interested States and Tribes would be unable to resolve such disputes as envisioned in the CWA.

(D1) **Great Lakes Bioassay Tests.** Great Lakes States and Tribes[4] will use the results of bioassay tests conducted by dischargers to help develop or revise water quality criteria and values to protect aquatic life in the Great Lakes system. Such testing can result in more scientifically accurate criteria, or criteria more suited to specific water bodies.

(D2) **Great Lakes Antidegradation Demonstrations.** Great Lakes States and Tribes will use the information supplied by dischargers to make "antidegradation decisions" under the Great Lakes Water Quality Guidance. These decisions determine whether the activity the discharger is about to undertake will be allowed, even though it may lower water quality.

(D3) **Great Lakes Regulatory Relief Requests.** Great Lakes States and Tribes will use the information supplied by dischargers to decide whether to grant the regulatory relief requests (e.g., water quality variances, or modifications of water quality criteria). This information may be used to ensure compliance with provisions consistent with the Guidance and to re-evaluate existing permit conditions and monitoring requirements.

4A Great Lakes Tribe is a Tribe which is located in whole or in part in the Great Lakes system, and which EPA has authorized to administer a water quality standards program.

3. NON-DUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3.1 NON-DUPLICATION

(A) **Standards Adoption and Revision.** State and Tribal water quality standards reviews and revisions are a unique component of the water quality management process, with States and authorized Tribes having the exclusive responsibility to adopt, certify, and submit standards, and EPA having the exclusive authority to review and approve/disapprove the standards. However, in developing and analyzing the standards, the States and Tribes use existing data and information from other programs wherever possible. Some key programs that provide data and other information on sources of pollution, characteristics of pollutant discharges, ambient water quality conditions, and cause-and-effect relationships are as follows.

-The NPDES permitting program, including information from "NPDES Permits and the Sewage Sludge Management Permits" (OMB No. 2040-0086); "NPDES Modification and Variance Requests" (OMB No. 2040-0068); "NPDES and Sewage Sludge Monitoring Reports" (OMB No. 2040-0004); and, the Permit Compliance System (PCS), an automated database of discharger data.

-The ambient water monitoring and water quality management programs, including information from the National Water Quality Inventory Reports (CWA sections 305(b), 303(d), 314(a), and 106(e)); OMB Control No. 2040-0071; and, the STORET (short for STOrage and RETrieval), an automated database of ambient water quality data; and other discharger or ambient water quality data the States voluntarily collect.

Historically, States typically design and conduct water quality studies with multiple objectives in mind (e.g., general water quality assessment, use attainability analysis, site-specific criteria development, wasteload allocation analysis). EPA works with the States and Tribes to minimize any duplication of data collection efforts.

EPA considered alternative data sources for the water quality standards program. The data needed for this program are found primarily in State and Tribal water quality management and planning programs and generally cannot be purchased or otherwise obtained from private sources. Further, the adoption and submission of water quality standards are governmental functions that can only be accomplished by States and authorized Tribes.

(B) **Tribal Program Applications.** Under EPA's regulations, a Tribe must submit a separate TAS (Treatment in Same Manner as a State) application for each program it wishes to administer. To avoid requiring Tribes to submit duplicate information, the Water Quality Standards Regulation specifies that a Tribe need only provide the required information which has not been submitted in a previous application. For example, in evaluating whether a Tribe qualifies to administer water quality standards, EPA does not require a Tribe to resubmit information from its previously-approved TAS application under section 106.

(C) **Dispute Resolution Requests.** Because each dispute over water quality standards will be unique, and the information required to be submitted pertains solely to the dispute, it is very unlikely that Tribes or States will be required to re-submit information which was previously provided to EPA.

(D) **Great Lakes Water Quality Guidance.** EPA has examined all the reporting requirements contained in the CWA and 40 CFR parts 122, 123, 124, 125, 403, 501, and 503. The Agency also has consulted the following sources of information to determine if similar or duplicate information is available elsewhere: EPA's Information Systems Inventory, EPA's Inventory of Information Collection Requests, Federal Information Locator System, Comprehensive Assessment Information Rule (53 CFR 51698), and EPA's Toxics Release Inventory. Examination of these databases revealed no duplicate requirements.

3.2 PUBLIC NOTICE REQUIRED PRIOR TO ICR SUBMISSION TO OMB

In compliance with the 1995 Paperwork Reduction Act, EPA is soliciting comments for a 30-day period on this ICR. Comments were requested on the proposed ICR renewal in the Federal Register on June 30, 2011 at 76 FR 38384. The comment period expired on September 1, 2011. No comments were received by EPA during the comment period.

3.3 CONSULTATIONS

When EPA revised the Water Quality Standards Regulation in 1983, EPA made a substantial effort to involve the public. The process began in 1978 with the publication of an Advanced Notice of Proposed Rulemaking (ANPRM). The ANPRM resulted in comments from 110 individuals, public agencies, organizations, and interest groups. EPA developed ideas for revisions to the existing regulation from the comments. EPA also began a dialogue with States and with the Association of State and Interstate Water Pollution Control Administrators (ASIWPCA). The States and ASIWPCA continued their involvement until publication of the proposed rule through discussions with EPA and review of drafts of the proposed rule. None of the State comments pertained to reporting requirements in the then existing rule or in the proposal. The final rule was published in November 1983.

Additionally, EPA published an ANPRM for the WQS Regulation in 1998 to begin a structured public dialogue with States, Tribes, dischargers, and other interested parties on whether and what changes, if any, are needed in the water quality standards program to improve the effectiveness of water quality standards. EPA also held meetings to assist stakeholders in reviewing and developing their positions/comments on the ANPRM. The information received from written comments and from the public meetings has been useful to EPA in managing the standards program, and has helped EPA develop guidance, and provide assistance to States and Tribes.

The final Water Quality Guidance for the Great Lakes System (Guidance) was published in the Federal Register on March 23, 1995 (60 FR 15366). It is the result of a six-year effort begun by the eight Great Lakes States and EPA in 1989 to develop more consistent water quality standards in the Great Lakes Basin. To stay abreast of public expectations for the final Guidance,

EPA met with State, Local, and Tribal government officials, financial officials and co-regulators, the regulated community and environmental interests to listen and openly discuss their concerns. During the post-proposal process, EPA participated in more than 40 such meetings with over 1,000 stakeholder representatives. The comments and issues raised by the various stakeholders were considered in EPA's option selection process and regulatory impact analysis for developing the final Guidance.

The final Guidance establishes minimum water quality criteria (including for the first time criteria specifically to protect wildlife), antidegradation policies, and implementation procedures using an ecosystem approach for waters of the Great Lakes Basin. This includes waters within the States of Illinois, Indiana, Michigan, Minnesota, New York, Pennsylvania, Ohio and Wisconsin, and waters within the jurisdiction of several Indian Tribes. All eight of the Great Lakes States have adopted criteria, methodologies, policies, and procedures consistent with the final Guidance that were approved by EPA, and are currently implementing these requirements in their State.

In 2001 through 2003, EPA conducted outreach to stakeholders and State co-regulators to revisit the essential role of water quality standards and criteria in restoring and maintaining water quality. EPA held over 50 listening sessions with over 350 people in 2001, and received written comments in 2002 from over 65 stakeholders. The review resulted in the publication of the *Strategy for Water Quality Standards and Criteria* in August 2003 by EPA's Office of Science and Technology (OST). See http://water.epa.gov/scitech/swguidance/standards/strategy/index.cfm. The listening sessions revealed no concerns about reporting burden, no expressed needs for reduced reporting burden, and no suggestions for changes to regulatory requirements regarding information collection.

EPA is developing proposed revisions to the Water Quality Standards Regulation at 40 CFR 131. EPA will prepare a separate ICR in conjunction with the proposed rule for any information collection requests associated with the proposed provisions.

3.4 EFFECTS OF LESS FREQUENT COLLECTION

(A) **Standards Adoption and Revision.** The information collection schedule is pursuant to the mandates of Section 303(c) of the CWA for the States and Tribes to review their water quality standards once every three years and thus is not adjustable by the EPA. Additionally, if water quality standards were reviewed less frequently, they would be more likely to be based on out-of-date information regarding existing stream uses, attainability of designated uses, pollutants of concern, and appropriate water quality criteria values. A triennial review cycle ensures that the latest scientific and other information are reflected in the standards.

(B) **Tribal Program Applications.** Application by Indian Tribes to administer the water quality standards program is a one-time collection of information per respondent, initiated voluntarily by interested Tribes.

(C) **Dispute Resolution Requests.** Requests for dispute resolution will be a one-time collection of information per respondent, initiated voluntarily by a Tribe or State interested in EPA's assistance.

(D1) **Great Lakes Bioassay Tests.** Permitted facilities may initiate bioassay tests to support development of water quality criteria voluntarily at any time. Because the Guidance does not require such testing, EPA has no discretion to reduce reporting frequency. EPA operates a GLI Clearinghouse of previously-collected information in order to help avoid redundant data collection efforts. See http://www.epa.gov/gliclearinghouse.

(D2) **Great Lakes Antidegradation Demonstrations.** Permitted facilities may undertake activities in the course of their operations that would be subject to the antidegradation requirements of the Guidance. EPA has no control over the frequency of such activities. In these situations, the facilities conduct studies and demonstrations to ensure compliance with the Guidance and implementing State requirements.

(D3) **Great Lakes Regulatory Relief Requests.** Regulatory relief requests will generally be associated with the reissuance of NPDES permits. Permitted facilities must reapply for NPDES permits before their existing permits expire, generally once every five years. The CWA prohibits issuance of NPDES permits with terms longer than five years. Less frequent permit applications would not provide the permitting authority with sufficiently current data to establish effective limitations or conditions when issuing permits. Since permittees will decide whether or not to apply for regulatory relief (e.g., modifications to water quality criteria or discharge variances from water quality standards) from provisions implementing the Guidance, and since pursuing relief is generally a one-time effort for the permittee, EPA has no discretion to allow less frequent information collection.

3.5 GENERAL GUIDELINES

EPA reviewed this ICR's compliance with OMB's information collection guidelines in 5 CFR 1320.5(d)(2). EPA found that one element of record keeping under the Water Quality Standards Regulation may fall under 1320.5(d)(2)(iv), which prohibits agencies from requiring record retention longer than three years unless necessary to satisfy statutory requirements or other substantial need. In this ICR, such longer-term record retention could occur in some situations because the Regulation prohibits the removal of any waterbody uses that have been actually attained on or after November 28, 1975, when revising designated uses adopted into water quality standards. In order to be able to implement this provision, States and Tribes need a way of knowing or estimating "existing uses" of water bodies as far back as 1975. To do so, State and Tribes may use any available information from other sources, or may choose to retain some of their own information – for example, water quality monitoring data, biological surveys, or anecdotal evidence of human recreational water usage – for more than three years.

EPA believes there is a substantial need for this historical information. The regulatory prohibition to removing "existing uses" is based on EPA's interpretation of the Clean Water Act's statutory objective "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," and to set water quality standards that "... protect the public health or

welfare, enhance the water quality of water and serve the purposes [including the objective] of this Act" (33 U.S.C. 1251(a), 1313(c)(2)). The loss of existing uses would be inconsistent with this mandate.

States and Tribes may choose to use an EPA information management system, STORET, described at http://www.epa.gov/storet, which can minimize the burden to retain their own historical records of water quality.

3.6 CONFIDENTIALITY AND SENSITIVE QUESTIONS

(A) **Standards Adoptions and Revisions.** State and Tribal submissions under this ICR will contain no confidential or sensitive information.

(B) **Tribal Program Applications**. Tribal program applications under this ICR will contain no confidential or sensitive information.

(C) **Dispute Resolution Requests.** State and Tribal dispute resolution requests under this ICR will contain no confidential or sensitive information.

(D1) **Great Lakes Bioassay Tests.** Bioassay testing under this ICR will contain no confidential or sensitive information.

(D2) **Great Lakes Antidegradation Demonstrations.** It is possible that such demonstrations may 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. However, CWA section 308(b) specifically states that effluent data may not be treated as confidential.

(D3) **Great Lakes Regulatory Relief Requests.** It is possible that variance requests may 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. However, CWA section 308(b) specifically states that effluent data may not be treated as confidential.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4.1 RESPONDENTS/NAICS CODES

The following describes the universe of potential respondents. The actual numbers estimated to submit information annually are described in section 6.

(A) **Standards Adoption and Revision.** The Water Quality Standards Regulation requires reporting at least once every three years from 92 jurisdictions: 56 States and Territories,[5] and the 36 Indian Tribes with EPA-approved standards as of August 2011.[6] The respondents affected by this collection activity are in NAICS code 92411 "Administration of Air and Water Resources and Solid Waste Management Programs," formerly SIC code #9511.

(B) **Tribal Program Applications.** Any federally recognized Tribe with a reservation could potentially apply to administer a water quality standards program. EPA estimates that there are 337 such Tribes. As of August 2011, 62 Tribes have submitted TAS applications, of which 46 Tribes have received EPA authorization to administer the water quality standards program. The respondents affected by this collection activity are in NAICS code 92411 "Administration of Air and Water Resources and Solid Waste Management Programs."

(C) **Dispute Resolution Requests.** Any of the 36 Indian Tribes with EPA-approved water quality standards, or the States that share common water bodies with these Tribes, may submit dispute resolution requests. The respondents affected by this collection activity are in NAICS code 92411 "Administration of Air and Water Resources and Solid Waste Management Programs."

(D) **Great Lakes Water Quality Guidance.** The respondents potentially affected by this collection activity include eight Great Lakes States, four Great Lakes Tribes, and 2,323 facilities permitted to discharge to waters of the Great Lakes system.

The Great Lakes States and Tribes are the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and four tribes currently authorized to administer water quality standards programs for waters of the Great Lakes system.[7] These respondents are in NAICS code 92411 "Administration of Air and Water Resources and Solid Waste Management Programs."

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5 For the purposes of the CWA, States include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

6 A total of 46 Tribes have received EPA authorization to administer the water quality standards program under 40 CFR 131.8. Of these, 36 Tribes have adopted water quality standards that EPA has approved. All states and tribes with standards in place under the CWA are subject to the requirement for triennial reviews. EPA maintains a current list of these Tribes at http://water,epa.gov/scitech/swguidance/standards/wqslibrary/approvtable,cfm.

7 Mole Lake Band of the Lake Superior Tribe of Chippewa Indians, Sokaogon Chippewa Community (WI); Fond du Lac Band of Chippewa (MN); Grand Portage Band of Chippewa (MN); and St. Regis Band of Mohawk Indians (NY).

NPDES permits are required any time there is a point source discharge of pollutants to waters of the United States, regardless of the type of discharger. Consequently, all point source dischargers must apply for an NPDES permit. Any of the 2,323 point sources with permits to discharge to the Great Lakes system could potentially choose to conduct bioassay tests, be subject to antidegradation demonstrations, or choose to apply for regulatory relief, under the Great Lakes Water Quality Guidance. The respondents affected by this collection activity are in the following NAICS codes: Mining (except oil and gas) (212), Food manufacturing (311), Paper manufacturing (322), Chemical manufacturing (325), Petroleum refineries (32411), Primary metal manufacturing (331), Fabricated metal product manufacturing (332), Machinery manufacturing (333), Computer and electronic product manufacturing (334), Electrical equipment, appliance, and component manufacturing (335), Transportation equipment manufacturing (336), Electric power generation, transmission, and distribution (2211), and Sewage treatment facilities (22132).

4.2 INFORMATION REQUESTED

(A) **Standards Adoption and Revisions.** Section 131.20 of the Water Quality Standards Regulation requires States and authorized Tribes to review their water quality standards at least once every three years and submit the results of the review, along with any new or revised standards, to EPA for approval. States and Tribes may choose to adopt new or revised standards more frequently. Section 131.6 of the Water Quality Standards Regulation establishes the following minimum requirements for a water quality standards submission:

> (1) use designations consistent with section 101(a)(2) and 303(c)(2) of the Act,
>
> (2) methods used and analyses conducted to support water quality standards revisions,
>
> (3) water quality criteria sufficient to protect the designated uses,
>
> (4) an antidegradation policy consistent with 40 CFR 131.12,
>
> (5) certification by the State Attorney General or other appropriate State or Tribal legal authority that the water quality standards were duly adopted pursuant to State or Tribal law, and
>
> (6) general information which will aid the EPA in determining the adequacy of the scientific basis of the standards which do not include the uses specified in section 101(a)(2) of the Act as well as information on general policies applicable to State standards which may affect their application and implementation.

States and authorized Tribes may choose to provide additional information from time to time concerning draft, proposed, or adopted standards to enable EPA to better understand the standards and how they are implemented. Such information may include brief descriptions of selected standards provisions or program practices.

(B) **Tribal Program Applications.** Section 131.8(b) of the Regulation specifies the information a Tribe must provide in its program application. Specifically, an interested Tribe must submit:

> (1) a statement that the Tribe is recognized by the Secretary of the Interior,
>
> (2) a descriptive statement demonstrating that the Tribal governing body is currently carrying out substantial governmental duties and powers over a defined area,
>
> (3) a descriptive statement of the Indian Tribe's authority to regulate water quality, and an identification of the surface waters for which the Tribe proposes to establish water quality standards,
>
> (4) a narrative statement describing the capability of the Indian Tribe to administer an effective water quality standards program, and
>
> (5) any additional documentation required by the Regional Administrator to support the application.

Approvals for Tribes to administer standards programs are valid unless rescinded. Therefore, an interested Tribe normally needs to apply only once. Where a Tribe has previously qualified for "treatment in the same manner as a state" under another program, the Tribe need only provide the required information which has not been submitted in a previous application.

(C) **Dispute Resolution Requests.** Section 131.7 of the Regulation specifies that a Tribe or State interested in having EPA initiate a formal dispute resolution action must submit a written request to EPA. Information that a State or Tribe must submit with the request includes:

> (1) a statement of the alleged unreasonable consequences that have arisen due to the differing water quality standards;
>
> (2) a description of the actions which have been taken to resolve the dispute without EPA involvement; and,
>
> (3) an identification of the State/Tribal water quality standards provision which has resulted in the unreasonable consequences, and a statement of the relief sought.

(D1) **Great Lakes Bioassay Tests.** Section 132.3 of the Regulation specifies that Great Lakes States and Tribes must adopt certain water quality criteria published by EPA, or criteria that they develop using methodologies published by EPA. Dischargers may choose to conduct bioassay tests or other studies to assist the States or Tribes in developing such criteria. Any bioassay tests or other studies must conform to the methodologies in Appendixes A, B, C, and D of part 132.

(D2) **Great Lakes Antidegradation Demonstrations.** Appendix E to part 132 of the Regulation specifies that any entity seeking to lower water quality in a high quality water of the Great Lakes system, or proposing a new or increased discharge to Outstanding International Resource Waters (OIRWs) of the Lake Superior Basin, must submit an antidegradation demonstration to the NPDES permitting authority (normally the State or EPA). The Regulation specifies that the demonstration include:

(1) a pollution prevention alternatives analysis,

(2) an alternative or enhanced treatment analysis, and

(3) an important social or economic development analysis.

Appendix E also contains additional requirements where OIRWs or certain remedial actions[8] are involved. .

(D3) **Great Lakes Regulatory Relief Requests.** Appendix F to part 132 of the Regulation specifies at least two ways that the Great Lakes water quality standards adopted pursuant to part 132 may be modified to provide regulatory relief: site-specific modifications to criteria and values (Procedure 1), and variances from water quality standards (Procedure 2).

Dischargers seeking site-specific water quality criteria modifications would need to provide data to the State or Tribe in accordance the methodologies in Appendixes A, B, C, and D to part 132.

Point-source dischargers seeking variances from water quality standards would need to submit an application to the State or Tribe that includes information demonstrating that attaining the standards is not feasible based on one or more of six specified factors, including natural conditions, human-caused conditions that cannot be remedied, certain hydrologic modifications, or controls that would result in substantial and widespread economic and social impact.

8Remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), corrective actions under the Resource Conservation and Recovery Act (RCRA), or similar actions under other Federal or State laws.

4.3 RESPONDENT ACTIVITIES

(A) **Standards Adoption and Revisions.** EPA, in coordination with selected States, identified the following activities to supply information for standards adoption and revision. Respondent burden estimates in section 6.1 were developed through a survey of a sample of States using the factors described below.

- *Review of instructions, guidance and regulations*: Includes time reviewing documents necessary for the State/Tribe to revise its standards. Burden hours may vary, depending on staff knowledge and turnover rates. (Note that time spent in the field, laboratory and office performing and documenting special water quality-monitoring studies or surveys in connection with the Water Quality Standards Program is considered under other categories.)

- *Identify issues and plan activities*: Includes identifying the standards issues to be addressed, ordering the standards issues based on EPA and State or Tribal priorities and policies, and planning the activities to be performed. Also includes gathering and analyzing existing water quality data and waterbody use information as needed. Planned activities may include developing site-specific criteria modifications, and conducting use attainability analyses.

- *Use attainability analysis studies conducted to support a possible change in use designation*: The Regulation in section 131.10 requires conducting use attainability analyses (UAAs) when a State or Tribe wants to remove a designated use that is not an existing use. UAAs are structured scientific assessments of the factors affecting attainment of a use, including physical, chemical, biological, and economic factors specified in section 131.10(g) of the Regulation.[9] EPA has published a series of technical guidance documents concerning UAAs. The actual experiences of States were the primary basis of this portion of the burden estimate. Burden estimates include a mix of “Simple” cases, involving small water segments, segments where only minor augmentation of physical, chemical and/or biological data are needed, or where simple corrections are needed to correct earlier use classifications; and "Complex" cases generally involving multiple dischargers, larger water segments, and fewer existing physical, chemical, or biological data. Complex cases may involve performing a waterbody survey to help pinpoint the water quality problems and determine present uses, uses impaired, and the reasons the uses are impaired. For purposes of this burden calculation, it was assumed that the States would devote some supplementary review time to significant or controversial UAAs.
- *Site-specific criteria development studies conducted using acceptable methodologies for specific segments, basins, or States*: The Regulation allows States and Tribes to adopt site-specific criteria to reflect local conditions.

9Removing a designated use requires information demonstrating that the use is not existing, and that attaining the use is not feasible based on one or more of six specified factors, including natural conditions, human-caused conditions that cannot be remedied, certain hydrologic modifications, or controls that would result in substantial and widespread economic and social impact. These are similar to the factors for variances for the Great Lakes system described above.

Site-specific modifications can ensure that the criteria are neither more nor less stringent than necessary to protect the designated use. EPA has published technical guidance for deriving site-specific criteria and has tested the guidance at field sites. The actual experiences of States were the primary basis of this portion of the burden estimate. Burden estimates include a mix of "Simple" cases, reflective of relatively easy studies where a single or possibly two dischargers are present, discharging few pollutants, and no appreciable nonpoint source impacts exist; and “Complex” cases involving a water segment with several discharges and numerous pollutants, including nonpoint source impacts.

- *Prepare revised water quality standards package for submission*: Includes determining changes to be made to the existing standards, preparing and reviewing the revised standards package, adopting the revised standards according to the State’s/Tribe’s internal administrative procedures and EPA’s public participation requirements, conducting a public hearing, and submitting the revised standards to EPA for approval. Also includes the time State or Tribal agency staff spends in consultation with the State legislature and legislative committees or Tribal Council, respectively.

- *Certification by the State Attorney General or other appropriate legal authority that Water Quality Standards were duly adopted according to State law*: Any time a State or Tribe adopts or revises water quality standards, the State/Tribal Attorney General or other appropriate legal authority must certify that the change was adopted according to the unique provisions of State law. This certification is in the form of a letter to the EPA Regional Administrator. This certification is necessary because State and Tribal water quality standards may result in enforceable requirements in NPDES permits or other controls. Before approving State or Tribal water quality standards, EPA must be assured of their legal validity.

(B) **Tribal Program Applications.** Includes the activities directly associated with assembling, writing and submitting a TAS application. This includes reading the regulatory requirements and obtaining any necessary background understanding, assembling the categories of information in section 4.2 above, writing any application materials needed, obtaining reviews and approvals of Tribal environmental officials, and obtaining approval by the Tribe’s governing body, if necessary.

(C) **Dispute Resolution Requests.** Includes the activities directly associated with assembling, writing and submitting a request. This includes reading the regulatory requirements and obtaining any necessary background understanding, assembling the categories of information in section 4.2 above, writing the request itself, and obtaining reviews and approvals of State or Tribal environmental officials.

(D) **Great Lakes Water Quality Guidance**. Respondent activities may include the following:

- *Preparing Basic Information*: Includes reading and reviewing regulatory application requirements, gathering general information, typing or filling out forms, drafting letters, reviewing applications or other materials, and mailing completed submissions.

- *Generating Detailed Information*: Information may include data on production levels, data on effluent characteristics, pollutant minimization programs, financial estimates, engineering data, socioeconomic data, or other information required by permitting authorities.

- *Sampling and Analyzing Discharges*: This may involve pollutant analyses, biological toxicity testing, predicting in-stream impacts, field monitoring, bioconcentration testing, or other scientific analyses.

- *Maintaining Records*: All NPDES permittees must keep records of the data used to complete their applications and to demonstrate their compliance for at least three years. First-time applicants may need to develop a record keeping system, enter data, train personnel, and file information. For existing facilities, record keeping entails collecting and filing raw data.

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

5.1 AGENCY ACTIVITIES

(A) **Standards Adoption and Revisions.** States and Tribes are required to review and, as appropriate, revise their water quality standards at least once every three years. The results of such review and revision must be submitted by the States and Tribes to EPA. EPA reviews the States' or Tribes' water quality standards for consistency with the CWA. If the water quality standards are inconsistent with the Act, EPA must promulgate replacement Federal standards.

EPA conducts a full range of activities to manage the water quality standards program. Activities related to, but not included in, this ICR include the transmission of policy and guidance to the States and Tribes; development of recommended scientific water quality criteria; assisting States and Tribes in interpretation and implementation of regulations, policies and initiatives; and the coordination of activities related to standards with other CWA programs, with other federal agencies, and for interstate and international waters. See EPA's website, http://www.epa.gov/waterscience for more information.

For this ICR, EPA activities associated with water quality standards review include the following.

- Assembling relevant information to conduct the EPA review of submitted standards.

- Reviewing standards revisions for consistency with the CWA, with downstream State's or Tribe's water quality standards, and with any standards for international waters.

- Preparing and sending a letter to the State or Tribe conveying EPA's approval or disapproval decision(s).

- Making findings that Federal water quality standards are necessary.

- Proposing and promulgating Federal replacement standards where State's or Tribes standards are disapproved or where Federal standards are otherwise necessary.

- Proposing and finalizing the withdrawal of Federal standards when a State or Tribe corrects its standards.

(B) **Tribal Program Applications.** After a Tribe submits an application to administer a water quality standards program, EPA will review the application and use the submitted information to determine if the Tribe meets the statutory criteria under CWA section 518(e) to administer the water quality standards program information submission requirements.

(C) **Dispute Resolution Requests.** After a Tribe or State submits a written dispute resolution request to EPA, EPA reviews the submitted information to determine if initiation of a formal EPA dispute resolution action is justified under CWA section 518(e).

(D1) **Great Lakes bioassay tests.** EPA reviews and approves or disapproves any water quality standards adoptions or revisions that result from States or Tribes incorporating the results of bioassay tests into water quality criteria.

(D2) **Great Lakes antidegradation demonstrations.** EPA reviews and approves State and Tribal antidegradation policies. However, EPA does not have a direct role in reviewing and approving activities that could lower water quality as these policies are implemented. In some cases, depending on the facility involved, EPA may issue an NPDES permit or review a State- or Tribe-issued permit. This ICR covers the water quality standards portion of any such EPA reviews. A separate ICR, EPA ICR Number 1639.04, OMB Control Number 2040-0180, covers the NPDES burden.

(D3) **Great Lakes Regulatory Relief Requests.** To the extent that a regulatory relief request results in a change in standards, such as a site-specific criteria modification, or a water quality standards variance, EPA must review and approve the standards change for it to become effective. This ICR covers the water quality standards portion of any such EPA reviews. A separate ICR, EPA ICR Number 1639.04, OMB Control Number 2040-0180, covers the NPDES burden.

5.2 COLLECTION METHODOLOGY AND MANAGEMENT

(A) **Standards Adoption and Revisions.** States and Tribes submit their revised water quality standards to their EPA Regional office, who have been delegated the responsibility to review the submissions for consistency with the Water Quality Standards Regulation, and approve or disapprove the standards. The Water Quality Standards staff in the Regional offices work closely with their respective States and Tribes on water quality standards issues, including the review of both draft and final submissions of water quality standards. EPA's national water quality program provides support to the Regional offices in the review of these submissions. EPA approved State/Tribal standards can be accessed at http://www.epa.gov/wqsdatabase/. EPA promulgated standards for States/Tribes are located at http://www.epa.gov/waterscience/standards/.

(B) **Tribal Program Applications.** Interested Tribes submit their TAS applications to their EPA Regional office, who have been delegated the responsibility to review the applications for consistency with the Water Quality Standards Regulation, and approve or disapprove the applications. Regional Office staff work closely with the Tribes in this process. EPA's national water quality program provides support to the Regional offices in the review of these submissions/requests.

(C) **Dispute Resolution Requests.** Interested States or Tribes submit their dispute resolution requests to their EPA Regional office, who have been delegated the responsibility to review the applications for consistency with the Water Quality Standards Regulation, and approve or disapprove the requests.

(D) **Great Lakes Water Quality Guidance.** For Great Lakes information, EPA maintains some application data in the Agency's PCS and STORET databases. This technology reduces the burden to EPA Headquarters for gathering and analyzing national permit and water quality data. Because each information collection activity associated with implementation of the Guidance will contain unique information, and because permittees submit applications only once every five years at the most, improved information technology may not be effective in further reducing respondent burden.

5.3 SMALL ENTITY FLEXIBILITY

For many reasons discussed below, EPA believes the reporting requirements discussed in this ICR do not place an unreasonable burden on small entities.

(A, B, C) **Standards Adoption and Revisions, Tribal Program Applications, and Dispute Resolution Requests.** EPA has long recognized that Tribes require special considerations considering their generally small size and their unique status as sovereign entities. For the WQS program, EPA has provided special guidance, training, and technical assistance tailored to the unique needs of Tribes to help build their capacity to apply for and administer the WQS program. In addition, EPA provides substantial funding to Tribes through the Indian General Assistance Program (GAP) and Tribal allocations of CWA section 106 Water Pollution Control Program grants that Tribes can use to develop WQS capabilities and administer WQS programs.

For Tribal program applications, EPA established a "simplification rule" in 1994 (59 FR 64339) to make it easier for Tribes to obtain EPA approval to assume the role Congress envisioned for them under certain environmental statutes, including the CWA. This rule enabled Tribal applications to be combined with other administrative steps, simplified certain showings that a Tribe needs to make, simplified jurisdictional analyses, and gave more flexibility to determining whether a Tribe has program capability. Each of these steps serves to minimize needed information to be collected.

For standards adoption and revision, although the CWA establishes minimum federal WQS requirements for all states and tribes without regard for their size, EPA has made it as easy as possible for tribes to conform to the requirements. In addition to the guidance, training, and

technical assistance mentioned above, the WQS program provides opportunities for tribes with EPA-approved WQS to share their technical expertise with other Tribes considering developing standards. Such peer-to-peer training is a major feature of all WQS training targeted to Tribes. EPA Regional Offices work closely with tribes to provide model standards or standards from adjacent jurisdictions for them to consider and draw from. Also, because the land areas of all but a handful of tribes with WQS are smaller than the state of Rhode Island and are generally confined to one watershed or ecosystem, their standards can usually be much simpler and shorter than state standards.

The dispute resolution mechanism established in the WQS regulation (40 CFR 131.7) was designed to reflect the unique characteristics of tribes. If a tribe wishes to initiate a request for EPA to resolve a dispute, it need only provide several "concise" statements and only such data as needed to support the request.

(D) **Great Lakes Water Quality Guidance.** The Great Lakes Critical Programs Act and EPA's Great Lakes regulation do not specify different antidegradation or regulatory relief requirements for small entities. Conducting bioassay testing, undertaking an action that would trigger the antidegradation policy, and initiating a request for regulatory relief are generally voluntary. A small business that decides to expand operations in a way that triggers antidegradation provisions, or that decides to conduct bioassay testing or request a variance from effluent limitations, does so on the basis of its assessment that the benefits of doing so outweigh the burdens. The time and effort required to prepare a small facility's antidegradation demonstration or variance request might be less than that required to develop similar information for a larger, more complex facility.

5.4 COLLECTION SCHEDULE

(A) **Standards Adoption and Revisions.** The CWA requires States and authorized Tribes to review their water quality standards at least once every three years and provide the results to EPA. In practice, some States and Tribes choose to submit revised standards for portions of their waters more frequently.

(B) **Tribal Program Applications.** There are no scheduling requirements for Indian Tribes to apply for authorization to administer the water quality standards program.

(C) **Dispute Resolution Requests.** There are no scheduling requirements for States or Indian Tribes to request EPA dispute resolution.

(D1) **Great Lakes Bioassay Tests.** There are no scheduling requirements for States, Tribes, or dischargers to initiate bioassay tests.

(D2) **Great Lakes Antidegradation Demonstrations.** Such demonstrations are necessary under the Regulation when an entity proposes an activity that would lower water quality in a high quality water.

(D3) **Great Lakes Regulatory Relief Requests.** Regulatory relief requests are generally associated with the NPDES permit renewal cycle. The CWA requires permittees to reapply for permits at least every five years. Information collection associated with regulatory relief requests will occur only when a permittee decides to seek such relief. EPA presumes that the few relief requests expected will continue to take place at time of permit reissuance.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6.1 ESTIMATING RESPONDENT BURDEN

(A) **Standards Adoption and Revisions.** *State or Tribal burden*: The CWA and EPA's Water Quality Standards Regulation requires a water quality standards review and associated information collection at least once every three years from 50 States, the District of Columbia, 5 commonwealths and territories, and the 36 Indian Tribes[10] that currently have received EPA authorization to administer the water quality standards program. Because of the different start dates and operational practices of these 92 jurisdictions since the CWA was enacted in 1972, EPA believes the annual national burden will be approximately the same for each of the next three years covered by this request.

For the purposes of reviewing the reporting requirements placed on States and Tribes by the Water Quality Standards Regulation, EPA Headquarters discussed the requirements and estimated reporting burdens with the voluntary assistance of eleven States. The States were selected to represent various geographical areas, differing levels of water quality management activities, and differing approaches to controlling priority toxic pollutants. Because of differing practices regarding the three-year requirement in the CWA, the States were asked to quantify the reporting and recordkeeping burden on an annualized basis. Because of the limited time available to develop them, these estimates are considered "rough." For this reason, the lowest and highest estimates for each burden item were not considered in the calculation for the average burden per State per year (that is, a modified mean was used).

The average burden per State/Tribe review per year was estimated to be 2,500 hours (see Attachment A). The total annual burden hours = (92 jurisdictions) * (2,500 hours) = **230,000 hours**.

(B) **Tribal Program Applications.** *Tribal burden*: EPA assumes that 3 Tribes will apply to administer the water quality standards program per year. This assumption is based upon an upper estimate of the actual pace of Tribal submission of applications for the water quality standards program. EPA further assumed that these Tribes would supply only standards program-specific information that was not provided in previous applications. For example, EPA assumes that at least 75% of all Tribes applying for treatment as a State for purposes of water quality standards will have already applied for authorization to administer one of the other SDWA or CWA programs. Based on these assumptions, EPA estimates that each Tribal application will require an average of 40 hours to complete. The total annual burden hours = (3 Tribes) * (40 hours/application) = **120 hours**.

(C) **Dispute Resolution Requests.** *State or Tribal burden*: When a Tribe or State desires EPA to initiate a formal dispute resolution action, the Tribe or State is required to submit a written request to EPA. EPA estimates that at most three Tribes/States will request a formal dispute resolution action over a three year period (one request per year). To date, there have been no such formal requests since the regulation went into effect in 1991. The estimated hour burden

10 36 Indian Tribes have EPA approved water quality standards as of August, 2011.

to a Tribe or State to develop a dispute resolution request is 80 hours. The total annual burden hours = (1 application) * (80 hours/application) = **80 hours**.

(D1) **Great Lakes Bioassay Tests.** *Discharger burden*: EPA assumes that dischargers will conduct bioassays to support the development of water quality criteria for 3 human health and 11 aquatic life criteria each year. This results in 14 discharge responses per year. EPA has determined that these bioassays would take dischargers 34,204 hours to conduct and 760 hours to oversee. The total annual burden hours for dischargers = 34,204 + 760 = **34,964 hours**.

State or Tribal burden: EPA assumed that the 14 studies to support the development of water quality criteria would be submitted to the States or Tribes for review, resulting in 14 State or Tribal responses. EPA estimated the State/Tribal application burden associated with review and data collection to support the development of water quality criteria to be **2,714 hours**.

(D2) **Great Lakes Antidegradation Demonstrations.** *Discharger burden*: Dischargers to the Great Lakes system must provide a demonstration to the State or Tribe to justify increasing permit limits for discharges to high water quality areas that would increase pollutant loadings or adversely affect those waters. In general, an antidegradation demonstration consists of first performing a pollution prevention alternatives analysis to identify prudent and feasible alternatives. If no pollution prevention alternatives are deemed prudent and feasible, then the permittee must identify alternative or enhanced treatment techniques. Finally, a permittee must demonstrate that the lowering of water quality is necessary to accommodate important social and economic development.

EPA expects that 5 percent of the 2,323 dischargers to the Great Lakes system (approximately 116) will discharge bioaccumulative chemicals of concern (BCCs). EPA conservatively assumes that all the permittees that discharge BCCs will request an increase in permit limits and be required to perform an antidegradation demonstration. EPA assumes that one-fifth of these permittees (23) will prepare and submit an antidegradation demonstration each year and estimates that 22.2 hours is required for the discharger to prepare a demonstration for BCCs.[11] The antidegradation demonstration includes both water quality standards elements and NPDES permitting elements. Therefore, EPA has split this activity equally between this ICR and the NPDES Program ICR (OMB Control No. 2040-0004, EPA ICR No. 0229.20) and assumes 50 percent of the 22.2 hours (11.1 hours) will be needed for the WQS-related work on an antidegradation demonstration. This results in a total annual burden of 11.1 hours/permitee X 23 permitees = **255 hours** for BCC dischargers for this ICR.

On the basis of past experience, EPA expects that another 5 percent of the permittees (approximately 116) are likely to request an increase in permit limits for non-BCCs. EPA assumes that one-fifth of these respondents (23) will prepare and submit an antidegradation demonstration each year, and estimates that 14.8 hours is required to prepare the demonstration for non-BCCs.[12] EPA has split this activity equally between this ICR and the NPDES Program

11 Demonstration burden reported in the original Great Lakes ICR (60 hours) was reduced by 63 percent for the first renewal. See record of communications between EPA and OMB.

12 Demonstration burden reported in the original Great Lakes ICR (40 hours) was reduced by 63 percent for the first renewal. See record of communications between EPA and OMB.

ICR and assumes 50 percent of the 14.8 hours (7.4 hours) will be needed for the WQS-related work. This results in a total annual burden of 7.4 hours/permitee X 23 permitees = **170 hours** for non-BCC dischargers for this ICR

State or Tribal Burden. EPA estimates that it would take a Great Lakes State or Tribe about 16 hours to review an antidegradation demonstration. EPA also determined that one-fifth of BCC and non-BCC antidegradation demonstrations, or 46, would be reviewed annually. EPA has split this activity equally between this ICR and the NPDES Program ICR and assumes 50 percent of the 16 hours (8 hours) will be needed for the WQS-related work to review an antidegradation demonstration. This results in a total burden of **368 hours** for Great Lakes States and Tribes for this ICR.

(D3) **Great Lakes Regulatory Relief Requests.** *Discharger burden*: To be granted relief from provisions adopted consistent with the Great Lakes Guidance, a permittee will need to perform additional work such as monitoring or special studies to support its request. EPA estimates that 18 permittees per year will prepare requests for regulatory relief. EPA estimates that each request will entail a burden of 835.3 hours for a discharger. The request includes both water quality standards elements and NPDES permitting elements. Therefore, EPA has split this activity equally between this ICR and the NPDES Program ICR (OMB Control No. 2040-0004, EPA ICR No. 0229.20) and assumes 50 percent of the 835.3 hours (417.67 hours) will be needed for the WQS-related work on regulatory relief requests. This results in a total burden of **7,518 hours** for dischargers for this ICR.

State or Tribal burden: To process each of the 18 regulatory relief requests, EPA estimates that a Great Lakes State or Tribe will require 88 hours: 4 hours to review the request for completion, including any contact with the permittee for additional information; 4 hours for public notice and comment (assuming conservatively that this process is independent of regular permit public notice); and 80 hours to analyze the regulatory relief request, decide if it is justified, justify the decision, and prepare a permit modification if necessary. EPA has split this activity equally between this ICR and the NPDES Program ICR and assumes 50 percent of the 88 hours (44 hours) will be needed for the WQS-related work to review an antidegradation demonstration. This results in a total burden of **792 hours** for Great Lakes States and Tribes for this ICR.

Estimated Number of Respondents: 2415 (56 States and Territories, 36 Tribes; 2,323 Great Lakes dischargers).

The overall burden hours for State, Tribal, and discharger respondents are summarized in Table 6.4.

6.2 ESTIMATING RESPONDENT COSTS

The above burden estimates have been converted to dollar cost estimates using the following assumptions:

- State or Tribal employee costs were estimated an average annual salary of $54,028; this is equivalent to the salary of a GS-9, Step 10 Federal employee.[13] At 2,080 labor hours per year, the hourly rate is $25.98. Overhead cost for Federal and State employees are expected to be 60 percent, or $15.58 per hour, yielding a total hourly rate of $41.56.

- Contractor labor rates (hired by dischargers) were estimated using the Bureau of Labor Statistics estimate for a professional and related specialty of $46.79 per hour.[14] Assuming a 67 percent overhead and profit rate, the total private sector hourly rate is $78.14.

- Discharger labor rates (for oversight of contractor work) were estimated assuming POTW employees working at the equivalent of a GS-7, Step 1 Federal employee.[11] The annual salary of this worker is $33,979, the hourly rate is $16.34. Assumed overhead costs add an additional 50 percent to these costs. Thus, the average cost of a POTW worker is $50,969 per year, or $24.50 per hour.

(A) **Standards Adoption and Revisions.** *State or Tribal costs*: Total annual cost per jurisdiction = (2,500 hours/year) * ($41.56/hour) = $103,900. Total annual cost = (92 jurisdictions) * ($103,900/jurisdiction) = **$9,558,800**.

(B) **Tribal Program Applications.** *Tribal costs*: Cost per application = (40 hours/application) * ($41.56/hour) = $1662. Total annual cost = (3 Tribes) * ($1,662/application) = **$4,986**.

(C) **Dispute Resolution Requests.** *State or Tribal costs*: Cost per dispute resolution request = (80 hours/request) * ($41.56/hour) = $3,325. Total annual cost = (1 request) * ($3,325/request) = **$3,325**.

(D1) **Great Lakes Bioassay Tests.** *Discharger costs*: Contractor costs = (34,204 hours) * ($78.14/hour) = $2,672,701. Discharger oversight employee costs = (760 hours) * ($24.50/hour) = $18,620. Total discharger bioassay costs = $2,672,701 + $18,620 = $2,691,321. *State or tribal costs*: Review of water quality criteria = (2,714 hours) * ($41.56/hour) = $112,794. *Total costs*: $2,691,321 + $112,794 = **$2,804,115**

(D2) **Great Lakes Antidegradation Demonstrations.** *Discharger costs*: Antidegradation demonstrations = (425 hours) * ($24.50/hour) = $10,413. *State or Tribal costs*: Review of antidegradation demonstrations = (368 hours) * ($41.56/hour) = $15,294. *Total costs*: $10,413 + $15,294 = **$25,707**.

(D3) **Great Lakes Regulatory Relief Requests.** *Discharger costs*: (7,518 hours) * ($24.50/hour) = $184,191. *State or Tribal costs*: Review of regulatory relief requests = (792 hours) * ($41.56/hour) = $32,916. *Total costs*: $184,191 + $32,916 = **$217,107**.

13 General Schedule rate, effective January 2011, assuming base pay rate with no locality adjustment.

14 BLS, Table 9, Employer costs per hour, private industry workers, June, 2011.

The overall labor costs for State, Tribal, and discharger respondents are summarized in Table 6.4.

6.3 ESTIMATING AGENCY BURDEN AND COST

Annual burden and costs to the Federal government are detailed below. EPA employee costs were estimated assuming a GS-12 Step 1 Federal employee earning $60,274 per year. At 2,080 labor hours per year, the hourly rate is $28.98. Overhead costs for Federal employees are expected to be 60 percent, or $17.38 per hour, yielding a total hourly rate of $46.36.

(A) **Standards Adoption and Revisions.** EPA estimates that each review of a State or Tribal water quality standards submission will require 168 hours. Assuming that each State or Tribe will submit one draft or final package of new or revised water quality standards every year, the total annual burden = (92 submissions) * (168 hours/submission) = **15,456 hours**. Labor cost = (15,456 hours) * ($46.36/hour) = **$716,540**.

(B) **Tribal Program Applications.** EPA estimates that each review of a Tribal program application will require 160 hours. Total burden = (3 applications) * (160 hours/application) = **480 hours**. Labor cost = (480 hours) * ($46.36/hour) = **$22,253**.

(C) **Dispute Resolution Requests.** EPA estimates that each review of a State or Tribal request will require 20 hours. Total burden = (1 request) * (20 hours/request) = **20 hours**. Labor cost = (20 hours) * ($46.36/hour) = **$927**.

(D) **Great Lakes Water Quality Guidance.** EPA estimates it will require approximately **80 hours** at $46.36/hour plus $400 for web hosting for a total of **$4,109** to maintain the water quality database to serve as the Information Clearinghouse. EPA estimated little additional Federal government burden or cost because all the Great Lakes States are delegated NPDES permitting authorities.

The overall burden hours for the Federal government are (15,456) + (480) + (20) + (80) = **16,036**. The overall labor costs for the Federal government are ($716,540) + ($22,253) + ($927) + ($4,109) = **$743,829**.

There are no Capital Expenses and no O&M costs in this ICR.

6.4 TOTAL BURDEN AND COSTS

	States and Tribes			Dischargers			Total		
	No. of Responses	Burden Hours	Labor Costs	No. of Responses	Burden Hours	Labor Costs	No. of Responses	Burden Hours	Labor Costs
(A) Standards Adoption and Revisions	92	230,000	$9,558,800	-	-	-	92	230,000	$9,558,800
(B) Tribal Program Applications	3	120	$4,986	-	-	-	3	120	$4,986
(C) Dispute Resolution Requests	1	80	$3,325	-	-	-	1	80	$3,325
(D1) Great Lakes Bioassay Tests	14	2,714	$112,794	14	34,964[a]	$2,691,321	28	37,678	$2,804,115
(D2) Great Lakes Antidegradation Demonstrations	46	368	$15,294	46	425	$10,413	92	793	$25,707
(D3) Great Lakes Regulatory Relief Requests	18	792	$32,916	18	7,518	$184,191	36	8,310	$217,107
Total	174	234,074	$9,728,115	78	42,907	$2,885,925	252	276,981	$12,614,040

[a] Combination of 34,204 contractors at $78.14 per hour and 760 POTW supervisors at $24.50 per hour.

6.5 REASONS FOR CHANGE IN BURDEN

This ICR supersedes the ICR developed in 2008 for the Water Quality Standards Regulation. The respondent burden decreased by 16,233 hours to reflect adjustments in EPA's estimates for some activities. This decrease is due to adjustments in EPA's estimates of burden hours to reflect a change in the number of tribes with EPA-approved water quality standards, a change in the estimated number of tribes applying annually to administer standards programs, a revised estimate of the number of Great Lakes dischargers, and updated burden estimates for certain activities required by the Water Quality Guidance for the Great Lakes System.

6.6 BURDEN STATEMENT

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1,099 hours per response. This overall burden entails an average of 2,398 hours per response for States and Tribes to implement the national water quality standards regulation at 40 CFR part 131, and 50 hours per response for Great Lakes States and Tribes and 550 hours per response for Great Lakes system dischargers to implement the Water Quality Guidance for the Great Lakes System at 40 CFR part 132. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2011-0465, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the 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 online for viewing at http://www.regulations.gov. Use http://www.regulations.gov to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select 'search," then key in the docket ID number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW,

Washington, DC 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID (EPA-HQ-OW-2011-0465) and OMB Control Number (2040-0049) in any correspondence.

ATTACHMENT A
Average Cost for State/Tribal Review Process

State	Burden Hours
Arizona	2,987
Arkansas	4,100
Connecticut	283
Florida	3,990
Missouri	81
Nebraska	860
New York	7,375
North Dakota	310
Ohio	6,800
Oklahoma	287
Pennsylvania	2,900
Average (eliminating the lowest and highest burden hour estimates)	2,501.9
Rounded to	2,500

NOTE: Because of differing practices regarding the triennial review requirement in the CWA, the States were asked to quantify the reporting and recordkeeping burden on an annualized basis. These estimates are considered “rough.” For this reason, the lowest and highest estimates for each burden item were not considered in the calculation for the average burden per State per year (that is, a modified mean was used).