

## **SUPPORTING STATEMENT**

### **Information Collection Request (ICR) for National Primary Drinking Water Regulation for Perchlorate (Proposed Rule)**

# **1 IDENTIFICATION OF THE INFORMATION COLLECTION**

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

**TITLE:** Information Collection Request (ICR) for National Primary Drinking Water Regulation for Perchlorate (Proposed Rule)

**EPA ICR Number: 2600.01**

**OMB Control Number: 2040-NEW**

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

The U.S. Environmental Protection Agency (EPA) is proposing to regulate perchlorate in drinking water distributed by public water systems (PWS). In 2011, the EPA determined that a national primary drinking water regulation (NPDWR) for perchlorate would result in a meaningful opportunity to reduce health risks (USEPA, 2011). Based on the best available scientific information on the health effects of perchlorate, the EPA is proposing a maximum contaminant level goal (MCLG) of 56 µg/L. The EPA is also proposing an enforceable maximum contaminant level (MCL) of 56 µg/L and compliance monitoring consistent with the Standardized Monitoring Framework for inorganic contaminants in 40 CFR 141.23(c).

The proposed rule includes several reporting requirements. During the first three years after rule finalization (i.e., the period covered by this ICR), states that have primacy will be required to read and understand the rule and modify their existing regulations to incorporate the relevant requirements. As part of their upfront costs, the EPA also expects that the primacy agencies will provide training to agency staff as well as training and assistance for water systems. After the initial three-year period, water systems will be required to provide monitoring results to primacy agencies, which must report violation-related information to the EPA. Systems may also include perchlorate monitoring information in their annual consumer confidence report (CCR). Finally, systems will have public notification requirements in the event of an MCL violation.

For the period covered by this ICR (the three years following rule promulgation), the EPA estimates that the reporting burden for 55 primacy agencies (including 49 states with primacy, one tribal nation, and 5 territories) will be 145,618 hours, or 48,539 hours per year and 2,648 hours per respondent. Total costs for the labor will be approximately \$7.38 million, or \$2.46 million per year. Water systems will not incur any information collection or reporting burden during the first three years after rule promulgation.

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

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

This section explains EPA's need for the information covered in this ICR and identifies the regulatory/statutory authority for the information collection. The recordkeeping and reporting requirements are described in more detail in Section 4.

EPA needs comprehensive and current information on perchlorate contamination and associated enforcement activities to implement its program oversight and enforcement responsibilities mandated by the Safe Drinking Water Act (SDWA). Section 1401(1)(D) of the SDWA requires that “there must be criteria and procedures to assure a supply of drinking water which dependably complies with such maximum contaminant levels, including quality control and testing procedures to insure compliance with such levels and to insure proper operation and maintenance of the system.” Furthermore, Section 1445(a)(1) of the SDWA requires that “every person who is a supplier of water...shall establish and maintain such records, make such reports, conduct such monitoring, and provide such information as the Administrator may reasonably require by regulation to assist him in establishing regulations, in determining whether such person has acted or is in compliance with this title.” In addition, Section 1413(a)(3) of the SDWA requires States to “keep such records and make such reports...as the Administrator may require by regulation.”

Section 1412(b) of the SDWA, as amended in 1996, requires the Agency to publish maximum contaminant level goals and promulgate NPDWRs for contaminants that may have an adverse effect on the health of persons, are known to or anticipated to occur in PWSs, or, in the opinion of the Administrator, present an opportunity for health risk reduction. The NPDWRs specify maximum contaminant levels or treatment techniques for drinking water contaminants (42 USC 300g-1).

## **2(b) Uses/Users of the Data**

For the first three years following promulgation of the rule (the period covered by this ICR), primacy agencies will read and understand the rule, modify existing state regulations to incorporate the rule requirements, and provide training for agency staff and PWSs. This section describes how the resultant information will be used and identifies the expected primary users of the data.

### **2(b)(i) Uses of the Data**

Primary users of the data collected under this ICR are EPA Headquarters, water system managers, consumers, and primacy agencies, which include state, territorial, and tribal regulators and, in some instances, EPA Regional Administrators. State reporting is a condition for maintaining primacy. Primacy agencies play a crucial role in implementing the SDWA, and EPA is charged with overseeing the performance of these agencies. EPA uses the data provided by primacy agencies to ensure state compliance with and enforcement of the regulations, and to develop summary statistics on state performance.

### **2(b)(ii) Users of the Data**

Primary users of the data collected under this ICR are water systems and their customers, primacy agencies, and EPA. The information collected by EPA is available to the public, via EPA’s website or by requesting the data under the Freedom of Information Act (FOIA; 40 CFR, Chapter 1, Part 2). Other organizations that may utilize the data include the following:

- News organizations;
- Staff from other EPA programs (such as Superfund, the Resource Conservation and Recovery Act, and the Office of Enforcement and Compliance Assurance);
- The Federal Emergency Management Administration;
- Centers for Disease Control and Prevention (CDC);
- Military bases;
- Farmers Home Administration;
- Department of Interior;
- Department of Housing and Urban Development;
- U.S. Army Corps of Engineers;
- White House Task Forces;
- American Water Works Association;
- Association of Metropolitan Water Agencies;
- National Rural Water Association;
- National Association of Water Companies;
- Association of State Drinking Water Administrators;
- Natural Resources Defense Council; and
- Consumers Federation of America.

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

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

To ensure that the data collection efforts associated with this ICR are not duplicated, EPA consulted with other federal agencies, state agencies, industry organizations, water systems, and tribal organizations. To the best of the Agency's knowledge, data required by the rule are not available from any other source.

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

To comply with the 1995 Amendments to the Paperwork Reduction Act, the Agency will solicit public comment on this draft ICR during a 60-day public comment period coincident with the comment period for the proposed rule. In the *Federal Register* notice for the proposed rule, EPA will request comment on the estimated respondent burden and other aspects of this information collection. Comments received will be considered by the Agency and used to adjust the burden and costs estimates presented in the final ICR prior to submission to OMB.

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

To help shape the perchlorate NPDWR, EPA engaged with multiple stakeholders representing a wide range of expertise. The EPA conducted consultation with Indian Tribes, which included a public meeting in February 28, 2012 to request input and provide rulemaking information to interested parties. On May 29, 2012, the EPA sought guidance from the EPA

Science Advisory Board (SAB) on how best to consider and interpret life stage information, epidemiological and biomonitoring data since the publication of the National Research Council 2005 report, the Agency's physiologically-based pharmacokinetic (PBPK) analyses, and the totality of perchlorate health information to derive a Maximum Contaminant Level Goal (MCLG) for perchlorate (USEPA, 2012; NRC, 2005). On May 29, 2013, the EPA received significant input from the SAB, summarized in the report, SAB Advice on Approaches to Derive a Maximum Contaminant Level Goal for Perchlorate (USEPA, 2013). In accordance with sections 1412(d) and 1412(e) of the SDWA, the Agency consulted with the National Drinking Water Advisory Council (NDWAC or the Council) and the Secretary of Health and Human Services in addition to the SAB. The Agency consulted with NDWAC during the Council's October 4-5, 2012 meeting. On March 25, 2019, the EPA consulted with the Department of Health and Human Services (HHS), providing draft proposed perchlorate regulation information to HHS officials and considering HHS inputs.

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

EPA has considered a wide range of alternatives for frequency of data collection. EPA has chosen to require the least frequent collection that remains consistent with the overall goal of protecting public health. If data are collected less frequently, EPA and primacy agencies may not identify in a timely fashion significant contaminant concentrations that might threaten the health and safety of drinking water consumers.

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

These reporting or recordkeeping requirements do not violate any of the regulations promulgated by OMB under 5 CFR Part 1320.5.

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

No confidential information will be collected as a result of this ICR.

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

No information of a sensitive nature will be collected as a result of this ICR.

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

The following sections contain information on the respondents and the information they are requested to provide.

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

For the period covered by this ICR, information will only be collected from primacy agencies (including states, territories, and tribal nations). The NAICS codes for state agencies that include drinking water programs are 92411 (Administration of Air and Water Resources and Solid Waste Management Programs) or 92312 (Administration of Public Health Programs).

Following the initial three-year period, data associated with this ICR would be collected and maintained at the PWS, state, and Federal levels. Respondents will include the primacy

agencies as well as owners/operators of PWSs, who must report to their primacy agencies. The NAICS code for PWSs is 22131. Ancillary systems (systems where providing water is ancillary to a primary business, e.g., mobile home parks) cannot be categorized in a single NAICS code. For ancillary systems, the NAICS code is that of the primary establishment or industry.

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

##### **4(b)(i) Data items**

Primacy agencies are required to coordinate with the EPA during rule implementation, and as such, may be required to submit records of these various activities. The activities covered by this ICR reflect the burden required by primacy agencies to adopt regulatory changes necessary to adhere to the future data collection requirements and provide training and assistance to PWSs and staff to prepare for perchlorate monitoring data collection activities.

Only primacy agencies will incur reporting costs during the three years covered by this ICR. However, after that period, PWSs will be required to begin monitoring for perchlorate and reporting the results. Specifically, as required by 40 CFR 141.33, PWSs must either maintain analytical reports or transfer the following information regarding sample results:

- Date, place, and time of sampling.
- Name of the person who collected the sample.
- Identification of the sample as a routine distribution system sample, check sample, raw or process water sample, or other special purpose sample.
- Date of analysis.
- Laboratory and person responsible for performing analysis.
- Contaminants for which the analysis was performed.
- Analytical technique/method used.
- Results of the analysis.

Additionally, PWSs will be required to submit and keep records on additional information, such as monitoring plans and waiver applications.

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

For the period covered by this ICR, information will only be collected from primacy agencies (including states, territories, and tribal nations). Note that monitoring requirements, such as those required for PWSs, are not effective until three years after promulgation and therefore all activities required of PWSs fall outside of the scope of this ICR. Primacy agencies must complete the activities described below.

- Coordinate with EPA.
- Notify systems of requirements.
- Provide training and technical assistance to PWSs.
- Maintain data management systems.
- Establish the monitoring schedules.
- Review monitoring plans and specifications.

- Keep records and supporting information, including state determinations and explanations for technical decisions regarding rule implementation.

Other activities required in future years that fall outside of the scope of this ICR include making compliance determinations and entering monitoring and enforcement data.

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

### **5(a) Agency Activities**

The Agency is responsible for promulgating and overseeing the implementation of the revisions to the LCR. The Agency is involved in the following activities that assist states in implementing the modifications:

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

The data generated as a result of the regulatory changes will be integrated in the existing quarterly SDWIS reporting process.

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

In developing the perchlorate regulation, EPA considered the requirement of the Small Business Regulatory Enforcement Fairness Act (SBREFA) to minimize the burden of information collections on small entities, which include:

- A small business is any business that is independently owned and operated and not dominant in its field, as defined by the Small Business Administration regulations under section 3 of the Small Business Act.
- A small organization is any non-profit enterprise that is independently owned and operated and not dominant in its field.
- A small governmental jurisdiction is the government of a city, county, town, township, village, school district, or special district that has a population of fewer than 50,000. This definition may also include tribal governments.

The major requirement under SBREFA is a regulatory flexibility analysis of all rules that have a “significant economic impact on a substantial number of small entities.” Since only primacy agencies (including states, territories, and one tribal nation) will incur costs during the three-year period covered by this ICR, no small entities will be impacted.<sup>1</sup>

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

During the period covered by this ICR, primacy agencies will submit information to the EPA as needed based on the specific circumstances of activities required for adopting regulatory

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<sup>1</sup> Some small PWSs – defined as PWS serving ≤10,000 people – may incur reporting costs after the initial three year period, which EPA estimated will account for less than 0.1% of average revenues. For more information, see USEPA (2018).

changes to comply with the proposed rule. Since monitoring requirements, such as those required for PWSs, are not effective until three years after promulgation, all activities required of PWSs fall outside of the scope of this ICR.

## 6 ESTIMATING THE BURDEN AND COST OF THE COLLECTION

This section describes the estimates of burden and direct costs to adopt regulatory changes and provide training for implementing the initial monitoring framework for the perchlorate NPDWR. This ICR only focuses on the incremental changes to burden and costs that will result from the first three years following promulgation of the perchlorate NPDWR. Monitoring requirements, such as those required for PWSs, are not effective until three years after promulgation and therefore fall outside of the scope of this ICR.

The burden and cost estimates in this ICR are based on the calculations documented in the Health Risk Reduction and Cost Analysis of the Proposed Perchlorate National Primary Drinking Water Regulation (USEPA, 2018), including major underlying assumptions and data sources.

### 6(a) Estimating Respondent Burden

The following sections discuss burden faced by primacy agencies during the first three years after rule promulgation. This section details the different categories of burden based on the activities required to adhere to this ICR. Burden estimates are average values across all respondents; the values are based on burden estimates for the arsenic rule promulgated in 2000 (USEPA, 2000). Activities by primacy agencies under the rule will include:

- ***Read and understand the rule, adopt regulatory changes.*** The EPA assumes a burden of 416 hours (0.2 FTE) per primacy agency for this activity. Note that California and Massachusetts already regulate perchlorate in drinking water; the EPA assumes these primacy agencies, hereafter referred to as the “excluded” primacy agencies, would not incur most of the burdens under this activity, and instead are assigned a burden of 40 hours each to ensure that their existing regulations and monitoring requirements satisfy rule requirements.
- ***Provide training and assistance to PWSs.*** The EPA assumes a burden of 2,080 hours (1 FTE) will be required to provide the proper training and assistance to PWSs in the first three years following rule promulgation. For the two excluded primary agencies, no burden is necessary since PWSs already monitoring and treat for perchlorate.
- ***Provide training to staff and systems.*** The EPA assumes a burden of 250 hours (0.12 FTE) will be required to provide the proper training for primacy agency staff. For the two excluded primacy agencies, no burden is necessary since staff already understand and manage the requirements associated with a perchlorate drinking water regulation.
- ***Reviewing monitoring reports and make waiver determinations.*** Although primacy agencies will be responsible for reviewing monitoring reports from PWSs and making waiver determinations under the perchlorate NPDWR, these activities will begin after the scope of this ICR, and as such, there is no burden associated with these activities



A summary of the respondent-level burdens is included in Table 1. Total burden estimates across all respondents, calculated as the hours per agencies times the number of agencies, is provided in Table 2.

**Table 1: Labor Hours per Primacy Agency by Administrative Requirement**

Activity	Frequency	Included Primacy Agencies	Excluded Primacy Agencies <sup>1</sup>
Read and understand the rule, adopt regulatory changes	one time per state	416	40
Provide training and assistance to PWSs	one time per state	2,080	0
Provide training to staff and systems	one time per state	250	0
TOTAL		2,746	40

1. The EPA assumes that two states already regulating perchlorate in drinking water (California and Massachusetts) will incur a smaller burden for initial activities.

**Table 2. Total Labor Hours for Primacy Agencies by Administrative Requirement**

Activity	Included Primacy Agencies (53)	Excluded Primary Agencies (2)	All Primacy Agencies (55)
Read and understand the rule, adopt regulatory changes	22,048	80	22,128
Provide training and assistance to PWSs	110,240	0	110,240
Provide training to staff and systems	13,250	0	13,250
TOTAL	145,538	80	145,618

### 6(b) Estimating Respondent Costs

State labor rates are based on the mean hourly wage rate of \$31.67 from Bureau of Labor Statistics (BLS) Standard Occupational Classification code 19-2041 (State Government – Environmental Scientists and Specialists, Including Health) (2018). Consistent with USEPA (2008), wages are loaded using a factor of 60% for environmental scientists, for a fully loaded hourly wage rate for states of \$50.67. Total costs for primacy agencies based on this loaded hourly wage rate and the total labor hours in Table 2 are shown in Table 3.

**Table 3. Total Costs for Primacy Agencies by Administrative Requirement (2017\$)**

<b>Activity</b>	<b>Included Primacy Agencies (53)</b>	<b>Excluded Primary Agencies (2)</b>	<b>All Primacy Agencies (55)</b>
Read and understand the rule, adopt regulatory changes	\$1,117,172	\$4,054	\$1,121,226
Provide training and assistance to PWSs	\$5,585,861	\$0	\$5,585,861
Provide training to staff and systems	\$671,378	\$0	\$671,378
<b>TOTAL</b>	<b>\$7,374,410</b>	<b>\$4,054</b>	<b>\$7,378,464</b>

Values rounded to nearest dollar. Detail may not add to totals because of independent rounding.

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

Burden and costs to the federal government are incurred by the EPA’s drinking water program to assist states in implementing drinking water regulations. Burden and costs for general drinking water program implementation activities are accounted for under the PWSS Program ICR. Burden and costs included in the PWSS Program ICR cover all cross-cutting, non-rule specific, regulatory activities associated with compliance tracking, regulatory enforcement, and rule development activities.

### 6(d) Estimating the Respondent Universe and Total Burden and Cost

Respondents for this ICR include 55 primacy agencies (49 states with primacy, one tribal nation, and 5 territories). Two of these primacy agencies (“excluded primacy agencies) already regulate perchlorate in drinking water. The total costs and burden for these respondents are summarized in Table 4.

**Table 4. Summary of Respondent Costs and Burdens by Respondent Type**

<b>Respondent Type</b>	<b>Unit Burden</b>	<b>Unit Cost</b>	<b>Number of Respondents</b>	<b>Total Burden</b>	<b>Total Cost</b>
Included Primacy Agencies	2,746	\$139,140	53	145,538	\$7,374,410
Excluded Primacy Agencies	40	\$2,027	2	80	\$4,054
<b>TOTAL</b>			<b>55</b>	<b>145,618</b>	<b>\$7,378,464</b>

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

This section provides a description of bottom line estimates for implementation of the rule. The bottom line burden hours and costs for systems and states are the summaries of the annual hours and costs collectively incurred for all activities. The EPA assumes a uniform

distribution of the primacy agency burden and costs over the initial three-year ICR period. Table 5 reports the average annual burden and cost by activity.

**Table 5. Average Annual Burden and Costs for Three-Year ICR Period**

<b>Activity</b>	<b>Number of Respondents</b>	<b>Total Hours Per Year</b>	<b>Total Annual Labor Cost</b>
Read and understand the rule, adopt regulatory changes	55	7,376	\$373,742
Provide training and assistance to PWSs	53 <sup>1</sup>	36,747	\$1,861,954
Provide training to staff and systems	53 <sup>1</sup>	4,417	\$223,793
<b>TOTAL</b>	<b>55</b>	<b>48,539</b>	<b>\$2,459,488</b>

1. The EPA assumes that two states already regulating perchlorate in drinking water (California and Massachusetts) will incur burden of zero hours for these activities.

**6(f) Reasons for Change in Burden**

This is a new information collection activity, and therefore there is no prior rule or related burden that is modified by the results of this ICR.

**6(g) Burden Statement**

The public reporting burden for collections included in this ICR is detailed in Table 4 above. The annual respondent burden is estimated to average approximately 48,539 hours, all of which are attributable to primacy agencies. These estimates include reading and understanding the rule, modifying existing state regulations to incorporate the rule requirements, and providing training for agency staff and PWSs. Monitoring requirements for PWSs fall outside of the scope of this ICR, and will be incorporated into a future ICR.

Burden means the total time, effort, or financial resources expended by people to generate, maintain, retain, disclose, or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology, and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a request for information collection unless it displays a currently valid OMB control number. The OMB control numbers for the EPA’s regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OW-2018-0780, which is available for online viewing at

www.regulations.gov, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used to submit or view public comments, to 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. Comments can also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number (EPA-HQ-OW-2018-0780) and the OMB Control Number 2040-NEW in any correspondence.

## 7 REFERENCES

Bureau of Labor Statistics (BLS). (2018, March 30). Occupational Employment Statistics.

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USEPA. (2008, June). Draft Information Collection Request for the Disinfectants/Disinfection Byproducts, Chemical, and Radionuclides Rule.

USEPA. (2018). Health Risk Reduction and Cost Analysis of the Proposed Perchlorate National Primary Drinking Water Regulation.