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**INFORMATION COLLECTION REQUEST
FOR
WATER QUALITY STANDARDS REGULATORY
CLARIFICATIONS (PROPOSED RULE)**

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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 Regulatory Clarifications (Proposed Rule)*.

1.2 SHORT CHARACTERIZATION/ABSTRACT

Water quality standards (WQSs) are provisions of state¹, 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. WQS 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 core WQS Regulation, last updated in 1983, establishes the framework for states and authorized tribes to adopt standards, for the EPA to review and approve or disapprove them, and for implementation of regulatory controls to take place. See 40 CFR part 131.

This ICR provides estimates of burden and costs to states and authorized Indian tribes to implement new requirements in the proposed WQS Regulatory Clarifications Rule. These estimates represent the incremental burden and costs over and above the estimates presented in the ICR entitled *Water Quality Standards Regulation (Renewal)* (EPA ICR Number 0988.11, OMB Control Number 2040-0049).

Due to the nature of this rule, EPA has assumed that all Administrative cost and burdens associated with this rule are the same burdens associated with information that would/could be collected as a result of this rule. Therefore, the costs and burdens in this ICR are identical to the Administrative costs and burdens summarized in the Economic Analysis.

The EPA's proposed WQS Regulatory Clarifications Rule will add the following information collection activities, as summarized in Table 1.1 below:

¹The Regulation 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 by Proposed WQS Regulatory Clarifications Rule	Sections of 40 CFR Part 131 Amended or Added
Rulemaking activities	Submission of revised state or tribal regulatory provisions to the EPA.	Various, but especially, 131.12(b) (Added), 131.14 (Added), 131.15 (Added),
Designated uses: highest attainable uses	Expanded use revision process to include identification of the highest attainable use.	131.10(g) (Amended)
Antidegradation	Additional and/or more complex reviews of requests to lower water quality on high quality waters. ¹	131.12(b) (Added)
Variations	Specific documentation to accompany variance submissions to the EPA; and additional variance requests requiring state and tribal review, documentation, and submittal to the EPA for review and approval.	131.14 (Added)
<p>1. States and tribes establish their antidegradation policies in three tiers. Tier 2 protects high quality waters with water quality higher than necessary to attain all Clean Water Act 101(a)(2) goals.</p>		

2. NEED FOR AND USE OF THE COLLECTION

2.1 NEED AND AUTHORITY FOR THE COLLECTION

The EPA is proposing the WQS Regulatory Clarifications Rule to improve the regulation’s effectiveness in helping restore and maintain the chemical, physical, and biological integrity of the nation’s waters. The core of the current regulation has been in place since 1983; since then, a number of issues have been raised by stakeholders or identified by the EPA in the implementation process that will benefit from clarification and greater specificity. The proposed rule addresses the following key program areas: (1) Administrator’s determinations that new or revised WQS are necessary, (2) designated uses, (3) triennial reviews, (4) antidegradation, (5) variances to WQS, and (6) compliance schedule authorizing provisions.

This information collection will ensure the EPA has the needed information to review standards and make approvals or disapprovals in accordance with provisions in the proposed WQS Regulatory Clarifications Rule.

2.2 PRACTICAL UTILITY/USERS OF THE DATA

Under the CWA, the EPA is responsible for reviewing and approving or disapproving new and revised WQS submitted by states and tribes. The EPA will use the information required by this proposed rule – for example, the new and revised WQS themselves, and supporting documentation for the standards – to carry out its responsibility under the CWA. In reviewing state and tribal standards submissions, the EPA considers whether submissions are consistent with the WQS regulation at part 131. The WQS Regulatory Clarifications Rule will add new requirements to part 131.

Once the EPA approves a state’s or tribe’s WQS, they become effective for all purposes under the Act. The EPA makes the full text of all WQS available on its web site, <http://water.epa.gov/scitech/swguidance/standards/>, to assist the public, states, tribes, dischargers, and other stakeholders. The EPA, states, and tribes use 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, WQS serve as the basis for the EPA, states, and 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 (POTWs) 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 the information collection activities in the WQS Regulatory Clarifications Rule are not carried out, specific improvements in the implementation of the WQS program will not take place. In some cases implementation and control steps such as TMDLs and NPDES permits may not be as protective as necessary under the CWA.

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

3.1 NON-DUPLICATION

The information collection requirements outlined in this ICR do not duplicate the information collection requirements outlined in other ICRs provided by the EPA. The burden and costs estimated in this ICR are in addition to those burdens and costs provided in the ICR entitled *Water Quality Standards Regulation (Renewal)* (EPA ICR Number 0988.11, OMB Control Number 2040-0049).

3.2 PUBLIC NOTICE REQUIRED PRIOR TO ICR SUBMISSION TO OMB

In compliance with the 1995 Paperwork Reduction Act, the EPA is soliciting comments on this ICR for a 60-day period concurrently with the comment period for the proposed WQS Regulatory Clarifications Rule. Before finalizing the rule, the EPA will submit the revised ICR to OMB.

3.3 CONSULTATIONS

In developing the WQS Regulatory Clarifications Rule, the EPA made a substantial effort to involve the public. The EPA had numerous ongoing discussions with state and tribal partners and other stakeholders between 2008 and 2010. Between March 2009 and September 2010, the EPA participated in more than ten discussions with states on antidegradation issues through Water Environment Federation's (WEF's) Water Quality Standards Communication Forum (with representation by ten states and the Ohio River Valley Water Sanitation Commission (ORSANCO)). The EPA also participated in two face-to-face meetings that focused heavily on antidegradation. Early feedback received during these meetings helped to inform the EPA's initial thinking on the potential regulatory clarifications.

Additionally, the EPA held a series of listening sessions in August 2010 for states, tribes, and the general public. The goal of these listening sessions was to provide an overview of the EPA's preliminary thinking on the potential regulatory clarifications, receive feedback, and respond to questions. Approximately 40 states, 81 tribes, and 665 members of the general public participated in these sessions. The EPA also hosted a face-to-face meeting in September 2010 under E.O. 13132 (Federalism consultation) with 13 intergovernmental participants representing state and local governments, to discuss the potential regulatory clarifications and respond to questions.

The EPA has continued to provide multiple updates for states through the Water Quality Standards Managers Association (on which 9 states are represented), as well as through the Association of Clean Water Administrator's (ACWA's) Monitoring, Standards, and Assessment Committee conference calls². In addition, the EPA has honored all requests for face-to-face discussions from stakeholder groups.

3.4 EFFECTS OF LESS FREQUENT COLLECTION

The information collection schedule is pursuant to the mandates of Section 303(c) of the CWA for states and tribes to review their WQS once every three years and thus is not adjustable by the EPA. Additionally, if WQS 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.

² Formerly known as the Association of State and Interstate Water Pollution Control Administrators' (ASIWPCA) Monitoring, Standards, and Assessment Task Force.

3.5 GENERAL GUIDELINES

The EPA reviewed this ICR for compliance with OMB’s information collection guidelines in 5 CFR 1320.5(d)(2) and concluded it is in compliance.

3.6 CONFIDENTIALITY AND SENSITIVE QUESTIONS

State and tribal submissions under this ICR will contain no confidential or sensitive information.

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.

The WQS regulation at 40 CFR Part 131 requires reporting at least once every three years from 95 jurisdictions – 56 States (and Territories)³, and the 39 Indian Tribes that have received the EPA’s authorization to administer the WQS program and have adopted EPA-approved WQS.⁴ The EPA may authorize additional tribes that apply for this authority. 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.

4.2 INFORMATION REQUESTED

4.2.1 RULEMAKING ACTIVITIES

The proposed revisions to the federal WQS regulation may result in the need for states and tribes to adopt new or revised provisions to state or tribal WQS, and submit such provisions to the EPA for review and approval or disapproval.

4.2.2 DESIGNATED USES

The EPA is proposing to revise the WQS regulation to require that where a state or tribe demonstrates through the use attainability analysis (UAA) process that a use specified in section

³ 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.

⁴ 48 Tribes have received EPA authorization to administer the water quality standards program under 40 CFR 131.8. The EPA maintains a current list of such Tribes at <http://water.epa.gov/scitech/swguidance/standards/wqslibrary/approvtable.cfm>. However, for this ICR, the EPA assumes that only 39 tribes will be adopting or revising standards every three years, since only 39 of the 48 authorized Tribes have adopted EPA-approved initial standards to date.

101(a)(2), or a sub-category of such a use, is not attainable, then the state or tribe shall adopt the highest attainable use (HAU).

The current WQS regulation requires states to conduct a UAA when designating uses that do not include the uses specified in section 101(a)(2) of the Act, when removing designated uses specified in section 101(a)(2) of the Act, or when adopting sub-categories of such uses that require less stringent criteria; however, the current regulation does not require states or tribes to designate the HAU. Consequently, the proposed WQS regulation revision may require some states to modify their use revision process to include identification and adoption of the HAU, thus increasing the information to be submitted to the EPA.

4.2.3 ANTIDegradation

The proposed WQS regulation will require states and tribes to develop or modify their antidegradation implementation methods to conform with the requirements to (1) evaluate a range of non-degrading and minimally degrading alternatives and (2) identify high quality waters on either a parameter-by-parameter basis or water body-by-water body basis, provided waters are not excluded from Tier 2 protection solely because not all of the uses specified in CWA section 101(a)(2) are attained if using the waterbody-by-waterbody approach.. This will result in increased incremental burden and costs to states and tribes when:

- Reviewing antidegradation requests that evaluate a range of non-degrading and minimally degrading alternatives that have the potential to prevent or minimize the degradation associated with the proposed activity; and
- Reviewing more Tier 2 antidegradation requests.

4.2.4 VARIANCES

The EPA is proposing to revise the WQS regulation to provide more specificity and clearer submission requirements on the development and use of variances. Most of the proposed revisions specify or clarify when and how variances should be used, and thus are unlikely to result in significant incremental administrative burden and costs to states. However, the proposed revisions also include new submission requirements that specify that information and documentation be submitted to the EPA for review and approval and a new maximum variance duration that results in an increase in the number of variances submissions, which may result in incremental burden and costs.

4.3 RESPONDENT ACTIVITIES

The EPA has identified the following activities to supply information for standards adoption and revision. Respondent burden estimates in section 6.1 were developed 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 WQS 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 UAAs.
- *UAA studies conducted to support a possible change in use designation:* The WQS regulation in section 131.10 requires a UAAs when a State or Tribe designates uses that do not include the uses specified in section 101(a)(2) of the CWA, removes a designated use specified in section 101(a)(2) of the Act, or adopts sub-categories of such uses that require less stringent criteria. Designated uses may only be removed if they are not existing uses. 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.⁵ The 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.
- *Prepare revised WQS package for submission:* Includes determining changes to be made to the existing standards, preparing and reviewing the revised standards

⁵Removing 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.

package, adopting the revised standards according to the State's/Tribe's internal administrative procedures and the EPA's public participation requirements, conducting a public hearing, and submitting the revised standards to the 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 WQS were duly adopted according to state law:* Any time a state or tribe adopts new or revised WQS, 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 WQS may result in enforceable requirements in NPDES permits or other controls. Before approving state or tribal WQS, the EPA must be assured of their legal validity.

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

5.1 AGENCY ACTIVITIES

States and tribes are required to review and, as appropriate, revise their WQS at least once every three years. The results of such review and revision must be submitted by states and tribes to the EPA. The EPA reviews the states' or tribes' WQS for consistency with the CWA and the WQS regulation at 40 CFR Part 131. If the WQS are inconsistent with the Act and the state or tribe does not revise their WQS accordingly, the EPA must promulgate replacement federal standards.

The EPA conducts a full range of activities to manage the WQS 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 the EPA's website, <http://water.epa.gov/scitech/> for more information.

For this ICR, EPA activities associated with WQS review include:

- Assembling relevant information to conduct the EPA review of submitted standards.
- Reviewing standards revisions for consistency with the CWA, with the WQS regulation, with downstream State's or Tribe's WQS, and with any standards for international waters.

- Preparing and sending a letter to the state or tribe conveying the EPA’s approval or disapproval decision(s).
- Making findings that federal WQS are necessary.
- Proposing and promulgating federal replacement standards where state’s or tribe’s 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.

5.2 COLLECTION METHODOLOGY AND MANAGEMENT

States and tribes submit their revised WQS to their EPA regional office. Regional offices have been delegated the responsibility to review the submissions for consistency with the WQS regulation, and approve or disapprove the standards. The WQS staff in the regional offices work closely with their respective states and tribes on WQS issues, including the review of both draft and final submissions of WQS. The 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://water.epa.gov/scitech/swguidance/standards/wqslibrary/index.cfm>. EPA-promulgated standards for States/Tribes are located at <http://water.epa.gov/scitech/swguidance/standards/wqsregs.cfm>.

5.3 SMALL ENTITY FLEXIBILITY

The 1995 Paperwork Reduction Act (PRA) incorporated the Regulatory Flexibility Act (RFA) into it. The RFA requires that the EPA prepare a regulatory flexibility analysis for any rule that has a “significant economic impact on a substantial number of small entities.” As part of the certification requirement, the Agency must show that the collection:

“reduces to the extent practicable the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)), the use of such techniques as:

*“(1) establishing differing compliance or reporting requirements or timetables
“(2) the clarification, consolidation, or simplification of compliance and reporting requirements; or*

“(3) an exemption from coverage of the collection of information, or any part thereof:”

The requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 must also be considered. Special consideration of small entities is required because such individuals generally cannot devote staff resources to follow regulatory developments and often are less likely to have their interests represented by lobbyists and

associations. In addition, smaller entities may be less able to bear the burden of an information collection because of their small staff and resources.

The Small Business Administration's size eligibility provisions and standards are codified at 13 CFR part 121. The RFA also provides some guidance for defining a small entity. Section 601 of the RFA defines a "small entity" to include "small business," "small organization," and "small governmental jurisdiction." These terms are defined as follows:

- A "Small Business" is defined as any business that is independently owned and operated and not dominant in its field as defined by the Small Business Administration (SBA) regulations under Section 3 of the Small Business Act.
- A "Small Organization" is defined as any not-for-profit enterprise that is independently owned and operated and not dominant in its field (e.g., private hospitals and educational institutions).
- A "Small Governmental Jurisdiction" is defined as governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000. The definition of a small governmental jurisdiction may also include Indian Tribes, in keeping with the President's Federal Indian Policy.

The EPA may also develop regulation-specific definitions of small entities when the above definitions are not appropriate. Appendix D of the EPA Guidelines for Implementing the Regulatory Flexibility Act (as revised April 1992) suggests that categories of affected entities be defined based on size and type (size is generally based on number of employees, annual revenues, assets, or population size). The quantitative cutoff point for defining small entities should be selected based on the following criteria (as provided in the EPA Guidelines):

- (a) The point at which the economic impact appears to rise or fall substantially (e.g., higher costs);
- (b) The point in the range of size segments that most closely approximates SBA's definitions;
- (c) The point at which the regulation effectively includes a large number of regulated entities without covering a large portion of the pollution problem;
- (d) The presence of significantly different requirements or impacts below specific size, population, production, geographic, or other factors.

If an Economic Analysis (EA) has been prepared in conjunction with the ICR, it should provide a definition of a small entity as affected under the rulemaking that can be used for the information collection. The EA might also provide an estimate of the information costs for small entities. Otherwise, the ICR should define a "small entity" as discussed above, and calculate the burden to such entities for the information collection.

The WQS program will have no direct impact on small businesses as the primary impact will be on State and Tribal government. There may be a secondary impact on permitted facilities, including businesses, federal government entities, and local government with POTWs. The Agency has instituted several efforts to minimize the impact on businesses as a whole, and on small businesses, specifically.

The EPA's Small Business Division (SBD) maintains a website and a telephone hotline that small businesses can access with their questions about complying with environmental requirements. Small businesses are assisted by programs in the States, so partnerships between EPA and the States are essential. The Agency, pursuant to CAA section 507, has developed an extensive network with State Compliance Advisory Panels, Small Business Ombudsmen and Small Business Assistance Providers. SBD hosts an annual conference which provides an opportunity for State small business assistance providers, Compliance Advisory Panel members, trade association representatives, the EPA and other federal agencies staff to learn and share information about helping the small business community. This event is key in helping States better coordinate their small business assistance delivery mechanisms. The EPA Small Business Ombudsman also periodically reports to Congress on the activities and progress of the State and territory Small Business Assistance Programs.

5.4 COLLECTION SCHEDULE

The CWA requires States and authorized Tribes to review their WQS at least once every three years and provide the results to the EPA. In practice, some States and Tribes choose to submit revised standards for portions of their waters more frequently.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6.1 ESTIMATING POTENTIAL INCREMENTAL BURDENS AND COSTS

The proposed rule addresses the following key program areas: (1) Administrator's determinations that new or revised WQS are necessary, (2) designated uses, (3) triennial reviews, (4) antidegradation, (5) variances to WQS, and (6) compliance schedule authorizing provisions. The EPA expects that two of these program areas, Administrator's Determinations and triennial reviews, will not generate incremental burdens and costs.

The EPA estimates the cost of labor from data on state government hourly wage rates (data are not available for tribes). The labor categories chosen as applicable to WQS regulatory revision efforts are Environmental Scientist, Department Manager, Environmental Engineer, and Economist. Table 6-1 shows the 2012 labor rates for these categories, inflated to March 2013 dollars using the Bureau of Labor Statistics (BLS) Employment Cost Index for professional and related state and local government workers ($116.0/115.0 = 1.01$), and accounting for benefits using the BLS Employer Cost for Employee Compensation for state and local professional government workers (32.7% of total compensation is attributable to benefits). An average wage rate is used because the EPA does not have information on the division of labor hours by professional category that states and tribes use to administer their WQS programs.

Table 6-1: Summary of State Government Average Hourly Wage Rates (2013 \$)			
Labor Category (OES Category)	Hourly Labor Rate	Hourly Benefits	Hourly Wage Rate
Environmental Scientist (19-2041)	\$28	\$14	\$42
Environmental Engineer (17-2081)	\$33	\$16	\$50
Economist (19-3011)	\$30	\$15	\$45
Manager (11-9121)	\$36	\$18	\$54
Average	--	--	\$48
OES = Occupational employment statistics Source: BLS (2012; 2013a; 2013b)			

The EPA estimates the incremental number of labor hours using historical information and data, and the historical knowledge and best professional judgment of EPA personnel with experience administering the WQS program. These estimates of labor burden, and the resulting costs, include:

Rulemaking Activities

- Incremental per entity effort ranging from 100 to 500 hours to come into compliance with the proposed rule.
- Incremental per entity costs ranging from \$4,800 (\$48 × 100 hours) to \$24,000 (\$48 × 500 hours), given the estimated average hourly wage rate of \$48 (see Table 6 -1).
- Total one-time (nonrecurring) incremental burden ranging from 9,500 hours (100 hours × 95) to 47,500 hours (500 hours × 95), based on a total of 95 governmental entities potentially affected by the proposed rule (50 states, 6 territories, and 39 tribes that have authority to administer WQS programs and have adopted EPA-approved WQS).
- Total one-time (nonrecurring) incremental costs ranging from \$456,000 (\$4,800 × 95 states and tribes) to \$2,280,000 (\$24,000 × 95 states and tribes).
- Assuming that the total one-time burden and costs are incurred over an initial 3-year period, annual burden in each of the first three years would range from approximately 3,170 hours (9,500 hours ÷ 3 years) to 15,830 hours (47,500 hours ÷ 3 years), and annual costs in each of the first three years would range from approximately \$152,000 (\$456,000 ÷ 3 years) to \$760,000 (\$2,280,000 ÷ 3 years).

Designated Uses

- Incremental effort ranging from 30 hours (100 hours × 30%) to 150 hours (500 hours × 30%) per UAA may be required to determine the HAU for states to come

into compliance with the proposed rule, based on the EPA's estimates that a single UAA conducted where the state does not identify the HAU requires approximately 100 to 500 labor hours to develop and that up to 30 percent additional effort may be needed to determine the HAU.

- Incremental costs associated with identifying the HAU can range from approximately \$1,400 to \$7,200 per UAA.
- Total annual incremental burden ranging from 240 hours (30 hours × 8 UAAs) to 1,200 hours (150 hours × 8 UAAs), based on a total of 8 states may not consistently identify the HAU when conducting UAAs and the EPA's estimate that states and tribes conduct an average of one UAA per year,
- Total annual incremental costs ranging from \$11,000 (\$1,400 × 8 UAAs) to \$58,000 (\$7,200 × 8 UAAs).

Antidegradation

The proposed antidegradation provisions may result in recurring burden and costs associated with reviewing antidegradation requests that evaluate a range of non-degrading and minimally degrading alternatives and reviewing additional antidegradation requests:

Review of Alternative Analyses in Antidegradation Requests

- Incremental effort ranging from approximately 30 hours (100 hours × 30%) to 45 hours (150 hours × 30%) for the review of each antidegradation request, based on EPA's estimates that the review of a single request to lower water quality in a Tier 2 water that does not include an alternatives analysis requires on average approximately 100 hours to 150 labor hours and that including an alternatives analysis may increase the effort to review the request by approximately 30 percent.
- Incremental per review costs ranging from \$1,400 (30 hours × \$48/hour) to \$2,200 (45 hours × \$48/hour).
- Potentially affected entities including 17 states, 4 territories, and 34 tribes that do not currently evaluate a range of non-degrading and minimally degrading alternatives for all Tier 2 antidegradation reviews. Because requests to lower water quality in Tier 2 waters are usually associated with NPDES permit applications, EPA uses information on the number of antidegradation reviews as a percent of the total number of NPDES permits for states and tribes where such information is available (i.e., Iowa and Missouri) to estimate the number of antidegradation reviews in all potentially affected states and tribes: 744 reviews per year.
- Total annual incremental burden to perform this activity could range between 22,320 hours and 33,480 hours and costs ranging from approximately \$1,041,600 to \$1,636,800, based on EPA's estimate that 744 antidegradation reviews per year

may require additional effort due to the need to begin reviewing alternative analyses and chosen pollution prevention alternatives.

- Note that these are average estimates, and do not reflect potential differences in water quality and the geographical distribution of dischargers relative to Tier 2 waters.

Review of Additional Antidegradation Requests

- Incremental effort to conduct a single Tier 2 review ranging from 130 hours (100 hours + (100 hours × 30%)) to 195 hours (150 hours + (150 hours × 30%)), given the calculation of labor hours for alternative analyses above.
- Incremental per request costs ranging from \$6,200 (130 hours × \$48/hour) to \$9,400 (195 hours × \$48/hour).
- Potentially affected entities including seven states and tribes that are currently using a water body-by-water body approach to identifying high quality waters and are excluding waters from Tier 2 protection solely because not all of the uses specified in CWA section 101(a)(2) are attained. The EPA assumes that, in order to comply with the proposed rule, these seven states and tribes will choose to continue using the water body-by-water body approach, but will revise their antidegradation implementation methods so that they are no longer excluding waters from Tier 2 protection solely because not all of the uses specified in CWA section 101(a)(2) are attained.
- A total of 575 additional antidegradation requests in the seven affected states and tribes. Using the previously estimated range of Tier 2 reviews as a percent of the total number of NPDES-permitted dischargers from Missouri and Iowa (a midpoint of 6 percent across the two states), the EPA estimates the number of potential additional Tier 2 requests requiring review by states and tribes that currently exclude waters from Tier 2 protection based on the impairment of one parameter. Using the EPA's ICIS-NPDES databases, the EPA determines the number of dischargers in each of the 12 states using the waterbody-by-waterbody approach for determining high quality waters. For the four states known to exclude Tier 2 protection based on impairment of one parameter, the EPA estimates the number of additional reviews by multiplying the number of dischargers in each state by 6 percent. For each of the three other states and tribes excluding Tier 2 protection based on impairment of one parameter, the EPA multiplies the average number of dischargers in the 12 states using the waterbody-by-waterbody approach (1,422) by 6 percent.
- Total annual incremental costs to perform this activity could range between \$3,565,000 to \$5,405,000 and total incremental burden ranges from 74,750 hours per year to 112,125 hours per year, based on the EPA's estimate that 575

additional antidegradation requests may need to be reviewed because states and tribes provide Tier 2 protection for waters with impairment of one parameter.

Variations

The proposed revisions to the WQS regulation may result in the following incremental burden and costs associated with an increase in submission requirements for variations and an increase in the number of renewal requests for states and tribes that currently issue variations lasting more than 10 years:

Submission Requirements

- Incremental effort to develop and document a single variance request ranging from 40 hours (125 hours × 30%) to 45 hours (150 hours × 30%), based on the EPA's estimates that the development and documentation of a single variance request currently requires an average of approximately 125 to 150 labor hours and that including the information and documentation described in the proposed rule would increase the labor hours required to fully develop and document variance requests by approximately 30%.
- Incremental per variance costs ranging from \$1,900 (40 hours per variance × \$48 per hour) to \$2,200 (45 hours per variance × \$48 per hour).
- Total incremental burden ranging from approximately 2,640 hours per year (40 hours per variance × 3 variations per year × 22 states and tribes) to 2,970 hours per year (45 hours per variance × 3 variations per year × 22 states and tribes), based on the EPA's estimate that states and tribes review on average approximately 3 variance requests from dischargers per year prior to submitting them to the EPA for approval or disapproval as a WQS and that approximately 22 states and tribes do not currently fulfill all of the submission requirements specified in the proposed rule.
- Total annual incremental costs ranging between \$125,400 per year (\$1,900 per variance × 3 variations per year × 22 states and tribes) to \$145,200 per year (\$2,200 per variance × 3 variations per year × 22 states and tribes).

Renewals

- Incremental effort to review a renewal application ranging from 165 hours (125 hours + (125 hours × 30%)) to 195 hours (150 hours + (150 hours × 30%)), assuming that the labor hours needed to review a renewal application are the same as the labor hours required to review a new variance application that satisfies the new submission requirements.
- Incremental per renewal costs ranging from approximately \$7,900 (165 × \$48 per hour) to \$9,400 (195 × \$48 per hour).
- Potentially affected entities including 4 states and tribes that at least occasionally issue variations with a duration longer than 10 years. Assuming that these 4 states

and tribes will begin granting variances with a duration of 10 years and estimating that these states and tribes will review on average approximately 3 variance renewal requests per year, the EPA estimates that the affected states and tribes will potentially need to review a total of 12 additional variance renewal applications per year (3 variance renewal requests per state per year × 4 states).

- Total annual incremental burden ranging from approximately 1,980 hours per year (165 hours per variance × 12 variance renewals) to 2,340 hours per year (195 hours per variance × 12 variance renewals).
- Total annual incremental costs ranging between approximately \$95,200 (165 hours per variance × 12 variance renewals × \$48/hour) per year to \$112,400 (195 hours per variance × 12 variance renewals × \$48/hour) per year.

6.1.1 SUMMARY OF NATIONAL INCREMENTAL BURDENS AND COSTS

Thus, summing the total incremental burden across all provisions, the total one-time (nonrecurring) burden associated with the proposed rule ranges from 9,500 hours to 47,500 hours and the total annual (recurring) burden ranges from 101,930 hours to 152,115 hours. Similarly, the total one-time incremental costs for all provisions are between \$0.46 million and \$2.28 million, while the total annual incremental costs range from \$4.84 million to \$7.36 million. Table 6-2 provides a summary of the estimated national costs to all states and tribes. Note that the proposed revisions regarding antidegradation policies result in a large proportion of the total costs of the proposed rule because the incremental burden and costs are based on the number of dischargers in each affected state and tribe. Table 6-4 provides a summary of the uncertainties associated with the estimates.

The incremental burden and costs are associated with a total of 32 one-time (nonrecurring) responses per year (95 affected entities ÷ 3 years) during the initial 3-year period for rulemaking activities. In addition, the number of annual responses is equal to 1,405 responses (8 UAAs + 744 reviews of alternative analyses in antidegradation requests + 575 additional antidegradation requests + 66 variance submissions + 12 variance renewals).

Table 6-2: Summary of National Incremental Administrative Burdens and Costs Associated with this Proposed Rule				
Provision	One-time Activities¹		Annual Activities	
	Burden (hours)	Cost (2013\$ million/year)	Burden (hours/year)	Cost (2013\$ million/year)
Rulemaking Activities	9,500 - 47,500	\$0.46 - \$0.28	--	--
Designated Uses	--	--	240 - 1,200	\$0.01 - \$0.06
Antidegradation	--	--	97,070 - 145,605	\$4.61 - \$7.04
Variances	--	--	4,620 - 5,310	\$0.22 - \$0.26
National Total	9,500 - 47,500	\$0.46 - \$2.28	101,930 - 152,115	\$4.84 - \$7.36
'--' = not applicable				
1. One-time incremental burden and costs for rulemaking activities are spread over an initial three-year period.				

The EPA’s proposal specifies that it is also considering and requesting comment on whether to require adoption of antidegradation implementation methods as WQS. If the EPA includes this requirement in the final rule, total one-time burden and costs to states and tribes could be 43,100 hours to 114,700 hours and \$2.07 million to \$5.51 million, respectively, and total annual burden and costs would remain the same at 101,930 hours to 152,115 hours and \$4.84 million to \$7.36 million, respectively, as shown in Table 6-3.

Table 6-3: Summary of National Incremental Administrative Burdens and Costs Associated with this Proposed Rule, including Requirement to Adopt Antidegradation Implementation Methods as WQS				
Provision	One-time Activities¹		Annual Activities	
	Burden (hours)	Cost (2013\$ million/year)	Burden (hours/year)	Cost (2013\$ million/year)
Rulemaking Activities	9,500 - 47,500	\$0.46 - \$2.28	--	--
Designated Uses	--	--	240 - 1,200	\$0.01 - \$0.06
Antidegradation	33,600 - 67,200	\$1.61 - \$3.23	97,070 - 145,605	\$4.61 - \$7.04
Variances	--	--	4,620 - 5,310	\$0.22 - \$0.26
National Total	43,100 - 114,700	\$2.07 - \$5.51	101,930 - 152,115	\$4.84 - \$7.36
'--' = not applicable				
1. One-time incremental burden and costs for rulemaking activities are spread over an initial three-year period.				

Table 6-4: Uncertainties in the Analysis

Key Assumptions/Uncertainties	Potential Impact on Estimated Burdens and Costs	Comment
Labor hours required to implement various provisions is based on best professional judgment.	?	Labor hours needed depends on a number of factors including state and tribe sizes, level of economic activity involving dischargers to water, existing regulatory framework, and may be higher or lower than the EPA's estimates. The estimates do not account for potential reductions in burden resulting from the increased clarity provided by the proposed rule.
Number of states and tribes affected by each provision is uncertain.	?	Actual number of states and tribes that will incur costs could be higher or lower than the EPA's estimates.
Labor costs based are state government wage rates.	?	The mix of labor categories (e.g., environmental scientist, engineer, etc.) may be different for individual states from the mix the EPA used to calculate a wage rate. Also, labor costs for authorized tribes and territories may differ from states.
No states or tribes set time limits for variances and none review variances during triennial review periods.	+	Costs would be overestimated for states and tribes that already set expiration or renewal dates or adopt variances as part of their WQS.
All states and tribes would undertake a rulemaking effort in response to the proposed rule.	+	States and tribes that already have policies and procedures consistent with the EPA's proposed rule would not incur costs.

Table 6-4: Uncertainties in the Analysis		
Key Assumptions/Uncertainties	Potential Impact on Estimated Burdens and Costs	Comment
The number of Tier 2 antidegradation requests per year is based on information from two states (Iowa and Missouri).	?	The actual number of Tier 2 antidegradation requests per state or tribe may be higher or lower than the EPA's estimates.
The number of states and tribes that would review additional antidegradation requests for high quality waters is based on the EPA's assumption of the number of states and tribes that currently exclude waters from Tier 2 protection based on the impairment of one parameter.	+	Additional states and tribes exclude waters from Tier 2 protection based on the impairment of a group of parameters. Since the proposed rule prohibits states and tribes from excluding Tier 2 protection based solely on the impairment of a single or group of parameters, this assumption is likely to result in an underestimation of costs.
States and tribes would renew three variances per year.	?	States and tribes may end up reviewing fewer variance requests because current variances may not qualify for renewal under the new requirements, or discharger progress toward interim goals may allow them to meet the standard.
States and tribes may be required to undertake activities related to the proposed rule that the EPA has not identified in this analysis.	-	To the extent that affected states and tribes may be required to undertake additional activities that the EPA has not identified in this analysis, the analysis may underestimate actual burdens and costs.
Activities may be included in the cost and burden estimates in this ICR which are not information collection activities subject to the Paperwork Reduction Act.	+	To the extent that activities which are not information collection activities subject to the Paperwork Reduction Act are included in the analysis, the analysis may overestimate actual burdens and costs.

Table 6-4: Uncertainties in the Analysis		
Key Assumptions/Uncertainties	Potential Impact on Estimated Burdens and Costs	Comment
Key: "+" = Burdens and costs potentially overestimated "-" = Burdens and costs potentially underestimated "?" = Impact on burdens and costs uncertain		

6.1.2 INCREMENTAL AGENCY BURDEN

In addition to the potential burden and costs to states and tribes, the proposed WQS regulation revisions may potentially be associated with incremental burden and costs to the EPA. These incremental burden and costs to the EPA are associated with the potential increase in workload to review the additional WQS program materials submitted by states and tribes as a result of the proposed WQS regulation revisions. On the basis of best professional judgment, the EPA conservatively estimates the incremental burden and costs to the EPA based on costs being up to 20% of the costs to states and tribes. Thus, the EPA estimates that one-time incremental costs to the Agency would range from \$91,000 ($\$456,000 \times 20\%$) to \$456,000 ($\$2,280,000 \times 20\%$), and estimated annual incremental costs to the EPA range from \$968,000 ($\$4,838,200 \times 20\%$) to \$1,471,000 ($\$7,357,400 \times 20\%$).

The EPA assumes that the EPA staff who conduct reviews of WQS program materials are General Schedule (GS) 13, Step 5 federal employees (including EPA regional staff). In 2013, the average hourly wage rate for all federal employees at this grade and step was \$47.22 per hour (U.S. Office of Personnel Management 2013)⁶. Assuming that benefits and overhead are equal to 60% of the hourly wage, the average loaded hourly wage rate for federal employees is equal to \$75.55 ($\$47.22 \text{ per hour} + (60\% \times \$47.22 \text{ per hour})$). Full-time equivalent (FTE) employees work 2,080 hours per year (40 hours per week \times 52 weeks).

Using the average loaded wage rate and the number of hours worked per FTE, the EPA estimated the number of burden hours and the EPA FTEs associated with the increased workload under the proposed WQS regulation revisions. Estimated one-time incremental burden to the EPA ranges from 1,200 hours ($\$91,000 \div \75.55 per hour) to 6,040 hours ($\$456,000 \div \75.55 per hour). These one-time incremental burden estimates correspond to 0.58 FTEs (1,200 burden hours \div 2,080 hours worked per FTE per year) to 2.90 FTEs (6,040 burden hours \div 2,080 hours worked per FTE per year). Estimated annual incremental burden to the EPA ranges from 12,810 hours per year ($\$968,000 \div \75.55 per hour) to 19,470 hours per year ($\$1,471,000 \div \75.55 per hour). These annual incremental burden estimates correspond to 6.16 FTEs per year (12,810 burden hours \div 2,080 hours worked per FTE per year) to 9.36 FTEs per year (19,470 burden hours \div 2,080 hours worked per FTE per year).

Table 6-5 summarizes the potential incremental annual burden and costs to the Agency associated with the proposed WQS regulation revisions.

⁶The employees reviewing and approving WQS materials submitted by states and tribes include EPA staff in the Washington, DC area and EPA regional staff. Hence, we calculate the average of all locality wage rates for federal employees at GS 13, Step 5 in 2013.

Table 6-5: Potential Incremental Burden and Costs to the Agency Associated with the Proposed Rule								
One-time Activities					Annual Activities			
Costs to States and Tribes (2013\$ million)	Costs to the Agency ¹ (2013\$ million)	Annualized Costs to the Agency (2013\$ million per year) ²	Burden		Costs to States and Tribes (2013\$ million per year)	Costs to the Agency ¹ (2013\$ million per year)	Burden	
			Hours ³	FTEs ⁴			Hours per year ³	FTEs per year ⁴
\$0.46 - \$2.28	\$0.09 - \$0.46	\$0.01 - \$0.03	1,200 - 6,040	0.58 - 2.9	\$4.84 - \$7.36	\$0.97 - \$1.47	12,810 - 19,470	6.16 - 9.36

1. Assuming that the incremental costs to the EPA are equal to 20% of the costs to states and tribes.
 2. Although the EPA expects these one-time costs to be incurred over an initial three year period, the costs are annualized at 3% discount rate over 20 years for comparative purposes.
 3. Total costs to the Agency divided by hourly wage rate (\$75.55 per hour).
 4. Burden hours to the Agency divided by hours worked by full-time equivalent (FTE) employees per year (2,080 hours per year).

6.2 POTENTIAL INCREMENTAL BENEFITS ASSOCIATED WITH THE PROPOSED RULE

The proposed rule is expected to improve the CWA’s effectiveness of restoring and maintaining the chemical, physical, and biological integrity of the nation’s waters. The EPA believes that states and tribes, other stakeholders, and the public will benefit from the clarification in these key areas to better understand and make proper use of available CWA tools and flexibilities, while maintaining open and transparent public participation. Clear regulatory requirements and improved implementation will provide a more transparent and well-defined pathway for maintaining and restoring the biological, chemical, and physical integrity of the nation’s waters. In addition to the benefits of each proposed revision, there are potential benefits of improving and maintaining and nation’s waters as a result of today’s rule. One market benefit is water supply and use, including drinking water treatment and household water use, agricultural water use, reservoir dredging, and industrial water use. Other market benefits consist of commercial fishing and public and private property ownership. Nonmarket benefits include human health improvements, recreational benefits, and nonuse benefits.

6.3 REASONS FOR CHANGE IN BURDEN

The EPA is proposing to amend the WQS regulation at 40 CFR Part 131. The proposed amendments will add new burden as outlined in this ICR.

6.4 BURDEN STATEMENT

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 186 hours per response. 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 Number EPA-HQ-OW-2010-0606, 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 at oir_submission@omb.eop.gov. Please include the EPA Docket ID Number EPA-HQ-OW-2010-0606 and OMB Control Number 2040-NEW in any correspondence.