

**Information Collection Request (ICR) for the Electronic Reporting of National Pollutant Discharge Elimination System (NPDES) Program Data (Final Rule)**  
**(EPA No. 2468.02, OMB No. 2020-0035)**

## **1. IDENTIFICATION OF THE INFORMATION COLLECTION**

### **1(a) Title of the Information Collection**

Title: Electronic Reporting of NPDES Program Data (Final Rule).  
EPA ICR No.: 2468.02  
OMB Control No.: 2020-0035

### **1(b) Short Characterization/ Abstract**

Pursuant to the Clean Water Act (CWA), 33 U.S.C. 1251 et. seq., the U.S. Environmental Protection Agency (EPA) is promulgating the National Pollutant Discharge Elimination System (NPDES) Electronic Reporting Rule. The NPDES Electronic Reporting Rule would replace select existing paper-based reports with electronic reporting. The rule would primarily affect regulated entities and state and federal regulators and will save them time and resources, while improving compliance and better protecting the nation's waters. The rule would also require EPA Regions, states, territories, and tribes (subsequently referred to as "authorized NPDES programs" in this document) to share with EPA the information either that is reported to the authorized program or that they generate with respect to those regulated entities.

The NPDES Electronic Reporting Rule will help to ensure that facility-specific information reported under the CWA's NPDES program is submitted to EPA on a nationally consistent, timely, accurate, and complete basis for national program management, oversight, and transparency. The majority of the data affected by the rule is NPDES information that is submitted by regulated entities to their respective authorized NPDES programs. This information would be supplemented by required information regarding NPDES implementation activities from authorized NPDES programs implementing the NPDES program. The effective date of the final rule is 21 December 2015.

Note that this Information Collection Request (ICR) covers the first three years after the final rule is promulgated; however, according to EPA's schedule, the rule would not be fully implemented until five years after the effective date of the rule. As a result, some activities required by the rule are not reflected in the costs and burden of this ICR. In addition, the full extent of expected savings is not reflected as these savings do not fully materialize until the rule is fully implemented five years from the effective date.

The rule phases in the electronic collection of NPDES program data on the following schedule (see also 40 CFR 127.16):

- Phase 1: Authorized NPDES programs must electronically transmit to EPA basic facility and permit information (see list of data elements in "ICIS Addendum to the Appendix of the 1985 Permit Compliance System Policy Statement," 28 December 2007, DCN 0007, also known as Water Enforcement National Database or "WENDB") for all permits as well as other data necessary for implementation of Phase 1 data collection starting 21 September 2016 (nine months after the effective date of the final rule). Starting on 21 December 2016 (one year after the effective date of the final rule), authorized NPDES programs must start electronically transmitting to EPA their state performance data (subject to applicable waivers), which includes information generated from compliance monitoring (e.g., inspections), violation determinations,

and enforcement actions. Additionally, starting on 21 December 2016, NPDES regulated entities that are required to submit DMRs (including majors and nonmajors, individually permitted facilities and facilities covered by general permits) must do so electronically. EPA and authorized NPDES programs will begin electronically receiving these DMRs from all DMR filers and start sharing these data with each other. Starting on 21 December 2016, all NPDES regulated entities in states where EPA is the authorized NPDES biosolids program (currently 42 of 50 states and all other tribal lands and territories) must electronically submit their Sewage Sludge/Biosolids Annual Program Report to EPA.

- Phase 2: Authorized NPDES programs have until 21 December 2020 to begin electronically collecting, managing, and sharing the Phase 2 NPDES program data. This information includes: general permit reports [e.g. Notice of Intent to be covered (NOI); Notice of Termination (NOT); No Exposure Certification (NOE); Low Erosivity Waiver and Other Waivers from Stormwater Controls (LEW)]; Sewage Sludge/Biosolids Annual Program Report (where the state is the authorized NPDES biosolids program); and all other remaining NPDES program reports (e.g., CAFO Annual Report, Pretreatment Program Annual Report). Authorized NPDES programs will also share with EPA all data necessary for implementation of Phase 2 data collection by 21 September 2020 as defined in the data element analysis for the final rule (see DCN 0200). Additionally, no later than 21 December 2016, authorized NPDES programs will submit an implementation plan (IP) for meeting the Phase 2 data requirements for EPA to review. EPA will review and provide comments on the IP to the authorized NPDES program.
- NPDES Noncompliance Report (NNCR) and Other State Reporting: EPA will replace a number of currently required state reports (e.g., QNCR and ANCR) with the new NNCR when EPA has a timely, complete, more accurate, and nationally-consistent set of data about the NPDES program. Full implementation of the NNCR and phase out of certain state reports will only be possible one full year after full implementation of Phase 2 data collection (i.e., six years after the effective date of this rule). A complete set of Phase 1 and 2 data are necessary to develop and produce the NNCR. EPA will phase in the new NNCR no later than 21 December 2021.

Thus, electronic reporting under the rule begins nine months after the effective date for authorized NPDES programs (transmittal of basic facility and permit information to EPA) (21 December 2016) and one year after the effective date for regulated entities (21 December 2016). Therefore, this ICR does not include a full three years of electronic reporting. It does, however, include the cost and burden of certain one-time implementation activities that should occur in advance of electronic reporting during the first year after the effective date (e.g., upgrades to electronic reporting systems, state implementation plan preparation, and regulated entity registration).

State authorized NPDES programs are expected to have electronic reporting systems no later than 21 December 2016. As a means to “fill in the gaps” where NPDES-regulated entities are not yet using these systems, EPA will conduct oversight activities to require NPDES-regulated entities to report electronically to their authorized program. As a result, during the first five years after the rule effective date, some entities might be required to submit data both electronically and on paper (paper and electronic submissions of the same data). The conditions under which this “dual reporting” could occur are limited and likely to occur only for a small number of regulated entities. As shown in Table 3 in the preamble to the final rule, authorized NPDES programs have several mechanisms to minimize the potential for dual reporting (e.g., use of minor modifications). Still, this ICR accounts for this potential for dual reporting for a percentage of facilities during the ICR period.

This rule-related ICR addresses the incremental paperwork activities for authorized NPDES programs submitting NPDES programmatic data to EPA. This ICR also addresses the incremental paperwork

activities associated with electronic submittal of DMRs, general permit reports, and program reports by regulated entities to authorized NPDES programs or EPA. EPA estimates that approximately 213,396 respondents would incur paperwork-related burden and reporting burden reductions annually following promulgation of the rule. This number is a three-year average covering both regulated entities and state authorized NPDES programs. In the first year, 266,653 regulated entities would incur registration and training burden and some must acquire a new email address. In the second year, 179,872 regulated entities would be affected. Some of these would report both on paper and electronically and others would incur savings associated with paper mailings. In the third year, 193,521 regulated entities would be affected. Fewer would report both on paper and electronically and a greater number incur savings associated with paper mailings. In both the second and third years, some regulated entities would bear an additional burden to reset their password. Additionally, 47 authorized NPDES programs would incur burden and cost in all three years of this ICR.

The respondents to this ICR are regulated entities, which include publicly-owned treatment works (POTWs), concentrated animal feeding operations (CAFOs), and stormwater dischargers; as well as states that are authorized to administer the NPDES program. EPA estimates a reporting and recordkeeping burden reduction for these respondents at approximately 197,236 hours annually for the first three years after the rule becomes effective. The average annual burden for regulated entities for the first three years is 118,577 hours per year, and the average annual burden reduction for state authorized NPDES programs for the first three years is 315,814 hours per year.

The burden (and burden reduction) shown in this ICR is measured against EPA's existing NPDES ICRs (see Section 3(a)). The sum of the existing active NPDES ICRs, plus the incremental burden in this ICR, should accurately reflect total reporting burden associated with the NPDES program, while accounting for the change in the mode of reporting. Furthermore, most of the burden increase, both to regulated entities and authorized NPDES programs, is for one-time activities associated with the transition to electronic reporting (e.g., registration, implementing electronic reporting systems, and initial data entry). A much more limited set of activities, representing only a portion of the burden increase estimated in this ICR, will continue beyond the three year period covered by this ICR. The ongoing activities for regulated entities are limited to password resets. The ongoing activities for authorized NPDES programs are management of data transfer, training, and technical and ongoing data entry associated with submitting programmatic data to EPA. All of the burden reduction is ongoing and continues beyond the three year period covered by this ICR. It more than offsets the ongoing burden increase. EPA plans to incorporate the ongoing effects of electronic reporting into the existing ICRs when those ICRs are due for renewal. This includes the increase in burden associated with EPA's to "fill in the gaps" approach to NPDES regulated entities that are not availing themselves of electronic reporting. Overall, these NPDES ICRs will reflect the overall lower burden associated with the switch from paper to electronic reporting when they are renewed.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

#### **2(a)(i) Need for the Collection**

On October 15, 2009, EPA Administrator Lisa Jackson announced an action plan to revitalize the Clean Water Act NPDES program, with an emphasis on compliance and enforcement ("U.S. EPA Administrator Jackson Takes New Steps to Improve Water Quality," DCN 0009). The CWA Action Plan recognizes that EPA lacks nationally consistent and complete information on the facilities, permits, pollutant discharges, and compliance status of most NPDES-regulated entities. This information gap affects EPA's and authorized NPDES programs' ability to identify violations, target compliance and enforcement actions,

connect violations to water quality impacts, and share information with the public. The rule would make nationally consistent, timely, accurate, and complete data available to EPA, the authorized NPDES programs, and the public.

The CWA Action Plan identifies electronic reporting as a key component of the new system because it would greatly reduce the reporting related burdens on authorized NPDES programs, EPA, and regulated entities. This information collection activity identifies the NPDES facility-specific information EPA and authorized programs need to receive electronically from NPDES-permitted facilities, and the information EPA needs to receive from authorized NPDES programs to facilitate the conversion from paper reporting to electronic reporting. This information would be submitted to EPA in a nationally-consistent manner. By applying existing technologies to electronic reporting the rule would substantially reduce the costs of NPDES reporting.

Congress and the public expect environmental program managers at every level of government – local, state, tribal, territorial, and federal – to design and implement programs that deliver environmental results. To target the most important pollution problems and most serious noncompliance, better ensure environmental protection and public health, and enable more integrated program assessment and planning at the national level, data used by EPA and authorized NPDES programs should have the following characteristics:

- The data should be current;
- The data should generally be comparable in format, reporting units, frequency, etc;
- The data should be complete; and
- The data should be made available so that the basis for EPA program evaluation and subsequent planning is transparent and reproducible.

The rule would provide definitions for the shared data, ensure the accessibility of that information, and provide the basis for ensuring that the data are nationally consistent, complete, accurate, and timely.

In a previous effort to address state concerns over escalating reporting requirements, EPA and the Environmental Council of the States (ECOS) launched the Burden Reduction Initiative in October 2006. That initiative aimed to identify and reduce what some states consider to be high-burden reporting requirements for various media (e.g., air, water, waste). Among the recommendations from states was reducing the compliance reporting requirements associated with the NPDES program. This ICR would address state reporting burdens by eliminating report processing and transcription activities through the electronic transfer of permit information, as opposed to paper transmission.

## **2(a)(ii) Authority for the Collection**

The Clean Water Act (CWA)<sup>1</sup> establishes a comprehensive program for protecting and restoring our nation's waters. The National Pollutant Discharge Elimination System (NPDES) permit program was established by the CWA to authorize and control the discharges of pollutants to waters of the United States (CWA Section 402(a)). This information collection activity flows from the NPDES Electronic Reporting Rule (22 October 2015; 80 FR 64064), which is intended to reduce the burden associated with the existing paper-based reporting system. Echoing the goals of CWA section 101(f), the rule would increase the speed, quality and scope of information received by EPA, authorized NPDES programs, and the public.

EPA is taking this action pursuant to CWA sections 101(f), 304(i), 308, 402, and 501:

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<sup>1</sup> The 1948 Federal Water Pollution Control Act (FWPCA) and subsequent amendments are now commonly referred to as the Clean Water Act (CWA).

- Section 101(f) encourages, to the extent possible, the minimization of paperwork and interagency decision procedures and the best use of available manpower and funds, so as to prevent needless duplication and unnecessary delays at all levels of government.
- Section 304(i) authorizes EPA to establish minimum procedural and other elements of State programs under section 402, including reporting requirements and procedures to make information available to the public.
- Section 308 authorizes EPA to require the submittal of information needed to carry out the objectives of the Act, including sections 301, 305, 306, 307, 311, 402, 404, 405, and 504.
- Sections 402(b) and (c) establish the NPDES permit program for the control of the discharge of pollutants into the nation's waters, and require each authorized state, tribe, or territory to ensure that permits meet certain substantive requirements, and to provide EPA information from point sources, industrial users, and the authorized program in order to ensure proper oversight by EPA.
- Section 501 authorizes EPA to prescribe such regulations as are necessary to carry out provisions of the act.

## **2(b) Practical Utility/Users of the Data**

This information collection activity would deliver more timely, consistent, and accurate information to authorized NPDES programs, EPA, and other stakeholders, which in turn would improve understanding and awareness of NPDES covered discharges. The newly improved and shared information would increase transparency and accountability, and help EPA and authorized NPDES programs monitor compliance with NPDES permits.

EPA has primary responsibility for ensuring the CWA's NPDES program is effectively and consistently implemented nationwide, thus ensuring that public health and environmental protection goals of the CWA are met. Better NPDES data will significantly improve EPA's knowledge of the regulated community, which is essential for problem identification, permitting, and the development of sound regulations, guidance, and policy. The accurate, complete, and timely information collected under this rule will accurately reflect the performance of state NPDES programs in achieving the goals and objectives of the CWA.

Adequate data is critical to EPA's ability to oversee and manage authorized NPDES programs. Previously, data gaps and inconsistencies have limited EPA's ability to conduct adequate oversight. By requiring electronic reporting by NPDES regulated entities and of the additional compliance information generated by the authorized NPDES programs, EPA would receive the data needed for overall management and oversight.

In the development of the NPDES Electronic Reporting Rule, EPA identified several key EPA uses for the NPDES information. These include:

- Permitting, compliance, and enforcement decisions affecting individual facilities or watersheds;
- Making national program decisions and rulemakings;
- Managing and overseeing national and state, tribal, or territorial program management and oversight;
- Leveling the playing field between dischargers and authorized NPDES programs regarding availability of compliance information;
- Establishing program performance indicators;
- Developing trend data on facility compliance and government performance;
- Preparing responses to Congress, the Government Accountability Office, EPA's Inspector General, and OMB; and
- Preparing for and responding to emergencies.

EPA shares much of the existing NPDES information (except for confidential enforcement and confidential business information) with the public. This information collection activity would allow EPA to better inform the public regarding local and national problems and efforts to address those problems.

EPA received many comments from the animal agricultural sector in response to the proposed rulemaking (30 July 2013; 78 FR 46006). Although this rule only changes the mode of transmission of NPDES information from paper-based reports to electronic reporting and does not address EPA's practices for managing and sharing that information, EPA received comments regarding privacy, security, management of confidential business information, and EPA's current practice of posting inspection information on unpermitted Concentrated Animal Feeding Operations (CAFOs) and unpermitted Animal Feeding Operations (AFOs) on its public website [Enforcement and Compliance History Online (ECHO) –echo.epa.gov]. EPA solicited comments in the supplemental notice to the proposed rule on whether it should change its current practice and begin masking facility information for unpermitted CAFOs and AFOs that EPA or state inspectors found were not discharging and do not require an NPDES permit (1 December 2014; 79 FR 71066).

Comments from the animal agricultural sector were in favor of this proposed approach while other commenters (e.g., environmental advocacy groups) were not. Some authorized NPDES programs also support this as a reasonable approach in balancing the competing interests of privacy and public access to these data. Separate from this rulemaking, in light of concerns raised regarding the privacy interests of an unpermitted CAFO or AFO that an authorized NPDES program or EPA has assessed and found to have not violated the Clean Water Act, EPA changed how it displays information from these facilities on the ECHO public website. EPA implemented this change on 21 December 2015 (see DCN 0207).

Additionally, with the implementation of this information collection activity, regulated entities would be able to ensure that the information used by their authorized NPDES program and EPA is as accurate and timely as possible. Through electronic reporting, regulated entities can be more confident that EPA and authorized NPDES programs receive their reports and acknowledge them in a timely manner, and that reported information and compliance status are characterized correctly. Because the electronic reporting tools would include the ability to check for certain types of errors, regulated entities would also experience savings related to improved data quality and less need to revise and reenter their submissions. However, savings associated with improved data quality were not quantified in this analysis.

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

#### **3(a) Non-Duplication**

All of the information requested from respondents under this ICR is already required to be collected by statute or regulation and covered by existing information collection requests, which include the following:

- National Pollutant Discharge Elimination System (NPDES) Program (OMB Control No. 2040-0004);
- NPDES Animal Sectors (OMB Control No. 2040-0250);
- NPDES Pesticides General Permit (2040-0284);
- Effluent Guidelines and Standards for the Airport Deicing Category (2040-0285);
- Cooling Water Intake Structures - New Facility (2040-0241);
- National Pretreatment Program (2040-0009);
- Cooling Water Intake Structures at Phase III Facilities (2040-0268); and

- Cooling Water Intake Structures at Existing Facilities (2040-0257).

This ICR documents a change in the mode by which this information is reported to authorized NPDES programs, and requires authorized NPDES programs to share with EPA the data they collect and generate. Accordingly, the burden (and burden reduction) shown in this ICR is measured against the existing ICRs listed above. The sum of the existing active NPDES ICRs, plus the incremental burden in this ICR, should accurately reflect total reporting burden associated with the NPDES program, while accounting for the change in the mode of reporting.

As a means to “fill in the gaps” where NPDES-regulated entities are not yet reporting electronically, EPA will use its authority, as appropriate, to issue targeted individual notices requiring NPDES-regulated entities to report electronically. As a result, during the initial implementation period (within five years after the effective date of the rule), some regulated entities might be required to submit data both electronically and on paper. The conditions under which this “dual reporting” could occur are the following:

- The regulated entity’s authorized NPDES program does not have an electronic reporting system in place;
- The regulated entity’s permit (or other control mechanism) explicitly requires paper reporting;
- The conditions that require paper reporting are not changed outside of the normal permit cycle (e.g., through the minor modification process); and
- The authorized NPDES program does not use its enforcement discretion to refrain from enforcing the conditions that explicitly require paper reporting.

These conditions are likely to occur only for a small number of regulated entities and would last only until the permitting authority takes action (e.g., incorporation of electronic reporting requirements through use of a minor modification, permit is re-issued with electronic reporting requirements on the normal permit cycle).

Electronic reporting will allow EPA and state authorized NPDES programs to assemble timely, complete, more accurate, and nationally-consistent set of data about the NPDES program. EPA and the states can begin using the data to improve program management.

### **3(b) Public Notice Required Prior to ICR Submission to OMB**

Prior to submission to OMB, this ICR was made available to the public for comment concurrent with the proposed rule published in the *Federal Register* on 30 July 2013 (78 FR 46006). The initial public comment period on the proposed rule was 135 days. On 1 December 2014, EPA published a Supplemental Notice to the proposed rule and opened an additional 60 day public comment period (79 FR 71066). EPA received 170 public comments on the proposed rule and an addition 58 public comments on the supplemental notice. EPA has responded to these comments in the comment response document supporting this rulemaking (see DCN 0218 in Docket No. EPA-HQ-OECA-2009-0274, <http://www.regulations.gov>).

Although few of the comments addressed the ICR directly (see comment code 24 in DCN 0218), there were a larger number of comments on EPA’s economic analysis (see comment code 18 in DCN 0218) that have bearing on the estimates of burden and cost savings included in this ICR. EPA considered all of these comments in developing the final rulemaking and completing this ICR. In response to these comments and others, EPA made the following substantive changes that affect the estimates included in this ICR:

- Extension of the implementation schedule for the rule: the final rule provides an additional three years for Phase 2 data collection. Under the final rule, full implementation does not occur until five years after the effective date versus two years under the proposed rule. This change means that some of the cost savings associated with the rule occur outside the ICR period and, therefore, are not included in the estimates covered by the ICR.
- Reduction in the potential for dual electronic/paper reporting during transition: the proposed rule required regulated entities in states with authorized NPDES program but no electronic reporting system to report electronically to EPA during the rule implementation period, in addition to their current paper reporting to the state. The final rule requires electronic reporting to states, rather than EPA, and reduces the circumstances under which dual reporting is likely to occur. This change to the dual reporting scenario reduces the burden on regulated entities.
- Increased flexibility for authorized NPDES programs to grant waivers from electronic reporting: to reflect this increased flexibility, EPA incorporated an ongoing percentage of facilities receiving temporary or permanent waivers into the estimates of burden and cost savings.
- Inclusion of ongoing maintenance and support activities by states: based on comments received from state regulatory agencies on the proposed rule, the ICR includes the burden for authorized NPDES programs to manage data transfer to EPA and provide ongoing training and support to regulated entities. EPA based its estimate of the burden associated with these activities directly on information provided by commenters. This change results in an increase in the estimated ongoing burden for states.
- Revisions to the estimated burden associated with reporting tool implementation: EPA increased its estimates of the burden associated with expanding existing state databases to store all Appendix A data and the cost for authorized NPDES program to modify exchange templates to allow data to flow between the state system and ICIS-NPDES. These changes were in response to comments and based on the most recent estimates from EPA's Office of Enforcement and Compliance Assurance, Data Systems and Information Management Branch, In particular, even though EPA reduced the number of required Appendix A data elements, EPA significantly increased its estimate of the burden associated with expanding state databases.
- Revisions to the estimated burden associated with CROMERR certification: EPA increased its estimate of the cost for authorized NPDES programs to become CROMERR certified based directly on information provided by a commenter.
- Revisions to the estimated burden associated with training webinars: Based directly on information provided by a commenter, EPA revised the number of authorized NPDES program staff attending these webinars and incorporated time for EPA staff to participate in and answer questions during the webinars. This change results in an increase in the estimated burden to states.
- Inclusion of password reset burden: regulated entities that use EPA (but not state) electronic tools and report less frequently than every 90 days would bear a recurring burden to reset their passwords. EPA added this burden in response to comments.



### **3(c) Consultations**

EPA has conducted a number of consultations with relevant stakeholders on the NPDES Electronic Reporting Rule. These consultations included:

On October 14, 2008, EPA hosted a listening session with states and interested stakeholders in Washington, D.C. This session was announced in the Federal Register by a notice on September 17, 2008. In this meeting, which was complemented by a concurrent conference call and web access to EPA's presentation materials, EPA provided authorized NPDES programs and other stakeholders an opportunity to hear EPA's rulemaking plans and comment on those plans. More than 30 people participated in the meeting, including representatives of several states.

On March 9, 2009, EPA conducted a meeting in Washington, D.C. with representatives from four states. A similar meeting was conducted by EPA in San Francisco on March 13, 2009 with an additional four states. The goal of these meetings was to seek individual state comment on a variety of options under consideration in the rulemaking to effectively reduce potential data entry burden. EPA then conducted two conference calls (on March 18, 2009 and April 8, 2009) with seven additional states to seek comment on those same options under consideration. This series of outreach events provided valuable input from a total of fifteen states from nine EPA Regions regarding the feasibility of the implementation options under consideration for this rule.

Beginning in the summer of 2010, EPA conducted several outreach efforts focused primarily on electronic reporting. First, on July 13, 2010, EPA conducted a meeting in Washington, D.C. with over 100 attendees to announce the electronic reporting approach of the proposed rule. Representatives from state, local and tribal governments, and industry and environmental associations participated in person and by web access. EPA provided attendees the opportunity to learn about EPA's rulemaking plans for the proposed NPDES Electronic Reporting Rule and to comment on those plans.

Subsequently, EPA hosted a series of 11 web sessions from July 2010 through September 2010. The goal of these meetings was to provide further opportunity for comment on the merits of the proposed rule. Altogether, this effort included over 500 participants with representation from 38 states, 10 EPA Regions, and over 150 industry and trade association attendees.

During this rule development, EPA also conducted meetings and consultations to comply with various statutes and executive orders directing federal agencies, including EPA, to consult with organizations representing elected officials of states, counties, and municipalities, and consult, as required, with tribes and small businesses and small governmental jurisdictions.

The first of these meetings was held on September 15, 2010, and was attended by 11 state and local government organizations. The focus of this meeting was to comply with Executive Order 13132 ("Federalism"), which directs Federal agencies to consult with elected state and local government officials, or their representative national organizations, when developing regulations or policies that might impose substantial compliance or implementation costs on state and local governments. Through these meetings EPA received substantive feedback on the feasibility of the implementation options under consideration for this rulemaking.

Additionally, EPA met with tribal entities to describe the rulemaking effort and to provide an opportunity for discussion in two separate meetings on November 9, 2010 with the National Tribal Caucus, and on November 10, 2010, with the National Tribal Water Council. The National Tribal Caucus meeting was attended by 19 tribal representatives, elected on a regional basis, who correspond with tribes in each of EPA's 10 regions. The Tribal Water Council consists of 19 tribal water professionals who represent a

national tribal perspective. In addition, after mailing information to 563 nationally-recognized tribal entities, EPA conducted follow-up conference calls on December 14 and December 16, 2010.

The focus of these meetings was to provide an additional opportunity for consultation in the spirit of Executive Order 13175, which states that EPA may not issue a regulation that has tribal implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with tribal officials early in the process of developing the proposed regulation and develops a tribal summary impact statement. These calls did not raise any key issues from the participants, and, in particular, the likely availability of electronic reporting was not an issue for the participants.

Along with these meetings and the series of web sessions, EPA also implemented a website for the NPDES Electronic Reporting Rule. The NPDES Electronic Reporting Rule website is a government flagship project that falls under the theme of “Expanding Public Awareness and Involvement in the Development of Rules and Regulations.” The purpose of the website was to provide background information on the rule, the status of rule development, announcements of upcoming stakeholder meetings, and a discussion forum with questions and topics. To date, over half a million visitors have accessed the website.

EPA also solicited input from states to explore the implementation issues related to this rule. EPA’s outreach to states focused on identifying issues and roadblocks to implementing various aspects of the proposed rule, and shared information concerning how these issues could be best addressed. EPA worked with Association of Clean Water Administrators (ACWA) and ECOS to identify 11 states who were interested in meeting with EPA to help EPA understand the concerns of individual states. These states supported the concept of electronic reporting, but also raised concerns related to implementation requirements, funding, and available resources. The states also noted the varying degrees of state readiness for electronic reporting. Some states requested that EPA explicitly identify the required data and the need for each item. EPA has addressed these concerns through the phased implementation plan and the identification of required data in Appendix A to 40 CFR 127.

Following the rule’s proposal on July 30, 2013, the Agency has conducted dozens of additional consultations via webinars, small and large meetings, forums, and conferences with state and local governments, regions, trade associations, and environmental groups on various aspects of the rule.

In particular, EPA held teleconferences with authorized NPDES programs to obtain their individual views on various aspects of the proposed rule. EPA met with over twenty five states, ECOS, ACWA, and New England Interstate Water Pollution Control Commission to take into account their individual comments and concerns about the rule (see DCN 0128 to 0142, 0181, 0219 to 0229 in Docket No. EPA-HQ-OECA-2009-0274, <http://www.regulations.gov>). Additionally, EPA separately contacted each authorized NPDES program to individually assess its readiness for these new electronic reporting requirements. This extensive outreach helped inform the implementation process of the final rule and the additional flexibilities that authorized states, tribes, and territories need for a measured and orderly conversion from paper to electronic reporting

### **3(d) Effects of Less Frequent Collection**

EPA recognizes the importance of balancing the need for data collection efforts against burden and costs to the respondents. EPA expects that the NPDES Electronic Reporting Rule will ultimately result in savings for regulated entities, states, and EPA through the elimination of requirements associated with mailing and processing paper reports.

EPA and authorized states need current information about regulated entities, discharge characteristics, enforcement actions, and program performance to fulfill oversight responsibilities. In addition, EPA must track permits, compliance activities, and enforcement actions to ensure that state programs are carrying out the provisions of the CWA in a timely manner. The information currently being reported, and subject to the rule, is submitted on a variety of schedules. Some information is only submitted once (e.g., applying for a permit), some information is submitted regularly (e.g., monthly discharge monitoring reports), while some information is submitted as needed (e.g., enforcement actions). The reporting frequencies associated with the NPDES program, as laid out in existing ICRs, represent the minimum reporting frequency necessary to support the programmatic requirements of the NPDES program. Therefore, less frequent reporting would make it more difficult for EPA to perform its oversight role, effectively provide guidance to state programs, review or comment on state actions, or intervene in compliance or enforcement cases, as necessary.

This ICR does not alter the reporting frequencies associated with the NPDES program, but rather changes the mode of submission from paper to electronic. The effects of less frequent collection of NPDES data are discussed in the program's current ICRs, including:

- National Pollutant Discharge Elimination System (NPDES) Program (OMB Control No. 2040-0004);
- NPDES Animal Sectors (OMB Control No. 2040-0250);
- NPDES Pesticides General Permit (2040-0284);
- Effluent Guidelines and Standards for the Airport Deicing Category (2040-0285);
- Cooling Water Intake Structures - New Facility (2040-0241);
- National Pretreatment Program (2040-0009);
- Cooling Water Intake Structures at Phase III Facilities (2040-0268); and
- Cooling Water Intake Structures at Existing Facilities (2040-0257).

### **3(e) General Guidelines**

This information collection is consistent with the requirements of the Paperwork Reduction Act (PRA), Office of Management and Budget (OMB) implementing regulations (5 CFR 1320.6), and OMB Guidance.

### **3(f) Confidentiality**

Some animal feeding operators may claim their CAFO Annual Report to be confidential business information (CBI). All confidential data would be handled in accordance with 40 CFR 122.7, 40 CFR Part 2, and EPA's *Security Manual* Part III, Chapter 9, dated August 9, 1976. Any claim of confidentiality must be asserted at the time of submission. The CWA and EPA regulations specifically state, however, that permit application and effluent data may not be treated as confidential.

### **3(g) Sensitive Questions**

The requirements addressed in this ICR do not include sensitive questions. Sensitive questions are defined in EPA's ICR Handbook, *Guide to Writing Information Collection Requests Under the Paperwork Reduction Act of 1995* as "questions concerning sexual behavior or attitudes, religious beliefs, or other matters usually considered private." The information addressed in this ICR is generally related to potential pollutants and the processes that generate those pollutants. The only information collected about individuals is the name and contact information for responsible individuals, which is already collected under existing permitting regulations. 40 C.F.R. 122.21(f).

EPA also notes that commenters on the proposed rule suggested that EPA should make permanent waivers for NPDES-regulated entities owned or operated by members of religious communities (e.g., Amish, Mennonite, and Hutterite). EPA agreed in the final rule that it would be appropriate to accommodate the religious practices of individuals that choose not to use certain technologies (e.g., computers, electricity) in accordance with their religion. In the final rule, authorized NPDES programs may issue permanent waivers to facilities owned or operated by members of religious communities that choose not to use certain technologies. Authorized NPDES programs will document their procedures for issuing permanent waivers as part of their implementation of the NPDES Electronic Reporting Rule waiver provision. EPA notes that a NPDES regulated entity will need to re-apply for a permanent waiver upon any change in facility ownership and that these waivers are not transferrable.

## **4. THE RESPONDENTS AND THE INFORMATION REQUESTED**

### **4(a) Respondents/ North American Industry Classification System (NAICS) Codes**

The reporting requirements associated with this information collection activity would apply to EPA and state authorized NPDES programs as well as to regulated entities.

EPA issues NPDES permits except where a state demonstrates that it has adequate legal, technical, and financial capabilities in place to administer the NPDES program. To date, 46 states and one U.S. territory are authorized by EPA to administer the NPDES program, or parts of it. EPA is the authorized NPDES program for the entire program in the other 4 states, for all of the tribes and 15 territories. EPA is also the authorized NPDES program for any subprogram for which authorized states have declined to assume responsibility, and for certain national subprograms such as vessels. The authorized states and territories are considered respondents for evaluating paperwork burden in this ICR.

NPDES regulated entities, whether permitted by EPA or a state, are also respondents in this ICR. A significant portion of NPDES regulated entities are publicly-owned (i.e., municipal) treatment works (POTWs) classified in the NAICS system as Sewage Treatment Facilities (NAICS sector 221320). In contrast, non-municipal dischargers fall in to more than 1,000 NAICS classifications including industrial, agricultural, commercial, and service sectors.

NPDES permitted facilities are grouped in terms of major and nonmajor sources and whether they have coverage under an individual or general permit. NPDES permitted facilities designated as major include POTWs with designed discharge flows of greater than one million gallons per day (1 MGD) and active major industrial facilities scoring more than 80 for the six factors (toxicity, volume, conventional pollutants, public health impact, water quality, and proximity to coastal waters) on the “NPDES Permit Rating Work Sheet.”<sup>2</sup> NPDES permittees that are not designated as majors are classified as nonmajors. General permits authorize discharges and establish operating and reporting requirements under the CWA for specific categories of dischargers (e.g., stormwater discharges from construction activities). Nearly all of the approximately 6,800 NPDES facilities designated as majors have individual permits. There are many more NPDES facilities designated as nonmajors than majors and most nonmajors have coverage under general permits (e.g., construction stormwater permits).

The sections below identify the NPDES regulated entities affected by this information collection activity.

#### **4(a)(i) Industrial, Agriculture, and Stormwater Facilities**

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<sup>2</sup> <http://www.epa.gov/npdes/pubs/owm0116.pdf>

- **Standard Industrial Dischargers:** This group includes industrial facilities that discharge directly to a surface water and have an NPDES permit. These facilities can be classified as majors or nonmajors and may have coverage under individual or general NPDES permits. Facilities with coverage under a general permit will submit one or more general permit reports (e.g., NOIs, NOTs). Most of these facilities also submit DMRs on a regular frequency.
- **CWA §316(b) Filers:** This group is a subset of standard industrial dischargers. Most are classified as majors. These facilities have additional permit data elements related to cooling water intakes and/or thermal variances. Some of these facilities also submit CWA §316(b) Annual Reports.
- **Concentrated Animal Feeding Operations (CAFOs):** This group is the set of CAFOs that have an NPDES permit. Most of these facilities are classified as nonmajors and most are covered under general NPDES permits. Facilities with coverage under a general permit will submit one or more general permit reports (e.g., NOIs, NOTs). A few but not many of these facilities also submit DMRs irregularly (e.g., unanticipated discharges due to large storm events).<sup>3</sup> These facilities will also submit CAFO Annual Program Reports.
- **Industrial and Construction Stormwater:** This group includes industrial facilities that discharge industrial or construction stormwater directly to a surface water and have a NPDES permit. Facilities with coverage under a general permit will submit one or more general permit reports (e.g., NOIs, NOTs, NECs, and LEWs). Some industrial stormwater facilities (e.g., those regulated by EPA’s Multi-Sector General Permit) submit DMRs on a regular frequency. Most construction stormwater facilities are not required to submit DMRs. The analysis assumes, however, that a small percentage of construction stormwater regulated entities have DMR requirements due to an enforcement action.
- **Municipal Stormwater:** This group includes municipalities that discharge urban stormwater under the Municipal Separate Storm Sewer System (MS4) program. Facilities with coverage under a general permit will submit one or more general permit reports (e.g., NOIs, NOTs, NECs, and LEWs). Most of the facilities classified as majors submit DMRs on a regular frequency. Municipalities that discharge urban stormwater under the MS4 program also submit an MS4 Program Report. Facilities classified as large and medium MS4s submit these reports on an annual basis and facilities classified as small MS4s submit these reports twice per five year permit term.
- **Significant Industrial Users (SIUs):** These industrial facilities discharge to POTWs and are regulated by the NPDES program through EPA’s General Pretreatment Regulations (40 CFR 403) and Categorical Pretreatment Standards (40 CFR 405 – 471). They do not have NPDES permits, but those in municipalities without approved pretreatment programs (i.e., where EPA or the authorized state is the control authority) would report electronically under the rule. This means that these facilities do not have NPDES permits but do have a control mechanism that is issued by the control authority (State or EPA). These facilities will submit periodic reports on continued compliance on a bi-annual frequency to their control authority {i.e., periodic reports on continued compliance for CIUs [40 CFR 403.12(e)] and periodic reports on continued compliance for non-CIUs [40 CFR 403.12(h)]}.

#### 4(a)(ii) POTWs and TWTDSs

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<sup>3</sup> The analysis does not account for DMR submission by this small number of CAFOs, which is a conservative assumption because the switch to electronic submission of DMRs results in a net cost savings.

POTWs and other treatment works treating domestic sewage (TWTDSs) have multiple reporting requirements and are broken out separately in this analysis. Additionally, this analysis separates POTWs by their collection system type: Combined Sewer Systems (CSSs) and Sanitary Sewer Systems (SSSs). This break out helps to properly identify the burden associated with reporting sewer overflows (which include bypass events). POTWs and TWTDSs that discharge directly to a surface water have NPDES permits. These facilities can be classified as majors or nonmajors and may have coverage under individual or general NPDES permits. Facilities with coverage under a general permit will submit one or more general permit reports (e.g., NOIs, NOTs). Most of these facilities also submit DMRs on a regular frequency. POTWs and TWTDSs may submit the following compliance monitoring data to their authorized NPDES program.

- **Biosolids/Sewage Sludge:** EPA’s sewage sludge regulations (40 CFR 503) require certain POTWs to submit an annual biosolids/sewage sludge report to the authorized state or EPA region. POTWs that must submit an annual report include POTWs with a design flow rate equal to or greater than one million gallons per day, POTWs that serve 10,000 people or more, and Class I sewage sludge management facilities. In general, Class I sewage sludge management facilities must report annually to the authorized NPDES program biosolids monitoring data, quantity of biosolids managed, ultimate end use or disposal of the biosolids, end use or disposal location(s), and vector and pathogen reduction measures.
- **Pretreatment:** EPA has developed a comprehensive pretreatment program implemented through EPA Regions, state, tribes, territories, and POTWs to control industrial discharges of pollutants that might pass through or interfere with POTW treatment processes or contaminate sewage sludge, thereby posing a threat to human health or the environment. POTWs with approved pretreatment programs are required to submit to their approval authority (State or EPA) an annual report summarizing basic program information and implementation activities.
- **Sewer Overflow/Bypass Event Reports - Combined Sewer Systems:** POTWs that have combined sewer systems (CSS) are designed to have combined sewer overflows (CSOs). CSO discharges from CSO permitted outfalls (dry or wet-weather) that constitute noncompliance are required to be reported under 40 CFR 122.41(l)(6) and (7). CSO discharges from CSO permitted outfalls (wet-weather) that do not result in noncompliance can be reported on DMRs [40 CFR 122.41(l)(4)(i)] at the frequency identified by the permit, and are subject to public notification requirements, one of the nine minimum measures under the CSO Control Policy. However, one of the nine minimum measures is to prohibit CSO discharges during dry weather. Therefore, EPA regulations require that these and other noncompliance events must be reported under 40 CFR 122.41(l)(6) and (7). For this analysis, this sector also includes bypass events occurring at CSSs.
- **Sewer Overflow/Bypass Event Reports - Sanitary Sewer Systems:** POTWs and TWTDSs with separate sanitary sewer systems, unlike combined sewer systems, are designed to carry only domestic sewage. Sanitary Sewer Overflows (SSOs) are generally unplanned and can occur anywhere in a collection system, although generally they are due to excessive infiltration and inflow during and following wet weather events. SSOs, including those that do not reach waters of the United States, may be indicative of improper operation and maintenance of the sewer system and thus may violate NPDES permit conditions requiring proper operation and maintenance [40 CFR 122.41(e)]. These noncompliance events are required to be reported to the NPDES authorized NPDES program in compliance with EPA’s standard permit conditions [40 CFR 122.41(l)(6) and (7)]. POTWs must provide an oral report within 24 hours for any overflow event that “may endanger health or the environment” and follow-up the oral report with a “written submission” within 5 days of the permittee’s discovery of the overflow event [see 40 CFR 122.41(l)(6)]. All other overflows are required to be reported by the permittee with the next

regularly scheduled monitoring report [40 CFR 122.41(l)(7)]. For this analysis, this sector also includes bypass events occurring at SSSs.

## **4(b) Information Requested**

### **4(b)(i) Data Items, Including Recordkeeping Requirements**

#### **(4)(b)(i)(1) Electronic Reporting from NPDES Regulated Entities**

The rule revises existing federal regulations to change the mode by which NPDES information is provided. Under the rule, regulated entities would be required to report certain information electronically instead of submitting paper reports. Existing federal regulations already require the submission of these reports; however, most reports are submitted on paper. This information collection activity only changes the mode by which they are submitted. This information collection activity does not create any new reporting requirements or add new data elements beyond what is required to be collected by regulation.

#### **Facilities with Individual NPDES Permits and Significant Industrial Users**

Most facilities with individual NPDES permits (major and nonmajor) submit DMRs [40 CFR 122.41(l)(4)] to their authorized NPDES program (often on a monthly frequency). Additionally, some individually permitted facilities are also required to submit programs reports which include:

- CWA §316(b) Annual Report [40 CFR 125 Subpart J];
- Sewage Sludge/Biosolids Annual Program Report [40 CFR 503];
- Concentrated Animal Feeding Operation (CAFO) Annual Program Reports [40 CFR 122.42(e)(4)];
- Municipal Separate Storm Sewer System (MS4) Program Report [40 CFR 122.34(g)(3) and 122.42(c)];
- Pretreatment Program Annual Report [40 CFR 403.12(i)]; and
- Sewer Overflow/Bypass Event Reports [40 CFR 122.41(l)(4), (l)(6) and (7), (m)(3)].

Significant industrial users in municipalities without approved pretreatment programs must also submit bi-annual compliance reports [40 CFR 403.12(e) and (h)].

#### **Facilities with General NPDES Permits**

EPA and authorized states, tribes, and territories issue general permits to cover multiple similar facilities under a single permit. Where a large number of similar facilities require permits, a general permit allows the authorized NPDES program to allocate resources in a more efficient manner and provide timelier permit coverage than would occur if individual permits had to be issued to each similar facility. States, tribes, and territories must seek EPA approval to administer general permits. EPA's regulations governing the General Permit Program are located at 40 CFR 122.28. EPA and authorized programs have issued over 700 general permits nationwide. Nearly all general permit covered facilities are classified as nonmajors.

After the final general permit has been issued, there are several general permit reports that facilities must submit to their authorized NPDES program, including:

- Notice of Intent (NOI) to discharge: This is the initial submission seeking coverage under a general permit [40 CFR 122.28(b)(2)(i) and (ii)];
- Notice of Termination (NOT): A request by the permittee to terminate their coverage under an existing permit (40 CFR 124.5);

- No Exposure Certification (NEC): A certification from a facility indicating that coverage under an existing stormwater general permit is not necessary due to certain facility-specific conditions [40 CFR 122.26(g)(1) and (4)]; and
- Low Erosivity Waiver and Other Waivers from Stormwater Controls (LEW): A certification from a facility indicating that coverage under an existing construction stormwater general permit is not necessary due to certain facility-specific or climate conditions [40 CFR 122.26(b)(15)].

It is important to note that EPA general permit regulations (40 CFR 122.28) do not require all general permit covered facilities to submit NOIs for all general permits issued by EPA and authorized state NPDES programs. Some general permits provide for automatic coverage. This means that neither EPA nor the authorized state, tribe, or territory programs will have information regarding exactly which facilities are regulated under these general permits.

#### (4)(b)(i)(2) Data Submissions from Authorized NPDES Programs

Historically, EPA has relied upon authorized NPDES programs to receive data from regulated entities, enter that data into databases, enter their own programmatic data into databases, and then forward some of that data to EPA. Under the rule, EPA would require regulated entities to submit a large portion of their NPDES data electronically, thus significantly reducing the amount work performed by the states.

Nevertheless, EPA would still require certain NPDES information from authorized NPDES programs, particularly information linked to NPDES permitting, compliance monitoring, and enforcement activities and responsibilities of the authorized NPDES programs. The types of NPDES information that EPA would require authorized NPDES programs to report electronically include:

- **Facility and permit information** for individually-issued NPDES permits (much of this information is already reported to EPA and resides in national NPDES databases), for industrial users located in cities without approved local pretreatment programs, and for general permits (generally to be entered by authorized NPDES programs once in the permit cycle, and when the permit is modified, and linked to facility-submitted general permit report information);
- **Limit and limit set information**, which characterize the parameters of releases (total dissolved solids, pH, etc.) authorized by each NPDES permit;
- **Compliance monitoring information** documenting and tracking compliance monitoring activities (e.g., inspections) at permitted facilities;
- **Violation information** for data associated with single event, effluent, and compliance schedule violations; and,
- **Enforcement action information** about the enforcement action itself, as well as associated compliance schedules and penalties.

#### 4(b)(ii) Respondent Activities

##### (4)(b)(ii)(1) Regulated Entities

In order to comply with this information collection activity, regulated entities would need to complete some or all of the following activities, depending on the type of permit under which they are regulated and the state in which they are located:

- Set up an account on the Central Data Exchange (CDX) or a similar data portal provided by their authorized NPDES program;
- Mail the authorized NPDES program an electronic signature agreement (ESA) stating that their electronic PIN number is the legal equivalent of their written signature;
- Complete online training to learn how to submit DMRs electronically;



- Acquire a new, business email address as part of the registration process if they currently use a personal email address;
- Reset their password upon reporting, if they are using EPA’s reporting systems and reporting less frequently than every 90 days; and
- Submit general permit reports, DMRs, and Program Reports electronically using reporting tools developed by EPA, state authorized NPDES programs, or EPA-approved third-party developers.

As discussed in Section 3(a), during the initial implementation period (within five years after the effective date of the rule), a small number regulated entities might be required to submit data to their authorized state program both electronically and on paper.

#### (4)(b)(ii)(2) State Authorized NPDES Programs

State authorized NPDES programs would need to complete the following activities:

- Implement an electronic reporting system for submitting regulated entity data;
- Implement an electronic reporting system for submitting authorized NPDES program data to EPA;
- Demonstrate that their attorneys general accept electronic signatures in lieu of physical signature, thereby certifying compliance with EPA’s Cross Media Electronic Reporting Rule (CROMERR);
- Make decisions regarding their initial recipient status;
- Prepare implementation plans;
- Update Memoranda of Agreement with Regional Administrators;
- Develop criteria for temporary and permanent waivers from electronic reporting;
- Attend EPA training webinars on changes to the ICIS-NPDES system and new data standards;
- Modify permits to include electronic reporting requirements;
- Share facility information, limits, and limit sets with EPA electronically; and
- Share programmatic data required by Appendix A to 40 CFR 127, such as inspections, violations determinations and enforcement actions, with EPA electronically.

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

### 5(a) Agency Activities

EPA Headquarters would conduct the following activities in order to implement electronic reporting of NPDES program data:

- Modify NetDMR and NPDES e-Reporting Tool (NeT) to accommodate data defined in Appendix A to 40 CFR 127;
- Accept data from regulated entities and receive data from state authorized NPDES programs;
- Conduct routine database refreshes, updates, and licensing;
- Develop a training webinar for authorized NPDES programs;
- Review and approve state implementation plans;
- Develop criteria for temporary and permanent waivers from electronic reporting for facilities where EPA is the authorized NPDES program;
- Assess participation rates and, where appropriate, conduct oversight to compel NPDES-regulated entities to utilize their NPDES program’s electronic reporting system; and
- Develop a National Non-Compliance Report that will replace the Annual and Quarterly Non-Compliance Reports and the Semi-Annual Statistical Summary.

To comply with this information collection activity, EPA Region authorized NPDES programs would also be required to complete the following activities:

- Attend EPA training webinars on changes to the ICIS-NPDES system and new data standards;
- Share facility information, limits, and limit sets with EPA electronically;
- Share programmatic data required by Appendix A to 40 CFR 127, such as inspections, violations determinations and enforcement actions, with EPA electronically; and
- Modify permits to include electronic reporting requirements.

## **5(b) Collection Methodology and Management**

This information collection activity would require regulated entities to submit certain data electronically, and would require authorized NPDES programs to share with EPA the information either that is reported to the authorized program or that they generate with respect to those regulated entities. EPA would store the data in the Integrated Compliance Information System (ICIS)-NPDES, EPA's central repository for NPDES program information.

Authorized NPDES programs use the National Environmental Information Exchange Network to share information with EPA, and with each other, over the internet. All 50 states have a node on the Exchange Network and participate in some degree of data sharing. However, not all states store all of the required data electronically. For this reason, to accept electronic reporting from regulated entities, or data transfers from EPA, some states would need to modify their data systems to map all of the required data elements to the appropriate fields within their systems.

ICIS-NPDES ensures that the NPDES information regarding regulated entities remains available, accessible, and in a nationally consistent format for analyses. The public may access NPDES program information via Enforcement and Compliance History Online (ECHO – <http://echo.epa.gov>). Information is available to the public through Web-based interfaces of these databases or other EPA Web-based tools such as Envirofacts.

The rule does not dictate how the state authorized NPDES programs collect data electronically from regulated entities. Several states have already developed or are developing electronic reporting tools for use by NPDES-regulated entities, and EPA encourages them to continue that work. To assist other states in converting to electronic reporting, EPA would develop new, or modify existing, reporting tools to allow for the electronic submission of information from NPDES-regulated entities. These tools would use the Environmental Information Exchange Network's Central Data Exchange (CDX) to flow data into ICIS-NPDES. Authorized NPDES programs would have the option to use EPA's electronic reporting tools, EPA-approved third-party software provider tools, or to build their own tools. All reporting tools, whether existing or to be developed, would be compliant with EPA's Cross-Media Electronic Reporting Regulation (CROMERR).

## **5(c) Small Entity Flexibility**

During the period of this ICR, EPA expects regulated entities to incur net costs while implementing electronic reporting. In addition, a limited number of small entities might be required to report both electronically and on paper to their permitting authority during the first five years after the effective date of the rule. State authorized NPDES programs would also incur costs during the period of this ICR, but by definition are not considered to be small entities.

As estimated in the Economic Analysis for the rule, impacts of greater than 1% are only incurred by one municipality operating a POTW. Impacts to all other sectors remain less than 1% of annual revenue.

Note, however, that these impacts are incurred by far fewer than 100 small entities and considerably less than 20% of all small entities for all sectors and for each sector individually. Therefore, following EPA guidance on assessment of the rule's direct adverse impact on any small entities, the rule is not expected to significantly impact a substantial number of small entities.

#### **5(d) Collection Schedule**

EPA will need to have upgraded its electronic tools before the effective date of the rule to allow for authorized NPDES programs to begin rule implementation and meet the rule implementation deadlines. Regulated entities will be required to register for electronic reporting one year after the effective date of the rule. Electronic reporting of Phase 1 information for NPDES regulated entities will also be required one year after the effective date of the rule. Phase 2 information reporting is required five years after the effective date of the rule. Table 1 provides complete details on the timing of these and other activities supporting rule implementation.

This ICR covers only those activities that occur within the first three years after the effective date of the rule. The analysis, however, makes several conservative assumptions regarding the timing of certain activities. Specifically, the analysis assumes that all initial data entry, development of electronic tools, and regulated entity initial registration take place within one year of the effective date of the rule. In fact, some portion of each of these activities could take place later during the implementation period. For example, the cost of developing electronic tools specifically to support Phase 2 data could be spread out over the full five years leading up to the Phase 2 deadline. Initial data entry for and registration by regulated entities that only submit Phase 2 data would not be required until just before the deadline. Because it assumes that these activities occur at the start of the implementation period, the ICR includes the burden of these activities, resulting in a lower estimate of total net burden reduction during the ICR period.

Table 1: Rule Implementation Timing				
Timing (beyond effective date of the rule)		State Activities	EPA Activities	Regulated Entity Activities
ICR Period (Years 0 through 2)	Within 4 months	<ul style="list-style-type: none"> <li>• Make Initial Recipient Decisions</li> </ul>	<ul style="list-style-type: none"> <li>• Publish Initial Recipient Decisions</li> </ul>	
	Within 9 months	<ul style="list-style-type: none"> <li>• Enter Initial Data for Phase 1</li> </ul>	<ul style="list-style-type: none"> <li>• Enter Initial Data for Phase 1</li> </ul>	
	Within 1 year	<ul style="list-style-type: none"> <li>• Implement Electronic Tools for Phase 1 Data</li> <li>• Prepare Implementation Plans and Waiver Criteria</li> <li>• Attend Webinars</li> </ul>	<ul style="list-style-type: none"> <li>• Implement Electronic Tools for Phase 1 Data</li> <li>• Develop Waiver Criteria</li> <li>• Develop and Attend Webinars</li> </ul>	<ul style="list-style-type: none"> <li>• Registration for Phase 1</li> </ul>
	1 year and onward	<ul style="list-style-type: none"> <li>• Permit Modifications</li> <li>• Submit Phase 1 Data Electronically</li> </ul>	<ul style="list-style-type: none"> <li>• Permit Modifications</li> <li>• Submit Phase 1 Data Electronically</li> </ul>	<ul style="list-style-type: none"> <li>• Submit Phase 1 Data Electronically</li> <li>• Password Resets</li> <li>• Dual Reporting During Transition</li> </ul>
	1 year, 6 months		<ul style="list-style-type: none"> <li>• Review/approve Implementation Plans</li> <li>• Report State eDMR Participation Rates (repeat annually as needed)</li> </ul>	
	1 year, 9 months		<ul style="list-style-type: none"> <li>• Oversight Notices to Regulated Entities (repeat annually as needed)</li> </ul>	
Beyond the ICR Period	Year 3		<ul style="list-style-type: none"> <li>• Assume EPA takes over initial recipient status in one state</li> </ul>	<ul style="list-style-type: none"> <li>• Re-registration in one state where EPA takes over initial recipient status</li> </ul>
	Within 4 years, 9 months	<ul style="list-style-type: none"> <li>• Enter Initial Data for Phase 2<sup>a</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Enter Initial Data for Phase 2<sup>a</sup></li> </ul>	
	Within 5 years	<ul style="list-style-type: none"> <li>• Implement Electronic Tools for Phase 2 Data<sup>b</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Implement Electronic Tools for Phase 2 Data<sup>b</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Registration for Phase 2<sup>c</sup></li> </ul>
	Year 5 onward	<ul style="list-style-type: none"> <li>• Submit Phase 1 and 2 Data Electronically</li> </ul>	<ul style="list-style-type: none"> <li>• Submit Phase 1 and 2 Data Electronically</li> </ul>	<ul style="list-style-type: none"> <li>• Submit Phase 1 and 2 Data Electronically</li> <li>• Password Resets</li> </ul>
	5 years, 6 months		<ul style="list-style-type: none"> <li>• Report State Participation Rates (repeat annually as needed)</li> </ul>	
	5 years, 9 months		<ul style="list-style-type: none"> <li>• Oversight Notices to Regulated Entities (repeat annually as needed)</li> </ul>	
	Year 6		<ul style="list-style-type: none"> <li>• Incorporate the New National Non-Compliance Report</li> </ul>	
	Year 8		<ul style="list-style-type: none"> <li>• Assume EPA takes over initial recipient status in one state</li> </ul>	<ul style="list-style-type: none"> <li>• Re-registration in one state where EPA takes over initial recipient status</li> </ul>

<sup>a</sup> The analysis conservatively assumes the cost of all initial data entry occurs within 9 months (i.e., within the ICR period).  
<sup>b</sup> The analysis conservatively assumes the cost of all electronic tool development occurs within 1 year (i.e., within the ICR period).  
<sup>c</sup> The analysis conservatively assumes all initial registration costs occur within 1 year (i.e., within the ICR period).

The schedule for authorized NPDES programs to share programmatic data with EPA is based on the frequency with which the required data are generated. For example, enforcement action data would need to be shared when an enforcement action occurs. As a result, frequencies vary by subprogram and by permit type. Table 2 below presents relevant annual reporting frequencies by data family, subprogram, and permit type. The annual reporting frequency assumes that, for example, reports that are submitted every 5 years have annual reporting frequencies of 0.2 (i.e., authorized NPDES programs must enter the relevant data elements for 20% of regulated entities in a given year).

**Table 2: Annual Reporting Frequency Summary by Data Family and Permit Type**

Subprogram	Permit Type	Annual Reporting Frequency							
		Permits <sup>a</sup>	Limits	Limit Sets	DMRs	Program Reports	Compliance Monitoring	Violations <sup>b</sup>	Enforcement Actions
<b>Non-POTWs (Industrial, Agriculture, and Stormwater)</b>									
Standard Industrial Dischargers (includes CWA §316(b) Filers)	Individual Major	0.2	0.2	0.2	12.0	1 <sup>c</sup>	0.56	0.67	0.30
	Individual Nonmajor	0.2	0.2	0.2	12.0	0	0.26	0.53	0.19
	General Nonmajor	0.2	0.0	0.0	12.0	0	0.07	0.53	0.19
Significant Industrial Users (SIUs) In Municipalities without Pretreatment Program <sup>d</sup>		n/a	n/a	n/a	n/a	2	n/a	n/a	n/a
Concentrated Animal Feeding Operations	Individual Nonmajor	0.2	0.0	0.0	0.0	1	0.26	0.53	0.19
	General Nonmajor	0.2	0.0	0.0	0.0	1	0.07	0.53	0.19
<b>Industrial &amp; Construction Stormwater</b>									
Industrial	Individual Major	0.2	0.2	0.2	3.0	0	0.56	0.67	0.30
	Individual Nonmajor	0.2	0.2	0.2	3.0	0	0.26	0.53	0.19
	General Nonmajor	0.18 <sup>e</sup>	0.0	0.0	3.0	0	0.07	0.53	0.19
Construction	Individual Major	0.2	1 <sup>f</sup>	1 <sup>f</sup>	1 <sup>f</sup>	0	0.56	0.67	0.30
	Individual Nonmajor	0.2	1 <sup>f</sup>	1 <sup>f</sup>	1 <sup>f</sup>	0	0.26	0.53	0.19
	General Nonmajor	0.17 <sup>e</sup>	0	0	1 <sup>f</sup>	0	0.07	0.53	0.19
<b>Municipal Stormwater<sup>g</sup></b>									
Phase I MS4s	Individual Major	0.2	0.2	0.2	12.0	1	0.56	0.67	0.30
	General Nonmajor	0.2	0.0	0.0	12.0	1	0.07	0.53	0.19
Phase II MS4s	Individual Nonmajor	0.2	0.0	0.0	0.0	0.4	0.26	0.53	0.19
	General Nonmajor	0.2	0.0	0.0	0.0	0.4	0.07	0.53	0.19
<b>POTWs and TWTDSs (may have a CSS or a SSS, may also file more than one report)</b>									
POTWs with CSSs <sup>h</sup>	Individual Major	0.2	0.2	0.2	12.0	12.51 <sup>i</sup>	11.22 <sup>j</sup>	0.67	0.30
	Individual Nonmajor	0.2	0.2	0.2	12.0	12.51 <sup>i</sup>	11.22 <sup>j</sup>	0.53	0.19
	General Nonmajor	0.2	0.2	0.2	12.0	12.51 <sup>i</sup>	11.22 <sup>j</sup>	0.53	0.19
POTWs with SSSs only and TWTDSs <sup>h</sup>	Individual Major	0.2	0.2	0.2	12.0	2.65 <sup>i</sup>	2.57 <sup>j</sup>	0.67	0.30
	Individual Nonmajor	0.2	0.2	0.2	12.0	2.65 <sup>i</sup>	2.57 <sup>j</sup>	0.53	0.19
	General Nonmajor	0.2	0.2	0.2	12.0	2.65 <sup>i</sup>	2.57 <sup>j</sup>	0.53	0.19
<b>POTW NPDES Report Filers</b>									
Biosolids/Sewage Sludge Report Filers	Individual Major	0.2 <sup>j</sup>	0.0	0.0	0.0	1	0.0	0.0	0.0
	Individual Nonmajor	0.2 <sup>j</sup>	0.0	0.0	0.0	1	0.0	0.0	0.0
Pretreatment Program Report Filers	Individual Major	0.2 <sup>j</sup>	0.2	0.2	12.0	1 <sup>k</sup>	0.56	0.67	0.30
	Individual Nonmajor	0.2 <sup>j</sup>	0.2	0.2	12.0	1 <sup>k</sup>	0.26	0.53	0.19

<sup>a</sup> In addition to the permit frequencies shown the analysis includes data entry associated with minor changes at the permitted facility with an annual reporting frequency of 0.1.

<sup>b</sup> In addition to the violation frequencies shown, the analysis includes expanded reporting of SEV data elements for nonmajor facilities with an annual frequency of 0.09.

<sup>c</sup> Applies only to the subset of facilities submitting CWA §316(b) Annual Reports.

<sup>d</sup> These industrial facilities discharge to POTWs and are regulated by the NPDES program through EPA's General Pretreatment Regulations (40 CFR 403) and Categorical Pretreatment Standards (40 CFR 405 – 471). They do not have NPDES permits, but those in municipalities without pretreatment programs would report electronically under the rule.

<sup>e</sup> Accounts for facilities filing NECs and LEWs, as well as NOIs.

<sup>f</sup> The analysis assumes 1% of construction stormwater regulated entities have DMR requirements due to an enforcement action. These facilities need to submit DMRs to show they have returned to compliance and are assigned a frequency of 1 for DMRs and, for individual permits, limits and limit sets.

<sup>g</sup> Nearly all Phase I MS4s are individually permitted facilities. For purposes of cost estimating, the analysis treats all individually permitted Phase I MS4s as majors and all Phase II MS4s as nonmajors.

<sup>h</sup> The analysis divides the total universe of POTWs into CSSs and SSSs and treats those that are only partially composed of CSSs as CSSs.

<sup>i</sup> Accounts for the submission of sewer overflow and bypass event reports.

<sup>j</sup> Applies only to those permit data elements specific to the biosolids and pretreatment programs. All other permit data elements are captured by CSSs POTWs, SSSs POTWs, TWTDSs, or standard industrial dischargers.

<sup>k</sup> The program report requirement also applies to states and EPA regions where they are the Control Authority for the pretreatment program.

## 6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

This section presents the burden and cost estimates associated with the rule that would require electronic submission for general permit reports, DMRs, and program reports. EPA estimates that approximately 213,396 respondents would incur paperwork-related burden and reporting burden reductions annually following promulgation of the rule. This number is a three-year average covering both regulated entities and state authorized NPDES programs. In the first year, 266,653 regulated entities would incur registration and training burden and some must acquire a new email address. In the second year, 179,872 regulated entities would be affected. Some of these would report both on paper and electronically and others would incur savings associated with paper mailings. In the third year, 193,521 regulated entities would be affected. Fewer would report both on paper and electronically and a greater number incur savings associated with paper mailings. In both the second and third years, some regulated entities would bear an additional burden to reset their password. Additionally, 47 authorized NPDES programs would incur burden and cost in all three years of this ICR.

In the long-term, most respondents would experience annual burden reduction and cost savings. This ICR Supporting Statement presents the total paperwork burden and costs/cost savings associated with the requirements of the electronic reporting rule in the first three years after promulgation. As noted previously, the annual savings expected from this rule will not be fully realized until five years after rule promulgation.

### 6(a) Estimating Total Respondent Burden

This section discusses the total potential paperwork-related burden to respondents of the electronic reporting rule during the three-year period of the ICR. As described previously, the rule does not change any of the recordkeeping or reporting requirements set out in earlier ICRs or required by authorized NPDES programs. The rule does change the mode of submission for regulated entities and requires authorized NPDES programs to share with EPA the information either that is reported to the authorized program or that they generate with respect to those regulated entities. Note that the burden to respondents would vary year-to-year during the first three years of implementation as the requirements of the rule are rolled out. Five years after the effective date of the rule, after implementation is complete, the requirements of the rule would remain the same in all subsequent years. The methodology EPA uses to estimate incremental burden associated with electronic reporting requirements follows the methodology used in the Economic Analysis of the NPDES Electronic Reporting Rule.<sup>4</sup>

Consistent with the Economic Analysis, three significant baseline assumptions are made here. The first is that currently there is full compliance with existing data requirements.<sup>5</sup> Although some authorized NPDES programs may already be submitting information beyond those requirements, it is not possible to accurately account for that additional information at this time. Where authorized NPDES programs are reporting to ICIS-NPDES more data than is currently required, the analysis may overestimate incremental burden and costs.

The second major assumption is to disregard some of the impact of existing state authorized NPDES program electronic reporting systems. EPA acknowledges that some states are currently using electronic reporting systems. The analysis incorporates available data about the extent to which regulated entities are

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<sup>4</sup> See DCN 0197.

<sup>5</sup> One exception to this assumption involves the forwarding of biosolids permit data, discussed in more detail in the Economic Analysis. Although this activity is an existing requirement, this analysis includes its full cost, which may slightly overestimate the incremental cost of the rule.

using electronic reporting systems to submit DMRs (e.g., the data indicate that 10% of regulated entities in Alabama are electronically submitting DMRs). However, some states may also have electronic reporting systems for other data (e.g., NOIs). Where regulated entities are already submitting data other than DMRs electronically through state systems, the Economic Analysis may overestimate savings and implementation costs for both the regulated entity and authorized NPDES program. This assumption has a limited impact on the ICR analysis, because most electronic reporting of data other than DMRs occurs beyond the ICR period.

The third major assumption is that, as a result of the inclusion of state-specific waiver provisions developed under the rule, a total of 1% of regulated entities will have permanent or temporary waivers from electronic reporting in any given year. The analysis applies this waiver percentage across subprograms, data families, and permit types (e.g., major, nonmajor). Those regulated entities receiving waivers are excluded from the analysis' calculation of savings and implementation costs. Authorized NPDES programs would bear the burden of data entry for these regulated entities. The net impact of the waiver percentage is to decrease total net burden reduction and savings (i.e., an increasing percentage of facilities receiving waivers decreases the estimated net savings).

Respondents affected by this ICR include regulated entities and state authorized NPDES programs. Due to the different activities required of each respondent group, the burden to regulated entities and state authorized NPDES programs is discussed separately below. The detailed burden estimates for regulated entities and state authorized NPDES programs are presented in Appendix A and Appendix B, respectively.

### **6(a)(i) Regulated Entities**

As a result of this information collection activity, EPA estimates that regulated entities would incur additional burden in carrying out the additional paperwork activities that would be imposed by the rule. Specifically, they would incur costs for some or all of the following activities:

- Set up an account on the CDX or a similar data portal provided by their authorized NPDES program;
- Mail the authorized NPDES program an ESA stating that their electronic PIN number is the legal equivalent of their written signature;
- Complete online training to learn how to submit DMRs electronically;
- Acquire a new, business email address as part of the registration process if they currently use a personal email address;
- Reset their password upon reporting, if they are using EPA's reporting systems and reporting less frequently than every 90 days; and
- For a small number of entities during the transition period, submit data to their authorized state program both electronically and on paper.

EPA estimates the burden associated with each of these activities as described below.

#### **(6)(a)(i)(1) CDX Registration, ESA, and NetDMR Training**

To use the electronic reporting system for NetDMR and NeT, individual regulated entities will need to set up accounts, either on the CDX, EPA's node on the Exchange Network, or a similar data portal provided by their authorized NPDES program. To set up the account, regulated entities mail their authorized NPDES program an ESA stating that their electronic PIN number is the legal equivalent of their written signature. For construction stormwater general permit reports (e.g., NOIs), however, the final rule allows NPDES programs to use a "hybrid approach." The hybrid approach would use automatic identification

and data capture technologies to eliminate the need for construction operators to obtain and maintain a digital signature.

NetDMR or authorized NPDES program eDMR systems are sufficiently complex that many regulated entities will need training to effectively use them. EPA currently offers an online training session explaining how to submit DMRs through the NetDMR tool. The training informs regulated entities about login procedures, uploading their DMR information, and how their designated testing laboratory can upload their DMR monitoring information directly into the NetDMR system. Experience with currently operating systems has shown that training is not necessary for submitting NOIs or program reports electronically, as these tools are less complicated. General permit facilities would also use these less complicated tools to submit DMRs and, therefore, not require training. Table 3 shows the registration and training requirements for regulated entities.

<b>Table 3: Registration and Training Requirements by NPDES Subprogram</b>				
<b>Subprogram</b>	<b>Permit Type</b>	<b>CDX Registration</b>	<b>ESA</b>	<b>NetDMR Training</b>
<b>Non-POTWs (Industrial, Agriculture, and Stormwater)</b>				
<b>Standard Industrial Dischargers (includes CWA §316(b) Filers)</b>	Individual Major	Yes	Yes	Yes
	Individual Nonmajor	Yes	Yes	Yes
	General Nonmajor	Yes	Yes	No
<b>Significant Industrial Users (SIUs) In Municipalities without Pretreatment Program</b>		Yes	Yes	No
<b>Concentrated Animal Feeding Operations</b>	Individual Nonmajor	Yes	Yes	No
	General Nonmajor	Yes	Yes	No
<b>Industrial &amp; Construction Stormwater</b>				
Industrial	Individual Major	Yes	Yes	Yes
	Individual Nonmajor	Yes	Yes	Yes
	General Nonmajor	Yes	Yes	No
Construction	Individual Major	Yes	Yes	No <sup>a</sup>
	Individual Nonmajor	Yes	Yes	No <sup>a</sup>
	General Nonmajor	Yes <sup>b</sup>	Yes <sup>b</sup>	No
<b>Municipal Stormwater</b>				
Phase I MS4s	Individual Major	Yes	Yes	Yes
	General Nonmajor	Yes	Yes	No
Phase II MS4s	Individual Nonmajor	Yes	Yes	Yes
	General Nonmajor	Yes	Yes	No
<b>POTWs and TWTDSs (may have a CSS or a SSS, may also file more than one report)</b>				
POTWs with CSSs	Individual Major	Yes	Yes	Yes
	Individual Nonmajor	Yes	Yes	Yes
	General Nonmajor	Yes	Yes	No
POTWs with SSSs only and TWTDSs	Individual Major	Yes	Yes	Yes
	Individual Nonmajor	Yes	Yes	Yes
	General Nonmajor	Yes	Yes	No
<b>POTW NPDES Report Filers</b>				
Biosolids/Sewage Sludge and Pretreatment Program Report Filers <sup>c</sup>		n/a	n/a	n/a
<sup>a</sup> 1% of construction stormwater individual permits that require DMRs due to an enforcement action would require training. <sup>b</sup> Construction general permit facilities that use a hybrid approach would not need electronic signatures. <sup>c</sup> Registration and training are captured by CSSs POTWs, SSSs POTWs, TWTDSs, or standard industrial dischargers.				

Because state authorized NPDES programs' IT systems are highly variable, both in the technology used and the scope of reporting (e.g., eDMR), this analysis applies the estimated costs of the EPA-built systems to all regulated entities. These estimated costs are based on the following assumptions:



- One manager and one technical staff member will each spend 20 minutes (0.33 hours) registering for an electronic account in CDX;
- One manager will spend 11 minutes to complete and mail an ESA; and
- One manager and one technical staff member will each spend 1.7 hours engaging in online training to familiarize themselves with the electronic reporting process for DMRs.

The estimated time required to complete the CDX registration and ESA application (including mailing time) is based on estimates from the Electronic Pre-Manufacturing Notice Proposed rule.<sup>6</sup> The estimated time for electronic DMR training is based on the length of EPA’s NetDMR training, which is an online tutorial accessible on demand.<sup>7</sup>

The total cost of regulated entity registration and training is estimated by summing the number of regulated entities undertaking each activity multiplied by the cost of that activity. In addition, while single accounts could be used for multiple permits, this analysis conservatively assumes there will be one technical and one managerial account for each permit, with the following exceptions:

- Biosolids and pretreatment permits are issued to POTWs for monitoring sewage sludge or for accepting industrial waste along with domestic sewage, respectively. All POTWs are either combined or sanitary systems with registration and training costs covered under those subprograms. Therefore, the analysis does not assign separate registration and training costs to biosolids and pretreatment subprograms.
- For construction stormwater general permits, the analysis assumes 2.9 construction general permits per construction firm and one technical and one managerial account per firm, instead of per permit.
- Also for construction stormwater general permits, the analysis assumes 25% of regulated entities will use a hybrid paper/electronic reporting process, which is an option that authorized NPDES programs can employ under the final rule. Under the hybrid option, construction operators would complete an on-line construction stormwater general permit report, which simultaneously produces a paper copy of the report and electronically transmits a copy of the data from the report to the initial recipient. The construction operator would then sign and date the paper copy of the construction stormwater general permit report with a handwritten signature. The analysis assumes that construction operators using this hybrid approach would not incur electronic registration or ESA costs. Instead, they would incur a cost to print and mail their “wet ink” signature copy with each submission. The analysis assumes this cost is \$0.55 per submission, incorporating printing and postage.

The analysis includes registration costs for regulated entities under EPA’s Vessels General Permit and Pesticides General Permit (9,125 pesticide applicators and 4,000 unique filers covering 63,000 vessels). These entities are already reporting electronically, but not with a CROMERR compliant tool. Under the rule, they would need to re-register using EPA’s new CROMERR compliant tool, but would not experience any additional costs or cost savings as a result of the rule.

#### (6)(a)(i)(2) New Business Email Addresses

Some entities currently use a personal email address on NPDES forms. These entities would need to acquire a new, business email address as part of the registration process. The analysis assumes 10% of regulated entities would need to take this action during the registration process. For each of these entities,

<sup>6</sup> Economic Analysis of the Premanufacture Notification Electronic Reporting Proposed Rule (U.S. EPA, 2008).

<sup>7</sup> <http://www.epa.gov/netdmr/about/training.html>

it assumes one manager will spend 0.5 hours to acquire a new, business email address using a free email service.

#### **(6)(a)(i)(3) Password Resets**

EPA's electronic reporting systems include a 90-day password reset requirement. The password reset requirement is not a requirement of the rule, but a long standing EPA security requirement that is used for all of the agencies internal and external systems. This requirement means that regulated entities that report using EPA's systems less frequently than every 90 days will need to reset their password when they report. Entities that report more frequently will maintain their active password as part of the normal course of reporting. Information is not available on which, if any, state electronic reporting systems might include similar password reset requirements. Therefore, the analysis considers the burden and cost of password resets only for entities using EPA systems (either because the authorized NPDES program is a direct user of EPA system or because EPA itself is the authorized NPDES program). For each of these entities, it assumes one manager and one technical staff member will each spend 3 minutes (0.05 hours) to reset their password. The number of password resets required during the ICR period varies by subprogram. For example, standard industrial dischargers with general permits that do not submit DMRs would reset their password when they submit NOIs (once every five years). Industrial stormwater dischargers would reset their password when they submit DMRs (three times per year).

#### **(6)(a)(i)(4) Electronic Reporting During Transition**

As discussed in Section 3(a), during the initial implementation period (within five years after the effective date of the rule), a small number of regulated entities might be required to submit data to their authorized state program both electronically and on paper. Regulated entity electronic reporting during the transition involves copying information from their paper DMR forms into the appropriate state electronic reporting system. The copy and paste process is expected to take ten seconds for each of the 12 Appendix A DMR data elements. The time estimate is multiplied by the number of regulated entities affected and the frequency of submission. The calculation also incorporates the number of DMR forms per submission, which is assumed to be four for major individual permits, two for nonmajor individual permits, and one for general permits.

The analysis assumes that a maximum of 15% of regulated entities face conditions such that they could possibly be required to report both on paper and electronically (i.e., their permit conditions explicitly require paper reporting, the authorized state does not use its enforcement discretion, etc.). The actual number of regulated entities affected and the resulting cost will decrease over the course of the period covered by this ICR, as permits are modified to require electronic, instead of paper reporting, either on the normal permit cycle or as a result of state implementation activities. The analysis assumes dual reporting will cease once the rule is fully implemented, five years after the effective date of the rule.

#### **6(a)(ii) State Authorized NPDES programs**

EPA estimates that state authorized NPDES programs would incur additional burden in carrying out the additional activities required by the rule. Specifically, they would incur burden to:

- Implement an electronic reporting system for submitting regulated entity data;
- Implement an electronic reporting system for submitting authorized NPDES program data to EPA;
- Demonstrate that their attorneys general accept electronic signatures in lieu of physical signature, thereby certifying compliance with CROMERR;
- Prepare implementation plans;
- Update Memoranda of Understanding with Regional Administrators;
- Make decisions regarding their initial recipient status;

- Develop criteria for temporary and permanent waivers from electronic reporting;
- Attend EPA training webinars on changes to the ICIS-NPDES system and new data standards;
- Modify permits to include electronic reporting requirements;
- Share facility information, limits, and limit sets with EPA electronically; and
- Share programmatic data required by Appendix A to 40 CFR 127, such as inspections, violations determinations and enforcement actions, with EPA electronically.

State authorized NPDES programs would also experience burden reduction by eliminating data entry and processing associated with incoming DMRs. At full implementation (five years after the effective date of the rule), they would experience additional burden reduction by eliminating program report processing and preparation of annual, quarterly, and semi-annual reports regarding the compliance status of regulated entities in their jurisdiction. The sections below identify the assumptions used to estimate the burden and burden reduction associated with those activities that occur during the ICR period.

#### (6)(a)(ii)(1) Implementing Electronic Reporting Systems

Authorized NPDES programs use three methods to submit data to ICIS-NPDES:

- Direct Entry: Authorized NPDES programs using direct entry enter data into EPA data systems directly.
- Batch Upload: Authorized NPDES programs using batch upload employ their state system to track regulated entities and their own activities under the NPDES program. This NPDES information is periodically uploaded to EPA data systems.
- Hybrid: Authorized NPDES programs using hybrid approaches enter most data over the web, with the DMR component of the NPDES permit batch uploaded to EPA data systems periodically.

Implementation costs for authorized NPDES programs will vary depending on whether the state is a batch user and what electronic tools the state currently uses. Batch system databases will need to be expanded to store all Appendix A data. Because EPA does not have independent estimates of the comparable system costs for each state, tribe, and territory, EPA's estimate of the burden for those NPDES-authorized programs to expand their databases is based on EPA's costs to add data elements to ICIS-NPDES, or 28,818 hours per state (see Section (6)(c)(i)(1)). This estimate is conservative as several states already manage some of the new Appendix A data elements.

Latitude and longitude metadata (e.g., Facility Site Source Map Scale Number, Facility Site Horizontal Accuracy Measure) are not included in Appendix A under the final rule. Instead, EPA is requiring that latitude and longitude data use the World Geodetic System (WGS) 84 standard coordinate system. WGS84 is the modern worldwide standard for use in cartography, geodesy, and navigation. This coordinate system is currently the reference system being used by the Global Positioning System and is accurate within 1 meter. States that collect latitude and longitude on older coordinate systems (e.g., 1927 North American Datum) will need to convert their latitude and longitude to the newer, modern WGS84 coordinate system before they can share data with EPA. Because data are not available on which states might use older coordinate systems, the analysis assumes that all batch and hybrid states will need to convert to WGS84. The analysis assumes that the switch to WGS84 will require 48 hours per state of programming effort, including identifying and converting existing non-WGS84 data and setting up systems to convert newly entered non-WGS84 data.

After implementation, EPA envisions that regulated entities will use EPA or third party provided software (such as fillable PDFs) to submit NOIs, DMRs, or program reports to EPA and state authorized NPDES

programs. Therefore, once data standards<sup>8</sup> are established for each data element, state authorized NPDES programs will need to reconfigure their exchange templates (a piece of computer software that matches fields in the state database to fields in ICIS-NPDES) to allow the new NPDES data to flow between the state system and ICIS-NPDES. EPA technical experts expect data element mapping to require 120 hours for reports of more than 40 data elements and 60 hours for reports of less than or equal to 40 data elements. Furthermore, for states already using NetDMR, EPA expects the data mapping to require only 40 hours as these states already have the basic data structure mapped. Note that states are not already using the federal NeT system for NOIs and program reports, so there would not be similar reduced burdens. States will need to create one exchange template capable of handling all DMR data elements and a separate exchange template for NOIs and program reports for each subprogram for which the state is the authorized NPDES program. Therefore, individual state costs vary.

Inclusion of many of these costs in the analysis is conservative because the rule does not require authorized NPDES programs to develop their own data systems. Some authorized NPDES programs may choose to use EPA's tools. Furthermore, these costs assume authorized NPDES programs would not pursue further enhancements to their data systems in the absence of the rule.

#### (6)(a)(ii)(2) Management of Data Transfer, Training, and Technical Support

The analysis assumes states currently operating their own systems will bear an ongoing annual cost to manage transfer of data between their systems and EPA's. This cost is based on an estimate of 1 full-time equivalent (FTE), or 2,080 hours, of programmer/technical labor per state per year.<sup>9</sup>

The analysis also assumes that each authorized NPDES program, whether they operate their own system or use EPA's tools, will bear an ongoing annual cost to provide training and technical support to regulated entities. This cost is likely to vary by state. In comments on the proposed rule, states estimated the labor required for these activities would be from 0.3 to 2 FTEs per state per year.<sup>10</sup> To be conservative, the analysis uses the upper bound of this range and assumes 2 FTEs, or 4,160 hours, of programmer/technical labor per state per year.

#### (6)(a)(ii)(3) CROMERR Certification

Authorized NPDES programs need to assure that the newly required electronic documents are legally equivalent to hardcopy documents by meeting the requirements of CROMERR.<sup>11</sup> CROMERR requires authorized NPDES program Attorneys General to certify that their laws provide sufficient legal authority to implement electronic document receiving systems and enforce the affected programs using those documents in lieu of the hardcopy reports physically signed by the regulated entity. In addition, CROMERR requires documenting how the receiving system meets CROMERR criteria and any other documentation requested by the EPA Administrator that must be provided before the state authorized NPDES program can use electronic systems to receive regulated entities' information and to manage its own NPDES information. The analysis estimates the cost of certification to be approximately 693 hours per state.<sup>12</sup>

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<sup>8</sup> Data standards ensure that reports collected by one system are in a format that every other system can recognize. Once the standards are complete, state authorized NPDES programs and EPA will modify their IT systems to collect and share (send and receive) all of the required data through the exchange.

<sup>9</sup> Based on comments on the proposed rule from the State of Pennsylvania.

<sup>10</sup> Based on comments from Colorado, Washington, Kansas, and South Dakota.

<sup>11</sup> <http://www.epa.gov/cromerr/states.html>

<sup>12</sup> This cost is based on a labor estimate provided by the New Jersey Department of Environmental Protection in comments on the Supplemental Notice for the Proposed Rule.

#### (6)(a)(ii)(4) Implementation Plans

Authorized NPDES programs will need to submit an implementation plan to EPA. These plans must include identifying: (1) all tasks for capturing and electronically processing facility and permit data; (2) all tasks for updating any state data systems; (3) technologies for electronic reporting systems and any necessary CROMERR approval; (4) technologies for transmitting and receiving Appendix A data to and from EPA; (5) schedule for updating state statutes, regulations, and NPDES permits; (6) schedule for training NPDES regulated entities on how to utilize electronic reporting systems; (7) roles and responsibilities; (8) necessary resources and commitments; and (9) alternative options for converting to electronic reporting (e.g., utilization of EPA services and systems like NetDMR or NeT) if the state continually misses its own scheduled milestones.<sup>13</sup> These implementation plans would need to be approved by the authorized NPDES Director and EPA.

The analysis assumes each authorized program will require 40 hours of managerial time to identify and document each of the nine details listed above, plus one hour for sign off by the authorized NPDES Director. These assumptions result in 361 hours per implementation plan.

#### (6)(a)(ii)(5) Memoranda of Agreement

Authorized NPDES programs will need to update their existing Memoranda of Agreement with their Regional Administrator to incorporate electronic reporting requirements. The analysis assumes each authorized program will require 40 hours of managerial time to complete these updates.

#### (6)(a)(ii)(6) Initial Recipient Decisions

Under the final rule, NPDES-regulated entities will submit NPDES program data to the designated “initial recipient,” meaning the governmental entity, either the state or EPA, who first receives the NPDES program data. A NPDES program can initially elect to be the initial recipient for one or all of the NPDES data groups. This determination is an “opt-out” process for each authorized NPDES programs. Under this process, an authorized NPDES program must notify EPA within 120 days of the effective date of the final rule if it wishes EPA to be the Initial Recipient for a particular NPDES data group. If EPA receives no such notification, EPA will designate the state, tribe, or territorial NPDES program as the Initial Recipient for all NPDES data groups.

The analysis assumes that the initial recipient decision-making process will require five people in two meetings lasting two hours each, for a total of 20 hours of managerial time, for each authorized NPDES program.

#### (6)(a)(ii)(7) Waiver Criteria Development

The final rule provides NPDES programs with flexibility in how they grant temporary and/or permanent waivers from electronic reporting. Under the final rule, authorized NPDES programs will need to document and submit to EPA for review their process for evaluating and approving temporary and permanent electronic reporting waivers from NPDES regulated entities. The analysis assumes that developing the waiver criteria for each authorized NPDES program will require 40 hours of managerial time.

#### (6)(a)(ii)(8) EPA Training Webinars

To ensure that state authorized NPDES programs are properly informed of the changes to the ICIS-NPDES system and the new data standards, EPA will develop and offer an online training webinar for each phase of the implementation. The analysis three technical staff from each state will attend each webinar. Each webinar is 90 minutes, translating to a total burden of 9 hours per state.

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<sup>13</sup> Temporary and permanent waiver approval processes can also be included in implementation plans, but are considered separately in this analysis.

#### (6)(a)(ii)(9) Modify Permits to Include Electronic Reporting Requirements

State authorized NPDES programs would need to modify existing permits to include requirements to report data electronically (and, where applicable, remove language that explicitly requires paper reporting). The analysis assumes that this activity would require approximately 5 minutes (0.83 hours) per permit, and would occur on the normal permit cycle. Because permits are regularly reissued every 5 years, 20% of the permits would be modified per year. Thus, a total of 60% of the permit modifications would be completed during the ICR period.

#### (6)(a)(ii)(10) Initial Data Entry

For the electronic systems to properly route regulated entity information between authorized NPDES programs and EPA, and to automate the comparison of DMR data to the limits and limit sets in the permit, authorized NPDES programs would need to have their facility information, limits and limit sets entered into databases. Currently, much of the monitoring information for nonmajor permits is maintained on paper files or electronically in state computer systems that is not routinely shared with EPA.

Additionally, EPA does not have detailed information about the information systems of the authorized NPDES programs. Therefore, EPA does not know which of those systems conform to the requirements of this information collection activity, or how much of the data has been entered into information systems. For that reason, EPA assumes each authorized NPDES program would manually enter appropriately formatted permit, limit, and limit set information into the new system within the first year of rule promulgation so that regulated entities can use the system to sign up for electronic accounts during the first year. In reality, many states may have already automated much of this data, in which case their costs and burden would be lower than those estimated in this analysis.

The burden associated with initial data entry is estimated by multiplying the number of permit, limit, and limit set data elements required for each subprogram and permit type by the number of permits and the average data entry burden for the mode of submission (batch, hybrid, or direct) and subprogram. Estimated data entry times were developed by surveying nine states with regard to the time requirements associated with entering various data elements. This survey is described in further detail in the Economic Analysis of the NPDES Electronic Reporting Rule. Due to the variation in the number and types of permits, data entry burden, and frequency of reporting, the burden for initial data entry will vary by state. The average burden per state authorized NPDES program for this activity is 2,490 hours.

#### (6)(a)(ii)(11) Submit Programmatic Data to EPA

The rule will require authorized NPDES programs to share with EPA the information either that is reported to the authorized program or that they generate with respect to those regulated entities. This analysis estimates the change in data entry burden for state authorized NPDES programs by multiplying the change in the number of programmatic data elements in each subprogram and permit type (major vs. nonmajor, individual vs. general) by the frequency of reporting (see [Table 2](#)), the number of permits, and average data entry burden for each mode of submission (batch, hybrid, or direct) and subprogram. For the burden reduction associated with DMRs, this calculation also incorporates the number of DMR forms per submission, which is assumed to be four for major individual permits, two for nonmajor individual permits, and one for general permits. As noted above, estimated data entry times were developed by surveying nine states with regard to the time requirements associated with entering various data elements.

Note that, in addition to applying to regulated POTWs with approved pretreatment programs, the Pretreatment Program Annual Report requirement also applies to 36 states that are authorized to administer the pretreatment program. Under existing reporting requirements, these states submit an annual pretreatment program report covering industrial user discharges in municipalities without an approved pretreatment program (i.e., where the state is the Control Authority, instead of an approved POTW). The analysis includes the burden and burden reduction associated with electronic submission of

pretreatment program reports from states, in addition to pretreatment program reports from approved POTWs.

Due to the variation in the number and types of permits, data entry burden, and frequency of reporting, the burden for submitting programmatic data to EPA will vary by state. The average burden reduction per state for this activity is 21,698 hours.

In addition, states that are authorized for the NPDES program, but not the biosolids program, receive permit applications from POTWs that include the biosolids portion of the permit applications (Form 2S). These states must forward the biosolids portion of the application to the EPA region that is approved for the biosolids program. Although this is an existing requirement, forwarding the data becomes more crucial, given the need for the EPA regions to enter the biosolids permit data electronically. Therefore, the analysis includes the cost of this activity. It assumes each state compiles and forward the information monthly (less frequently in states expected to have less than one biosolids application per month), requiring one hour of clerical time.

#### (6)(a)(ii)(12) DMR Processing Savings

Electronic submission of DMRs by regulated entities would create savings for state authorized NPDES programs in the first three years after the effective date of the rule by eliminating the cost of processing incoming DMRs. Currently, authorized NPDES programs receive these reports in the mail, staff open and inspect them to ensure they are filled out correctly, enter their information into the state or EPA data system, and usually store them in a physical filing system. This process is estimated to take a data entry clerk 20 minutes per DMR form. Following rule implementation, the processing activities would be automated, resulting in a burden savings of 20 minute per DMR form. The calculation of total DMR processing savings incorporates the number of DMR forms per submission, which is assumed to be four for major individual permits, two for nonmajor individual permits, and one for general permits. In addition to reduced burden from processing, state authorized NPDES programs would also experience capital cost savings associated with savings by no longer sending pre-populated DMR forms to regulated entities, as discussed in Section (6)(b)(ii)(2).

#### (6)(a)(ii)(13) Burden and Savings for Other Activities beyond the ICR Period

Electronic submission of program reports by regulated entities would create savings for state authorized NPDES programs. Currently, authorized NPDES programs receive these reports in the mail, staff open and inspect them to ensure they are filled out correctly, enter their information into the state or EPA data system, and usually store them in a physical filing system.

In addition, existing CWA regulations (40 CFR 123.45) require that authorized NPDES programs submit to EPA annual, quarterly, and semi-annual reports regarding the compliance status of regulated entities in their jurisdiction. To meet this requirement, state authorized NPDES programs submit their non-compliance information to the Regional Administrator, who submits them to EPA headquarters. Under the rule, this information will be readily available to EPA directly from ICIS-NPDES, obviating the need for state authorized NPDES programs to compile and submit the information. Therefore, the rule will eliminate this reporting requirement, resulting in savings for state authorized NPDES programs.

Under the final rule, for the pretreatment program, when the state or EPA is the Control Authority, they must notify the industrial users they directly control of the applicable electronic reporting requirements (i.e., the electronic submission of bi-annual compliance reports, which would begin during Phase 2 of rule implementation).

Because these activities would not occur during the ICR period, however, the associated burden and burden reduction are not included here. See the Economic Analysis for further discussion of these savings and associated assumptions.

## 6(b) Total Respondent Costs

To estimate the total respondent costs, EPA multiplies the burden estimates derived in Section 6(a) by the appropriate labor costs (discussed in Section 6(b)(i) below). Next, EPA estimates the capital costs associated with paper and mailing savings (see Section 6(b)(ii) below). Detailed cost estimates for regulated entities and state authorized NPDES programs are presented in Appendix A and Appendix B, respectively.

### 6(b)(i) Labor Costs

EPA estimates respondent costs by multiplying the unit burden hour estimates described above by fully loaded hourly rates for workers of appropriate labor categories. The analysis uses 2014 hourly wage rates for three job categories: managerial, programmer/technical, and data clerk/administrative; each of which includes fringe benefits and overhead. Average wage data for these categories are based on the Bureau of Labor Statistics' Employer Costs for Employee Compensation in December 2014, which has separate wage estimates for government and private sector workers.<sup>14</sup>

More specifically, the managerial labor rate for government workers is the BLS national average in the management, professional, and related occupational group. The managerial labor rate for private industry workers is the BLS national average in the management, business, and financial occupational group. Its use in this analysis includes as the average hourly wages for staff who plan, direct, or coordinate electronic data processing, information systems, systems analysis, and computer programming.

The programmer/technical labor rate for each sector is the BLS national average in the professional and related occupational group. Its use in this analysis includes as the average hourly wages for staff who convert project specifications and statements of problems and procedures to detailed logical flow charts for coding into computer language; develop and write computer programs to store, locate, and retrieve specific documents, data, and information; and may program web sites.

The data clerk/administrative labor rate for each sector is the BLS national average in the office and administrative support occupational group. Its use in this analysis includes as the average hourly wages for staff who compute, classify, and record numerical data to keep financial records complete; perform any combination of routine calculating, posting, and verifying duties to obtain primary financial data for use in maintaining accounting records; and may also check the accuracy of figures, calculations, and postings pertaining to business transactions recorded by other workers.

The Bureau of Labor Statistics provides hourly wage and benefit rates (e.g., paid leave and insurance). Based on information provided by the chemical industry and chemical industry trade associations, an additional loading factor of 17% is applied to hourly wages and benefits for general overhead (see Table 4).<sup>15</sup>

<b>Table 4: Deriving Loaded Hourly Costs</b>		

<sup>14</sup> <http://www.bls.gov/news.release/ecec.t04.htm>

<sup>15</sup> Heiden Associates, *Final Report: A Study of Industry Compliance Costs Under the Final Comprehensive Assessment Information Rule*, Prepared for the Chemical Manufacturers Association, December 14, 1989.



Cost Components, by Job Category	BLS Government Hourly Wage Rate	BLS Industry Hourly Wage Rate
<b>Managerial</b>		
Hourly Wage	\$35.52	\$44.52
Benefits	\$17.72	\$22.04
Overhead	\$6.04	\$7.57
<b>Managerial Fully Loaded Wage Rate Per Hour</b>	<b>\$59.28</b>	<b>\$74.13</b>
<b>Programmer/Technical</b>		
Hourly Wage	\$35.16	\$34.63
Benefits	\$17.16	\$14.87
Overhead	\$5.98	\$5.89
<b>Programmer/Technical Fully Loaded Wage Rate Per Hour</b>	<b>\$58.30</b>	<b>\$55.39</b>
<b>Data Clerk/Administrative</b>		
Hourly Wage	\$18.08	\$16.52
Benefits	\$12.27	\$7.46
Overhead	\$3.07	\$2.81
<b>Data Clerk Fully Loaded Wage Rate Per Hour</b>	<b>\$33.42</b>	<b>\$26.79</b>

### 6(b)(ii) Capital Costs

Regulated entities and state authorized NPDES programs will experience capital cost savings associated with reduced printing and mailing costs. Table 5 shows the unit cost assumptions used to calculate these savings.

Cost Category	Cost
Page of Paper <sup>a</sup>	\$0.01
Envelope – Small <sup>b</sup>	\$0.04
Envelope – Large <sup>c</sup>	\$0.18
Postage – Small <sup>d</sup>	\$0.49
Postage - Large Envelope with 60 Pages inside <sup>d</sup>	\$2.87
Postage - Flat Rate Envelope <sup>d</sup>	\$5.75
a. Source: Office Depot brand standard white paper (March 2015) b. Source: Office Depot brand #10 security envelopes (March 2015) c. Source: Office Depot brand white 9" x 12" catalog envelopes (March 2015) d. Source: usps.com (March 2015)	

#### (6)(b)(ii)(1) Regulated Entity Capital Cost Savings

Once regulated entities establish their electronic accounts, they will experience savings due to the fact that they no longer have to mail their submissions to the authorized NPDES program. Regulated entities submitting DMRs electronically will save on paper and postage. According to EPA program experts, the average DMR form is five pages long. The analysis assumes four DMR forms per submission for major individual permits, two forms per submission for nonmajor individual permits, and one form per submission for general permits, for a total of five to 20 pages per submission. DMRs are partially filled out by the regulated entity, sent to an independent laboratory for completion, and then sent to the authorized NPDES program. Therefore, electronic DMR submission will save two standard envelopes, two first class stamps and five to 20 pages of paper, saving a total of \$1.13 to \$1.31 per submission. As discussed below, the analysis assumes that EPA Regions and authorized NPDES programs currently mail pre-populated DMR forms to an estimated 50% of all NPDES regulated entities. DMR savings for these entities are \$1.07 per submission. Combining these two scenarios, average DMR savings are \$1.10 to \$1.19 per submission. As noted in Table 2, DMR submission rates vary from annual to monthly according to the subprogram and permit type.

During the ICR period, regulated entities in states where EPA is the authorized NPDES biosolids program (currently 42 of 50 states and all other tribal lands and territories) will submit their Sewage Sludge/Biosolids Annual Program Report electronically to EPA. These entities will have associated paper

and postage savings. The analysis assumes that these program reports average 1.5 pages, and require one standard size envelope and postage. Electronic submission of these program reports, therefore, will save regulated entities \$0.55 per report. At full implementation (five years after the effective date of the rule), regulated entities also will experience savings associated with electronic submission of other program reports. Because these savings would not occur during the ICR period, however, they are not included here. See the Economic Analysis for further discussion of these savings and associated assumptions.

Note that it is not possible to simply multiply the per regulated entity savings by the sub program universe to estimate total regulated entity submission costs savings due to the fact that reporting frequencies are different within and across subprograms. For example, major stormwater regulated entities submit DMRs monthly, multi-sector generals submit DMRs three times per year, and only a few construction stormwater covered facilities have DMR reporting requirements.

#### (6)(b)(ii)(2) State Authorized NPDES Program Capital Cost Savings

State authorized NPDES programs will also experience savings from no longer sending pre-populated DMR forms to regulated entities. Currently, authorized NPDES programs mail DMR forms with regulated entity-specific limits to an estimated 50% of all NPDES regulated entities. Post rule, electronic copies of DMR forms will be available to all regulated entities, making them universally available and eliminating the need to mail the forms out. Table 6 details the per permit savings from eliminating the preparation and mailing of pre-populated DMR forms.

Type of Savings	Annual Frequency	Number of Pages	Cost	Annual Savings per Permit
Paper	12	5 to 20	\$0.01	\$0.06 to \$0.24
Envelopes	1	1	\$0.18	\$0.18
Postage	1	1	\$2.87	\$2.87
			<b>Total</b>	\$3.11 to \$3.29

### 6(c) Estimating Agency Burden and Cost

EPA Headquarters and EPA Regions would incur burden and cost associated with the transition to electronic reporting and newly shared data. Due to the different activities each group would undertake to comply, the burden to EPA Headquarters and EPA Regions is discussed separately in the following sections. When calculating the Agency cost, EPA uses the loaded hourly costs for government workers shown in [Table 4](#). The detailed burden and cost estimates for EPA are presented in Appendix C.

#### 6(c)(i) EPA Headquarters

EPA Headquarters is responsible for the following activities:

- Electronic reporting tool implementation;
- Operations and maintenance of the ICIS-NPDES system;
- Developing training webinars for authorized NPDES programs;
- Reviewing state implementation plans;
- Developing criteria for temporary and permanent waivers from electronic reporting for facilities where EPA is the authorized NPDES program;
- Assessing participation rates and, where appropriate, issuing individual notices to compel NPDES-regulated entities to utilize their NPDES program’s electronic reporting system; and
- Developing a National Non-Compliance Report that will replace the Annual and Quarterly Non-Compliance Reports and the Semi-Annual Statistical Summary.

The sections below discuss the burden associated with each of these activities.

#### (6)(c)(i)(1) Electronic Reporting Tool Implementation

Before regulated entities can use the electronic reporting system, authorized NPDES programs and EPA will need to provide the necessary reporting tools. The tools EPA will develop include augmented versions of the current NeT and NetDMR systems. Cost estimates for information technology system modifications were derived by comparing the architecture of the current system against the requirements of the rule. Rule requirements involving capabilities not currently in place were identified and rough orders of magnitude (defined as the true value being within -25% and +75% of the estimated value) of the level of effort required to meet those requirements were developed. The burden to implement the necessary electronic reporting infrastructure is approximately 166,433 hours for a single year. This estimate includes 28,818 hours to add data elements.

#### (6)(c)(i)(2) Operations and Maintenance

EPA will have ongoing annual costs to operate and maintain the necessary changes in the ICIS-NPDES system. Operations include accepting data from regulated entities, receiving data from authorized NPDES programs, and sending EPA data to the state authorized NPDES programs. Maintenance includes routine database refreshes, updates, and licensing. The annual burden of EPA activities required by the rule to support this information collection activity is estimated at 16,389 hours per year.

#### (6)(c)(i)(3) Develop Webinars

To ensure that state authorized NPDES programs are properly informed of the changes to the ICIS-NPDES system and the new data standards, EPA will develop and offer a 90-minute online training webinar for each phase of the implementation. The two webinars will require 100 hours total of EPA technical time to develop. The analysis also assumes that one EPA headquarters technical staff member will attend each webinar. The analysis conservatively assumes separate webinars for each state and EPA region, resulting in a total burden for EPA headquarters attendance of 171 hours.

#### (6)(c)(i)(4) Review and Approve Implementation Plans

Section (6)(a)(ii)(4) describes state implementation plans. The analysis assumes that EPA will spend 40 hours of managerial time to review and approve each implementation plan.

#### (6)(c)(i)(5) Waiver Criteria Development

As discussed in Section (6)(a)(ii)(7), the analysis estimates that developing the waiver criteria for each authorized NPDES program will require 40 hours of managerial time. The analysis assumes EPA will incur the same burden to develop a set of waiver criteria for facilities where EPA is the authorized NPDES program.

#### (6)(c)(i)(6) EPA Oversight

EPA will use its CWA authority and ICR to issue targeted individual notices requiring NPDES-regulated entities to utilize their NPDES program's electronic reporting system. EPA would likely undertake this oversight activity when and authorized state, tribe, or territory has less than 90% participation rate for one or more data groups. EPA will assess participation rates separately for individual permitted facilities and for facilities covered under general permits. EPA makes a number of assumptions in estimating the cost of oversight including:

- EPA will spend a total of 80 hours of technical labor to assess and report participation rates.
- EPA would then send letters to facilities that are not reporting electronically in specific states that do not initially meet the participation rate targets. These letters would each require 0.25 hours of

managerial labor and 0.25 hours of clerical labor, for a cost of \$23.77 per letter including mailing costs.

- EPA would need to undertake this activity in five states for individual permitted facilities and ten states for facilities covered under general permits.<sup>16</sup>
- Participation rates achieved in these states will be 75% for individual permitted facilities and 50% for facilities covered under general permits (such that 25% of individual permits and 50% of general permits will require letters).

The analysis assumes that one such set of oversight letters will be completed during the ICR period (specifically, during the final year of the ICR period), based on Phase 1 participation rates. The Economic Analysis includes the assumption that 20% of facilities will require a second letter, one year later, to achieve full participation. It also includes a second round of oversight letters based on participation rates for Phase 2 data. Because these activities would not occur during the ICR period, however, they are not included here.

#### **(6)(c)(i)(7) Develop New National Non-Compliance Report**

Under the rule, compliance information will be readily available to EPA directly from ICIS-NPDES, obviating the need for state authorized NPDES programs to compile and submit the information. Therefore, the rule will replace the existing annual, quarterly, and semi-annual reports with a National Non-Compliance Report that EPA headquarters will develop. Because this activity would not occur during the ICR period, however, the associated burden and costs are not included here. See the Economic Analysis for further discussion of this activity.

#### **6(c)(ii) EPA Regions**

Where EPA Regions are the permitting authority, they would incur costs and savings similar to those incurred by authorized state programs (discussed in Section 6(a) above). Specifically, they would incur costs for the following activities:

- Attend EPA training webinars on changes to the ICIS-NPDES system and new data standards;
- Modify permits to include electronic reporting requirements;
- Share facility information, limits, and limit sets with EPA electronically; and
- Share programmatic data required by Appendix A to 40 CFR 127, such as inspections, violations determinations and enforcement actions, with EPA electronically.

EPA Regions would also experience burden reduction by eliminating data entry and processing associated with incoming DMRs and Sewage Sludge/Biosolids Annual Program Reports. At full implementation (five years after the effective date of the rule), they would experience additional burden reduction by eliminating other program report processing and preparation of annual, quarterly, and semi-annual reports regarding the compliance status of regulated entities in their jurisdiction. The sections below identify the assumptions used to estimate the burden and burden reduction associated with those activities that occur during the ICR period.

#### **(6)(c)(ii)(1) EPA Training Webinars**

Three technical staff from each EPA Region where the Region is the permitting authority would be required to attend each 90-minute online training webinar offered by EPA.

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<sup>16</sup> The analysis does not identify specific states where EPA would undertake these activities. Instead, it assumes the targeted states have average-sized populations of permitted facilities.

#### (6)(c)(ii)(1) Permit Modifications

EPA Regions would modify permits for regulated entities in states where the EPA Region is the permitting authority to require electronic reporting (and, where applicable, remove language that explicitly requires paper reporting). It is estimated that it would take EPA Regions five minutes per permit to make the necessary modifications. The analysis assumes EPA Regions would complete these permit modifications within the first year after the effective date of the rule.

#### (6)(c)(ii)(2) Initial Data Entry

As with state authorized NPDES programs, where EPA is the permitting authority, EPA Regions would need to share their facility information, limits and limit sets with EPA. This analysis assumes each EPA Region would manually enter appropriately formatted limit and limit set information into the new system in the first year after the effective date of the rule so that regulated entities would be able to use the system when the rule requires them to sign up for electronic accounts. In reality, many EPA Regions may have already automated much of this data, in which case their costs would be lower than those estimated in this analysis.

The data entry burden associated with initial data entry is estimated by multiplying the number of permit, limit, and limit set data elements required for each subprogram and permit type by the number of permits and the average data entry burden for the mode of submission (all Regions are direct users) and subprogram. Estimated data entry times were developed by surveying nine states with regard to the time requirements associated with entering various data elements. This survey is described in further detail in the Economic Analysis. Due to the variation in the number and types of permits, data entry burden, and frequency of reporting, the burden for initial data entry will vary by region. The average burden per region for this activity is 1,005 hours.

#### (6)(c)(ii)(3) Submit Programmatic Data to EPA

The rule would increase the amount of information authorized NPDES programs must share with EPA. In this analysis, the data entry burden for EPA Regions is estimated by multiplying the number of programmatic data elements in each permit subprogram and permit type (major vs. nonmajor individual vs. nonmajor general) by the average data entry burden for each mode of submission and subprogram. The total cost for each permit is then multiplied by the number of permits as well as the frequency of reporting. Estimated data entry times were developed by surveying nine states with regard to the time requirements associated with entering various data elements.

Note that, in addition to applying to regulated POTWs with approved pretreatment programs, the Pretreatment Program Annual Report requirement also applies to nine EPA regions (covering the 14 states that are not authorized for the pretreatment program). Under existing reporting requirements, these regions submit an annual pretreatment program report covering industrial user discharges in municipalities without an approved pretreatment program (i.e., where the state or region is the Control Authority, instead of an approved POTW). The analysis includes the burden and burden reduction associated with electronic submission of pretreatment program reports from EPA regions, in addition to pretreatment program reports from approved POTWs.

EPA Regions would also receive savings from no longer having to enter information submitted by regulated entities on paper DMRs and general permit reports. Data entry savings are calculated using the same method as data entry costs: multiply the number of programmatic data elements that are no longer entered by the Region by the data entry burden, number of permits, and frequency of reporting. For the burden reduction associated with DMRs, this calculation also incorporates the number of DMR forms per submission, which is assumed to be four for major individual permits, two for nonmajor individual permits, and one for general permits. Due to the variation in the number and types of permits, data entry

burden, and frequency of reporting, the burden for submitting programmatic data to EPA will vary by region. The average burden reduction per region for this activity is 2,481 hours.

#### (6)(c)(ii)(4) DMR Processing and Pre-Populated DMR Paper and Mailing Savings

Electronic submission of DMRs by regulated entities would create savings for EPA Regions that are directly implementing the NPDES program in the first three years after the effective date of the rule by eliminating the cost of processing incoming DMRs. Currently, EPA Regions receive these reports in the mail, staff open and inspect them to ensure they are filled out correctly, enter their information into the state or EPA data system, and usually store them in a physical filing system. This process is estimated to take a data entry clerk 20 minutes per DMR. The calculation of total DMR processing savings incorporates the number of DMR forms per submission, which is assumed to be four for major individual permits, two for nonmajor individual permits, and one for general permits.

In addition to reduced burden from processing, EPA Regions would also experience capital cost savings associated with savings by no longer sending pre-populated DMR forms to regulated entities. Currently, EPA Regions mail DMR forms with regulated entity-specific limits to an estimated 50% of all NPDES regulated entities. When fully implemented, the rule would allow all authorized NPDES programs to provide electronic copies of DMR forms to all regulated entities, making them universally available and eliminating the need to mail the forms out. The savings per permit to EPA Regions from eliminating the preparation and mailing of pre-populated DMR forms would be the same as those to state authorized NPDES Programs shown in Table 6.

#### (6)(c)(ii)(5) Program Report Processing Savings

Electronic submission of Sewage Sludge/Biosolids Annual Program Reports by regulated entities would create savings for EPA Region authorized NPDES programs during the ICR period by eliminating the cost of processing incoming program reports. Currently, authorized NPDES programs receive these reports in the mail, staff open and inspect them to ensure they are filled out correctly, enter their information into the state or EPA data system, and usually store them in a physical filing system. This process is estimated to take a data entry clerk 7.5 minutes per program report. Following rule implementation, the processing activities would be automated.

#### (6)(c)(ii)(1) Burden and Savings for Other Activities beyond the ICR Period

At full implementation (five years after the effective date of the rule), EPA Regions would experience additional savings by eliminating the cost of processing other program reports, in addition to the Sewage Sludge/Biosolids Annual Program Reports discussed above.

In addition, existing CWA regulations (40 CFR 123.45) require that authorized NPDES programs submit to EPA annual, quarterly, and semi-annual reports regarding the compliance status of regulated entities in their jurisdiction. To meet this requirement, EPA Regions that are directly implementing the NPDES program submit their non-compliance information to the Regional Administrator, who submits them to EPA headquarters. Under the rule, this information will be readily available to EPA Headquarters directly from ICIS-NPDES, obviating the need for EPA Regions to compile and submit the information. Therefore, the rule will eliminate this reporting requirement, resulting in savings for EPA Regions.

Under the final rule, for the pretreatment program, when the state or EPA is the Control Authority, they must notify the industrial users they directly control of the applicable electronic reporting requirements (i.e., the electronic submission of bi-annual compliance reports, which would begin during Phase 2 of rule implementation).

Because these activities would not occur during the ICR period, however, the associated burden and burden reduction are not included here. See the Economic Analysis for further discussion of these savings and associated assumptions.

#### **6(d) Estimating the Respondent Universe**

The respondent universe is comprised of authorized state programs and regulated entities. As was noted in Section 4(a), 46 states and one U.S. territory are authorized by EPA to administer some or all of the NPDES program. The regulated entity respondent universe is estimated based on information in ICIS-NPDES and information provided by EPA's Office of Water. **Table 7** summarizes the regulated entity universe by subprogram and permit type.

<b>Table 7: Universe Summary by NPDES Subprogram</b>			
<b>NPDES Subprogram</b>	<b>Number of NPDES Permits</b>		
	<b>Individual Majors</b>	<b>Individual Nonmajors</b>	<b>General Nonmajors</b>
<b>Non-POTWs (Industrial, Agriculture, and Stormwater)</b>			
<b>Standard Industrial Dischargers (may also file CWA §316(b) data)</b>	1,683	18,993	118,073 <sup>a</sup>
<b>CWA §316(b) Filers</b>			
Permits with Cooling Water Intake Data	1,171	0	0
Permits with Thermal Variance Data	554	0	0
Industrial Facilities Submitting CWA §316(b) Annual Reports	200	0	0
<b>Significant Industrial Users (SIUs)<sup>b</sup></b>			
SIUs in Municipalities with Pretreatment Program	0	29,060	0
SIUs in Municipalities without Pretreatment Program	0	2,487	0
<b>Concentrated Animal Feeding Operations</b>	0	1,266	5,291
<b>Industrial and Construction Stormwater</b>			
Industrial	132	563	92,282
Construction	1	638	243,227
<b>Municipal Stormwater<sup>c</sup></b>			
Phase I municipal separate storm sewer systems (MS4s)	249	0	9
Phase II MS4s	0	204	5,093
<b>POTWs and TWTDSs (may have a CSS or a SSS, may also file more than one report)</b>			
POTWs with Combined Sewer Systems (CSSs) <sup>d</sup>	462	244	68
POTWs with Sanitary Sewer Systems (SSSs) only <sup>d</sup>	3,533	9,197	1,281
TWTDSs	779	7,510	655
<b>POTW NPDES Report Filers</b>			
Biosolids/Sewage Sludge Report Filers	4,209	694	0
Pretreatment Program Report Filers	1,462	114	0
Sewer Overflow Event Report Filers <sup>d</sup>	4,774	16,950	2,003

<sup>a</sup> Includes 9,125 pesticide applicators and 63,000 vessels that are already filing electronically

<sup>b</sup> These industrial facilities discharge to POTWs and are regulated by the NPDES program through EPA's General Pretreatment Regulations (40 CFR 403) and Categorical Pretreatment Standards (40 CFR 405 – 471). They do not have NPDES permits, but those in municipalities without pretreatment programs would report electronically under the rule.

<sup>c</sup> Nearly all Phase I MS4s are individually permitted facilities. For purposes of cost estimating, the analysis treats all individually permitted Phase I MS4s as majors and all Phase II MS4s as nonmajors.

<sup>d</sup> The analysis divides the total universe of POTWs into CSSs and SSSs and treats those that are only partially composed of CSSs as CSSs.

## 6(e) Bottom Line Burden Hours and Cost Tables

This section presents the total incremental burden and cost to regulated entities, authorized NPDES programs, and EPA to comply with the information collection requirements associated with the NPDES Electronic Reporting Rule in the three-year period covered by this ICR.

### 6(e)(i) Respondent Tally

The bottom line burden hours and costs for regulated entities and state authorized NPDES programs are the average annual hours and costs collectively incurred for all activities during the 3-year period covered by this ICR. Table 8 provides a summary of the average annual number of respondents, burden hours, and costs. A more detailed summary is provided in Appendix A and B.<sup>17</sup>

<sup>17</sup> The appendices present the total incremental burden and cost to regulated entities and state authorized NPDES programs over the three-year period of the ICR. These costs are divided by three to calculate the average annual incremental burden and cost.



<b>Table 8: Average Annual Respondent Burden and Cost</b>			
<b>Unit of Analysis</b>	<b>Regulated Entities</b>	<b>States</b>	<b>Total</b>
Average Annual Number of Respondents <sup>a</sup>	213,349	47	213,396
Average Annual Number of Responses	78,477	1,135,376	1,213,854
Average Annual Increase in Burden (hours)	118,577	555,202	673,779
Average Annual Decrease in Burden (hours)	0	-871,015	-871,015
Average Annual Incremental Burden (hours)	118,577	-315,814	-197,236
Average Annual Incremental Cost	\$6,867,716	-\$1,072,586	5,795,130
Average Annual Incremental Burden per Respondent (hours)	0.56	-6,719	-0.92
Average Annual Incremental Burden per Response (hours)	1.51	-0.28	-0.16
Average Annual Incremental Cost per Respondent	\$32.19	-\$22,821	\$27.16
Average Annual Incremental Cost per Response	\$87.51	-\$0.94	\$4.77

<sup>a</sup> The number of respondents includes regulated entities that both submit information (a response) and experience a cost or cost savings while the number of responses is limited to a count of information submissions. Thus, there are more affected respondents than responses.

The burden (and burden reduction) shown in Table 8 is measured against EPA’s existing NPDES ICRs (see Section 3(a)). The sum of the existing active NPDES ICRs, plus the incremental burden in this ICR, should accurately reflect the total reporting burden, while accounting for the change in the mode of reporting.

Furthermore, most of the burden increase, both to regulated entities and authorized NPDES programs, is for one-time activities associated with the transition to electronic reporting. Of the 118,557 hours per year average annual burden increase to regulated entities, only 9,137 hours per year (less than 1 percent) is for ongoing activities (specifically password resets, see Section (6)(a)(i)(3)). Of the 555,202 hours per year average annual burden increase to authorized NPDES programs, 286,633 hours per year (approximately 52 percent) is for ongoing activities. The ongoing activities for authorized NPDES programs are management of data transfer, training, and technical support (see Section (6)(a)(ii)(2)) and ongoing data entry associated with submitting programmatic data to EPA (see Section (6)(a)(ii)(11)). The ongoing burden increase is more than offset by the burden reduction of 871,015 hours per year annual average, all of which is ongoing and continues beyond the three year period covered by this ICR.

Accordingly, EPA does not plan to renew this ICR. Instead, EPA plans to incorporate the ongoing effects of electronic reporting (which include the activities discussed above, plus those described in Section (6)(c)(ii)(1)) into the existing ICRs when those ICRs are due for renewal. These NPDES ICRs will reflect the overall lower burden associated with the switch from paper to electronic reporting when they are renewed.

## **6(f) The Agency Tally**

Incremental Agency bottom line burden hours and costs are the average annual incremental hours and costs collectively incurred for all activities during the 3-year period covered by this ICR. Table 9 provides a summary of the average annual burden hours and costs. A more detailed summary is provided in Appendix C.<sup>18</sup> As with the burden to respondents, most of the burden increase is for one-time activities. Of the 76,135 hours per year average annual burden increase to the Agency, only 15,925 hours per year (approximately 21 percent) is for ongoing activities. The ongoing burden increase is more than offset by the burden reduction of 48,303 hours per year annual average, all of which is ongoing and continues beyond the three year period covered by this ICR.

<sup>18</sup> The appendix presents the total incremental burden and cost to the Agency over the three-year period of the ICR. These costs are divided by three to calculate the average annual incremental burden and cost.

<b>Table 9: Average Annual Agency Burden and Cost</b>	
Average Annual Increase in Burden (hours)	76,135
Average Annual Decrease in Burden (hours)	-48,303
Average Annual Incremental Burden (hours)	27,832
Average Annual Incremental Cost (labor)	\$2,636,543
Average Annual Incremental Cost (capital)	-\$18,083
Total Average Annual Incremental Cost	\$2,618,460

## 6(g) Reasons for Change in Burden

EPA believes electronic reporting is needed to improve data quality and availability while reducing costs. Specifically, the rule is expected to save time and resources for states while improving compliance and better protecting the Nation’s waters. This ICR estimates that respondents would incur a total average annual incremental burden reduction of 197,236 hours to comply with the requirements of the NPDES Electronic Reporting Rule in the first three years of its implementation. Note that the net burden reduction results from labor burden reductions to state authorized NPDES programs; regulated entities do not experience a net reduction in labor burden.

## 6(h) Burden Statement

The calculations made for this ICR cover the burden and costs for EPA, authorized states, and operators of regulated entities. This ICR estimates a total average annual burden of 118,577 hours for 213,349 regulated entity respondents at a cost of \$6,867,716. The average annual incremental burden per respondent is 0.56 hours per regulated entity. Burden reduction for the state respondents is 315,814 hours annually for 47 state respondents at a cost savings of \$1,072,586. The average annual burden reduction per respondent is 6,719 hours per state. Agency burden is 27,832 hours annually at a net cost increase of \$2,618,460.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, or disclose or provide information to or for a federal agency. This includes the time needed to:

- Review instructions;
- Develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information;
- Adjust existing ways to comply with any previously applicable instructions and requirements;
- Train personnel to be able to respond to a collection of information;
- Search data sources;
- Complete and review the collection of information; and
- Transmit or otherwise disclose information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA’s regulations are listed in 40 CFR Part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OECA-2009-0274, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Enforcement and Compliance 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 OECA Docket is (202) 566-1752. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OECA-2009-0274 and OMB Control Number 2020-0035 in any correspondence.