



United States
Environmental Protection
Agency

Supporting Statement for the Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin Information Collection Request

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A. JUSTIFICATION

1. *Explain the circumstances that make the collection necessary and explain the legal or administrative requirements relevant to the collection and attach a copy of the statute or regulation authorizing the collection*

The U.S. Environmental Protection Agency (EPA) has finalized a rule to establish public notification requirements for combined sewer overflow (CSO) discharges to the Great Lakes, as required by Section 425 of the Consolidated Appropriations Act of 2016 (Pub. L. 114–113) (hereafter, referred to as “Section 425”). Section 425 requires EPA to work with the Great Lakes states to create these public notification requirements.

In response, EPA has established public notification requirements for permittees authorized to discharge from a CSO to the Great Lakes Basin [82 FR 4233]. These requirements address: 1) signage; 2) notification to local public health department and other potentially affected public entities; 3) notification to the public; and 4) annual notice. The rulemaking also requires the permittee to develop a public notification plan. Permittees are required to seek and consider input on these plans from local public health departments and other potentially affected public entities. The public notification plans would also provide state permit writers with detailed information needed to write permit conditions.

Some permittees affected by this public notification rule may already have implemented some of these requirements and the associated burden is already covered under the ICR for National Pollutant Discharge Elimination System (NPDES) Program (Renewal) (OMB Control No. 2040-0004, EPA ICR No. 0229.21). This rule also has a few additional requirements that are not already covered by the ICR for NPDES Program (Renewal):

- More timely reporting of information already collected on CSO discharges.
- Annual CSO notice, made publicly available.
- Public notification plans that will provide system-specific details describing the discharger’s public notification efforts (required to seek input from potentially affected public entities).

This ICR calculates the incremental increase in burden and costs associated with implementation of the CSO notification requirements for CSO permittees in the Great Lakes Basin that have not already fully implemented these requirements (see further discussion in the document titled, “Analysis of Costs and Executive Orders,” included in the docket). This ICR covers years 1 through 3 after promulgation of the rule. Under this rule, EPA is requiring the following items be disclosed to the public, some of which are already covered to some extent under the existing ICR for NPDES Program (Renewal):

- A description of the permittee’s signage program (partially accounted for in the ICR for NPDES Program (Renewal)).
- Identification of municipal entities that may be impacted by the permittee’s CSO discharges.

- Input from the health department (local or state) and other potentially affected entities.
- Protocols for the initial and supplemental notice of the public (partially accounted for in the ICR for NPDES Program (Renewal)).
- Method for determining volume and duration of CSO discharges (partially accounted for in the ICR for NPDES Program (Renewal)).
- Protocols for making the annual notice available to the public.
- Significant modifications to the permittee's public notification plan and a description of the availability of the plan to the public.
- A description of the location, treatment provided, and receiving water of each CSO discharge point (partially accounted for in the ICR for NPDES Program (Renewal)).
- The date, location, duration, and volume of each wet weather CSO discharge (partially accounted for in the ICR for NPDES Program (Renewal)).
- The date, location, duration, and volume of each dry weather CSO discharge (partially accounted for in ICR for NPDES Program (Renewal)).
- A summary of available monitoring data (partially accounted for in the ICR for NPDES Program (Renewal)).
- A description of any public access areas impacted by CSO discharges.
- Representative precipitation data.
- Permittee contact information.

2. Indicate how, by whom and for what purpose the information is to be used

A combined sewer system (CSS) collects rainwater runoff, snowmelt, domestic sewage, and industrial wastewater into one pipe. Under normal conditions, the CSS transports the wastewater it collects to a wastewater treatment plant for treatment, then discharges to a water body. The volume of wastewater collected can sometimes exceed the capacity of the CSS or treatment plant (e.g., during heavy rainfall events and/or snowmelt). When this occurs, untreated stormwater and wastewater discharge directly to nearby streams, rivers, and other water bodies; this event is referred to as a combined sewer overflow (CSO) discharge. CSO discharges are managed and operated mostly by municipalities that also operate the publicly owned treatment works (POTWs) to which the wastewater flows under normal conditions.

CSO discharges release wastewater containing untreated or partially treated human and industrial waste, toxic materials, and debris as well as stormwater to public waterways. They are a priority human health and water pollution concern for the nearly 860 municipalities across the U.S. that have CSSs. CSO discharges can be detrimental to human health and the environment because they introduce pathogens, bacteria, and other pollutants to receiving waters, cause beach closures, contaminate drinking water supplies, and impair water quality.

Depleted oxygen levels that can be caused by CSO discharges can also impact fish and other aquatic populations.

The public notification requirements in this regulation are specific to CSO discharges in the Great Lakes Basin and are intended to alert the public, local public health departments, and other potentially affected public entities to the short- and long-term public health and environmental hazards associated with CSO discharges. Such notification will enable potentially affected parties to take action that may help prevent serious health effects that may otherwise occur if they were to remain unaware of the occurrence of CSO discharges.

This ICR covers information that must be provided by operators of CSSs (CSO permittees) that discharge within the watershed of the Great Lakes Basin. EPA has identified 162 NPDES CSO permits located in seven states¹ (Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Wisconsin) that cover approximately 1,570 CSO discharge points. Each of these permits is the responsibility of a local government entity. A review of how the CSSs are managed indicated that, in some cases, one entity (e.g., a municipality or multi-jurisdictional wastewater authority) may be responsible for the operation and management of the CSSs associated with multiple individual permits. The 162 NPDES CSO permits are managed by a total of 158 CSO permittees, which are each considered as a separate respondent in this ICR.

One unique multi-jurisdictional entity is the Metropolitan Water Reclamation District of Greater Chicago (MWRD), which manages the Tunnel and Reservoir Plan (TARP), a storage system that includes a reservoir and four distinct tunnel systems designed to store combined wastewater for later treatment. Within the drainage area of the TARP there are nearly 400 CSO discharge points and associated CSSs that receive capacity relief from the TARP system. The MWRD serves 39 CSO permittees. Because of engineering modifications to the local rivers, including the construction of canals, under normal conditions the receiving water for these CSO discharge points do not flow into Lake Michigan but rather to the Mississippi River along with water from Lake Michigan. Flow into and out of Lake Michigan is controlled by three control structures. During extreme wet weather conditions, flow in these receiving waters is reversed and they flow into Lake Michigan. Flow into Lake Michigan through these control structures has occurred 14 times in past 15 years.²

The MWRD, which manages four CSO permits, and the City of Chicago, which manages one CSO permit, have jointly developed a CSO discharge notification plan and alert system that encompasses many of the CSO discharge points and waterways within the drainage area of the TARP. The NPDES permits for the CSO permittees in the MWRD service area provide that public notification programs may be developed in conjunction with the MWRD. Given this arrangement, the other 37 CSO permittees that manage a single permit associated with the TARP system are considered to have a reduced burden requirement compared to similar sized CSO permittees in the other states because they can utilize the notification

¹ Even though Minnesota is considered a Great Lakes state, there are no CSO permittees discharging to the Great Lakes Basin in Minnesota. The only remaining CSO permittee in Minnesota is designed to discharge to the Mississippi River. Therefore, Minnesota is not considered within the scope of this rule.

² MWRD's Reversals to Lake Michigan (1985 – Present):
https://www.mwrdd.org/irj/go/km/docs/documents/MWRD/internet/protecting_the_environment/Combined_Sewer_Overflows/pdfs/Reversals.pdf

resources made available by the MWRD. In this ICR, the 37 CSO permittees that are within the TARP system but are not managed by the MWRD or the City of Chicago are referred to as “TARP CSO permittees.” All 37 TARP CSO permittees, MWRD, and the City of Chicago are subject the requirements of this public notification rule.

The information covered in this ICR includes activities related to public notification of the occurrence of CSO discharges in the Great Lakes Basin plus the submission of related information (e.g., plans, annual reports) to NPDES permitting authorities (i.e., state agencies). These activities also include those associated with NPDES program oversight. All the Great Lakes states within the scope of this regulation are authorized to administer the NPDES program and thus, state agencies will perform all related NPDES program oversight activities.

3. Describe whether and to what extent the collection involves the use of automated processes or information technology to aid with the collection

Except for CSO discharge point and public access area signs, the public notifications themselves, as well as the plans and annual notices, will be managed predominantly through electronic media and automated processes. This rule includes specific requirements for electronic reporting of any CSO discharge that occurred during the past calendar year that has not been previously reported pursuant to a permit requirement (40 CFR 122.38(c)) and for electronic reporting of all CSO discharges in a discharge monitoring report or a sewer overflow event report (40 CFR 122.42(f)(9)). The recent ICR for the Electronic Reporting of NPDES Program Data (NPDES Electronic Reporting ICR) (OMB Control No. 2020-0035, EPA ICR No. 2468.02, expiration date January 31, 2019) includes specific electronic reporting requirements that were phased in by December 21, 2016, for DMR data (Phase 1) and are to be phased in by December 21, 2020, for all other NPDES program reports, including sewer overflow event reports (Phase 2). Given that relevant electronic reporting requirements are already being phased in, EPA has concluded that any incremental burden increase or decrease associated with electronic reporting requirements for Great Lakes CSO notification data is already accounted for in the referenced NPDES Electronic Reporting ICR and thus no incremental burden adjustment is assigned to these requirements.

4. Describe the efforts to identify duplication

EPA identified several duplicative efforts and has since revised the associated sections to remove the duplication. In 40 CFR 122.38(b), EPA revised the due date for the annual notice to avoid duplicative efforts with existing annual reporting requirements, by allowing permittees to combine the requirements stated in the rule with existing reporting requirements into one report. In the same section of the rule, several commenters noted that the electronic reporting requirements associated with the annual notice were somewhat redundant of the NPDES Electronic Reporting Rule. EPA revised the language in the final regulatory text to remove this duplication (written in the proposed rule under 40 CFR 122(c)).

5. Explain whether the collection impacts small entities

The 158 CSO permittees potentially impacted by this regulation are all municipalities. Of these an estimated 123 have aggregate populations of less than 50,000 classified as small

governmental jurisdictions and thus are small entities. EPA specifically performed separate calculations of the ICR burden for the subgroup of CSO permittees that would be classified as small entities. EPA then evaluated the impact of this regulation on these small entities in relation to available financial data and concluded that this information collection will not have a significant impact on a substantial number of small entities. A more detailed description of this evaluation and its conclusions can be found in the document titled, “Analysis of Costs and Executive Orders.”

6. Describe the consequences to the program if the collection is not conducted or is conducted less frequently

CSO discharges in the Great Lakes Basin can be detrimental to human health and the environment because they introduce pathogens, bacteria, and other pollutants to receiving waters, causing beach closures, contaminating drinking water supplies, and impairing water quality. Timely notification to the public, public health departments, and other potentially affected public entities is important for protecting the public from potential serious public health consequences related to contact with receiving water contaminated by CSO discharges or consumption of potentially contaminated drinking water or aquatic organisms. Failure to provide wide-spread and timely notification of CSO discharges increases the risk of serious public health consequences for persons exposed to CSO contaminated water or who consume aquatic organisms.

7. Explain any special circumstances associated with “extraordinary burden” placed on respondents

There are no special circumstances where “extraordinary burden” is placed on respondents. The collection of information is conducted in a manner consistent with the Paperwork Reduction Act guidelines at 5 CFR 1320.5(d)(2).

8. Provide a copy and identify the date and page number of the notice in the Federal Register

8a. Federal Register Notice Publication and a Summary of Comments Received and EPA’s Response

The proposed rule for the Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin was published in the Federal Register on January 13, 2017 (82 FR 4233). The notice included a request for comment on the content and impact of these information collection requirements on the regulated permittee. EPA solicited public comment through March 14, 2017, and received approximately 1,300 comment letters (45 of which were unique) concerning the proposed rule from municipalities, states, environmental organizations, trade associations, Indian Tribes, and private citizens. EPA responded to each of the comments in the document titled, “Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin: EPA’s Response to Public Comments.”

In general, commenters did not pose significant concerns with the requirements of this public notification rule. EPA received comments regarding the scope and anticipated burden of the rule, the need for the rule, clarification on certain definitions, and the specific activities

required (e.g., signage, initial and supplemental notifications, public notification plan, annual notice). Some commenters expressed concern with the burden (time and costs) associated with collecting the necessary data to meet the public notification requirements. In response to these comments, EPA further evaluated and worked to reduce the incremental burden associated with each required activity, consulted with states and acquired additional state information (e.g., CSO discharge point counts, lists of permittees within scope, existing state requirements), and developed a document for explaining one way for implementing a predictive approach (see Predictive Approach Memorandum for the Great Lakes Basin) that can help CSO permittees meet the initial notification requirements with much less burden than real-time monitoring or complex models. EPA also revised the language from the proposed rule to clarify specific questions and concerns from commenters and revised the overall burden estimate of the final rule. Please refer to the preamble to the final rule and the document titled, “Public Notification Requirements for Combined Sewer Overflows to the Great Lakes Basin: EPA’s Response to Public Comments” for a more detailed summary of the comments received.

8b. EPA’s Consultation with Stakeholders

EPA has conducted consultations with stakeholders to solicit their input on the requirements for public notification of CSO discharges in the Great Lakes Basin. Throughout the development of the rule, EPA worked with the Great Lakes states to identify and evaluate options for implementing Section 425. The Great Lakes states provided descriptions of existing state notification requirements, shared their insight on implementation issues with the proposed requirements, made recommendations regarding the rule, and commented on the burden to implement the rule. EPA also met with various stakeholder groups that represent municipalities and environmental organizations to hear each of their perspectives.

On August 1, 2016, EPA published a request for stakeholder input regarding potential approaches for developing public notice requirements for CSO discharges to the Great Lakes Basin under Section 425 of the 2016 Appropriations Act (81 FR 50434). As part of this effort, EPA held a public “listening session” on September 14, 2016, which provided stakeholders and other members of the public an opportunity to share their views regarding potential new public notification requirements for CSO discharges in the Great Lakes Basin. The record for the rulemaking includes a summary of the oral comments made at the public listening session (EPA-HQ-OW-2016-0376-0123). As part of the request for stakeholder input (81 FR 50434), EPA requested written comments on potential approaches for public notification requirements through September 23, 2016. The written comments are discussed throughout the preamble to the proposed rule.

EPA also participated in calls with the National Association of Clean Water Agencies (NACWA), the Alliance of the Great Lakes, and the National Parks Conservation Association in March and April of 2016 to better understand their perspectives of Section 425. In addition, EPA participated in a call organized by NACWA in May 2016 in which NACWA members (primarily local agencies responsible for POTWs) provided input on technical and financial issues associated with public notification.

After the comment period closed in March 2017, EPA consulted states about the comments they submitted, how much of a burden they and their CSO permittees anticipate facing from

the proposed requirements, and how easy it would be to modify their existing state requirements to incorporate certain public notification requirements included in the rule. From these conversations, EPA revised the rule language to reduce the burden on states and CSO permittees (e.g., extending the supplemental notification timeframe from 24-hours to 7 days). EPA included memorandums in the docket to detail the discussions held with Indiana Department of Environmental Management, Michigan Department of Environmental Quality, and New York State Department of Environmental Conservation.

9. Explain any decision to provide compensation to respondents

No payments or gifts are provided to respondents.

10. Describe any assurance of confidentiality provided to respondents

Applications for an NPDES permit may contain confidential business information. However, EPA does not consider the specific information being requested by this rule or the public nature of the CSO permittees themselves to be typical of confidential business or personal information. Any respondent that considers this information to be of a confidential nature may request that such information be treated as confidential. All confidential data will be handled in accordance with 40 CFR 122.7, 40 CFR part 2, and EPA's Security Manual part III, chapter 9, dated August 9, 1976.

11. Provide additional justification for any questions of a sensitive nature

No sensitive questions pertaining to private or personal information, such as sexual behavior or religious beliefs, are included in this information collection.

12. Provide estimates of the hour burden of the collection of information

The annual average reporting and record keeping burden for the collection of information by CSO permittees that are subject to the notification requirements for CSO discharges in the Great Lakes Basin is estimated to be 10,122 hours of burden, which is equal to an average of 64 hours (\$2,400) per municipal respondent when divided among an anticipated annual average of 158 CSO permittees. The state agency reporting and record keeping burden for the review, oversight, and administration of the rule is estimated to be an annual average of 179 hours, which is equal to an average 26 hours (\$1,000) per respondent when divided among seven states. The total annual average labor burden for municipal respondents and states combined is 10,301 hours (\$387,000). The frequency of responses varies between activities; some activities are conducted once or on an as needed basis, while others are conducted annually. Appendix A of the document titled, "Analysis of Costs and Executive Orders" provides a more detailed table showing the calculated values for respondents, responses, burden, and costs by activity. Section 2 of the document titled, "Analysis of Costs and Executive Orders" provides a description of the information collected and methodology used for estimating respondent burden and costs, including labor rate data.

Table 12-1 summarizes the labor burden and associated labor costs. This table includes information on very small CSO permittees (population less than 10,000), small CSO permittees (population between 10,000 and 50,000), large CSO permittees (population greater than 50,000), and state agencies, as well as a total for all CSO permittees and all respondents (i.e., CSO permittees and state agencies). Table 12-2 presents the average labor

burden and associated labor costs per respondent, which range from \$1,000 to \$4,000 depending on the size of the permittee. The annual burden hours and cost do not include contractor labor used by very small permittees. These costs are included in Tables 13-1 and 13-2.

**Table 12-1 Annual Labor Burden and Labor Costs
(Average of Three Year Period)**

	Respondents	Annual Total Burden (hours)	Annual Total Labor Costs (2016\$)
Very Small CSO permittees	54	2,930	\$110,000
Small CSO permittees	69	3,733	\$140,000
Large CSO permittees	35	3,460	\$130,000
Total CSO permittees	158	10,122	\$380,000
State agencies	7	179	\$7,000
Totals	165	10,301	\$387,000

**Table 12-2 Annual Labor Burden and Labor Costs per Respondent
(Averaged of Three Year Period)**

	Respondents	Annual Burden per respondent (hours)	Annual Labor Cost per respondent
Very Small CSO permittees	54	54	\$2,030
Small CSO permittees	69	54	\$2,030
Large CSO permittees	35	99	\$3,710
Total CSO permittees	158	64	\$2,400
State Agencies	7	26	\$1,000
Totals	165	62	\$2,340

13. Provide an estimate of the total annual cost burden to respondents

This section addresses non-labor costs only. The non-labor costs for CSO permittees and state agencies are the total capital, startup, and operation and maintenance costs collectively incurred for all activities during the 3-year period covered by this ICR. Table 13-1 provides the average annual number of respondents, capital/startup, and operation and maintenance costs for CSO permittees and state agencies. Table 13-2 provides the same information as Table 13-1 but on a per respondent basis. There are no average annual operation and maintenance costs because EPA categorized sign inspection and maintenance as a capital cost under the recurring activities included in the rule. The total average annual costs are higher in these tables for very small and small CSO permittees because the non-labor capital/startup costs include contractor labor, which EPA assumed is used by all very small and 50 percent of small CSO permittees in this burden estimate. The actual labor hours and costs for non-contractor labor (i.e., municipal staff) are included as labor burden and costs, which are presented in Tables 12-1 and 12-2. Section 2.2.1 of the document titled, “*Analysis*

of *Costs and Executive Orders*” describes the hourly labor rates assumed for this rule, including contractor labor rates. The methodology used to derive the costs and detailed year-by-year estimates for each activity can be found in the document titled, “*Analysis of Costs and Executive Orders.*”

Table 13-1. Annual Non-Labor Costs for CSO Permittees and State Agencies Covered by this ICR (Average of Three Year Period)

	Respondents	Annual Capital/Startup Costs (2017\$)	Average Annual Operation and Maintenance Costs (2017\$)	Total Average Annual Costs (2017\$)
Very Small CSO permittees	54	\$30,600	\$0	\$30,600
Small CSO permittees	69	\$26,600	\$0	\$26,600
Large CSO permittees	35	\$13,300	\$0	\$13,300
CSO permittees	158	\$70,500	\$0	\$70,500
State Agencies	7	\$0	\$0	\$0
Totals	165	\$70,500	\$0	\$70,500

Table 13-2. Annual Non-Labor Costs per Respondent (Average of Three Year Period)

	Respondents	Annual Capital/Startup Costs per Respondent (2017\$)	Annual Operation and Maintenance Costs per Respondent (2017\$)	Total Annual Costs per Respondent (2017\$)
Very Small CSO permittees	54	\$567	\$0	\$567
Small CSO permittees	69	\$385	\$0	\$385
Large CSO permittees	35	\$380	\$0	\$380
CSO permittees	158	\$446	\$0	\$446
State Agencies	7	\$0	\$0	\$0
Totals	165	\$427	\$0	\$427

14. Provide an estimate of the annualized cost to the federal government

Affected respondent CSO permittees are all located within seven Great Lakes states (Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Wisconsin). These states are all authorized to administer the NPDES program. Thus, the burden for the federal government is associated only with EPA’s general CSO program oversight which is covered under a separate ICR (OMB Control No. 2040-0004, EPA ICR No. 0229.21). As such, EPA has concluded that there is no incremental increase in burden to the federal government.

15. Explain the reasons for any adjustments reported in items 13 or 14 of OMB Form 83-I

This is the initial ICR for this regulation and thus all incremental burden is the result of the new regulation.

16. Outline any plans for tabulation and publication of the information

This rule requires CSO permittees in the Great Lakes Basin to provide public notification for CSO discharges. Public notification must be through electronic media, such as by text, email, social media alerts to subscribers, or by posting a notice on the CSO permittee's public access website, and by other appropriate means (e.g., newspaper, radio, television).

This rule requires that by May 1 of each calendar year (or an alternative date specified by the state director or authorized representative), all permittees authorized to discharge a CSO to the Great Lakes Basin must make available to the public an annual notice that describes the CSO discharges from their CSO discharge point(s) that occurred in the previous year. The annual notices are required to contain information on each CSO discharge point, each CSO discharge, a summary of available monitoring data for each CSO discharge, a description of any public access areas potential impacted by CSO discharges, representative precipitation information, and a concise summary of implementation of the nine minimum controls and the long-term CSO control plan. The rule alternatively allows for the state permitting authority to develop the annual notice and requires the CSO permittee to make publicly available the state-issued annual notice.

Permit related data can also be accessed by the public in one of three ways:

- Via an on-line query using EPA's Envirofacts Data Warehouse and Applications website at <http://www.epa.gov/enviro/index.html>. Accessing data via Envirofacts provides a method to combine Integrated Compliance Information System data with other EPA databases and mapping tools.
- Via an on-line query using EPA's Enforcement and Compliance History Online (ECHO) website at: <https://echo.epa.gov/>. ECHO provides a method for the public to access compliance history related data for permit holders by geographic area.
- Via the Freedom of Information Act (FOIA) by submitting a request to EPA or the state.

17. Explain any requests to not display the expiration date of OMB approval

EPA has not made a request regarding display of the OMB approval expiration date.

18. Explain any exceptions to the certification statement 5 CFR 1320.9, "Agency Certifications for Proposed Collections of Information."

The agency can certify compliance with all provisions under Item 19 of OMB Form 83-I.

B. STATISTICAL METHODS (USED FOR COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS)

Statistical methods are not used with this collection.