

**Information Collection Request for
Water Quality Standards Regulation (Renewal)**

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U.S. Environmental Protection Agency
Office of Water
Office of Science and Technology
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1. Identification of the Information Collection

1.1 Title of the Information Collection

The title of this Information Collection Request (ICR) is *Water Quality Standards Regulation (Renewal)*.

1.2 Short Characterization/Abstract

Water quality standards (WQS) are provisions of state,¹ tribal,² or federal law which consist of designated uses for waters of the United States, water quality criteria to protect those uses, and antidegradation requirements. WQS are established to protect public health or welfare, protect and enhance the quality of water, and serve the purposes of the Clean Water Act. Such standards serve the dual purposes of establishing the water quality goals for water bodies and serving as a regulatory basis for establishing water quality-based treatment controls and strategies beyond technology-based treatment required by sections 301 and 306 of the Act.

The WQS regulation at 40 CFR part 131 establishes the framework for states and authorized tribes to adopt standards, and for the Environmental Protection Agency (EPA) to review and approve or disapprove them. This ICR is for information collections required to implement the WQS regulation, required to obtain or retain benefits (*e.g.*, relaxed regulatory requirements) under the regulation, and to collect voluntary program information useful in administering WQS program effectively and efficiently.

This ICR renews the WQS Regulation ICR, OMB Control Number 2040-0049, which is approved through December 31, 2021. In this renewal, EPA is eliminating one collection, Great Lakes Bioassay Tests, because such tests are no longer performed. EPA anticipates the burden associated with the renewed ICR to be 480,242 hours, a decrease of 27,645 hours from the previously approved burden, reflecting the elimination above (-37,678 hours), the addition of two authorized tribes with WQS (+9,980 hours), and additional Great Lakes discharger responses (+53 hours).

This ICR renewal includes the following information collections:

- (A) Administering State and Tribal WQS
- (B) Great Lakes Water Quality Requirements
 - (1) Great Lakes Antidegradation Demonstrations
 - (2) Great Lakes Regulatory Relief Requests
- (C) Tribal-State Dispute Resolution Requests
- (D) Tribal Applications for TAS
- (E) Voluntary WQS Program Information

¹ “States” in the EPA WQS regulation and in this document includes 56 entities: the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

² “Tribes” in this document refers to federally recognized tribes and “authorized tribes” refers to those federally recognized Indian tribes with authority to administer a CWA WQS program.

2. Need for and Use of the Collection

2.1 Need and Authority for the Collection

This section describes the need and authority for the collections of information described in this ICR. Table 1 summarizes the collections and authorities.

(A) Administering State and Tribal WQS

Authorities: Section 303(c) of the Clean Water Act (CWA or “the Act”), 33 U.S.C. 1267 *et. seq.*; 40 CFR part 131, subparts A, B, and C.

The CWA under section 303(c) and the EPA WQS regulation under 40 CFR part 131 govern the WQS program. They require states and authorized tribes³ to review and, as appropriate, revise their WQS (or adopt new standards) at least once every three years, and to submit to EPA the results and WQS revisions or new standards resulting from the reviews. The agency then reviews each state or tribal submission for approval or disapproval. Once approved by EPA, the standards become effective for all purposes under the Act.

Specifically, 40 CFR 131.20 establishes the requirement for state or tribal review and revision of WQS; 40 CFR 131.6 establishes the minimum requirements for states and authorized tribes to submit new and revised WQS and supporting materials to EPA for review and approval or disapproval; and 40 CFR 131.5 prescribes EPA review of such submissions. The agency must review these materials to determine: (a) whether the state or tribe has adopted designated water uses which are consistent with the requirements of the Clean Water Act; (b) whether the state or tribe has adopted criteria that protect the designated water uses based on sound scientific rationale consistent with the regulation; (c) whether the state or tribe has adopted an antidegradation policy consistent with the regulation and whether any adopted antidegradation implementation methods are consistent with the regulation; (d) whether any adopted WQS variance is consistent with the regulation; (e) whether any adopted provision authorizing the use of schedules of compliance for water quality-based effluent limits in National Pollutant Discharge Elimination System (NPDES) permits is consistent with the regulation; (f) whether the state or tribe has followed applicable legal procedures for revising or adopting standards; (g) whether state or tribal WQS which do not include the uses specified in section 101(a)(2) of the Act are based on appropriate technical and scientific data and analyses; and (h) whether the state or tribal submission meets the requirements included in §131.6, and, for Great Lakes states or tribes, the requirements of 40 CFR part 132. This information collection will ensure that EPA has the needed information to review state and tribal WQS as required to make approvals or disapprovals, and to make Administrator determinations that new or revised WQS are necessary.

In 2015, EPA revised 40 CFR part 131 to clarify certain specific requirements of the WQS regulation.⁴ In 2018, EPA consolidated the additional information collections associated with the

³ Tribes that have received EPA authorization to administer the water quality standards program under 40 CFR 131.8. The Agency maintains a current list of such tribes at <https://www.epa.gov/wqs-tech/epa-approvals-tribal-water-quality-standards-and-contacts>.

⁴ See *Water Quality Standards Regulatory Revisions*, final rule, Aug. 21, 2015, 80 FR 51020.

clarifications into the currently-approved ICR, and is retaining the following ongoing collections in this renewal:

- Identifying and adopting the highest attainable use (HAU) whenever adopting new or revised WQS based on a required use attainability analysis or use and value demonstration;
- Providing an explanation for not adopting new or revised water quality criteria for parameters with new or updated CWA section 304(a) criteria recommendations;
- Involving the public when developing or revising antidegradation implementation methods;
- Involving the public when a state or authorized tribe uses the water body-by-water body approach to identify waters receiving Tier 2 antidegradation protection;
- Including a range of non-degrading and less degrading practicable alternatives when performing or evaluating Tier 2 antidegradation reviews;
- Performing or evaluating more Tier 2 antidegradation reviews to reflect additional water bodies receiving Tier 2 protection pursuant to EPA's 2015 requirements;
- Additional documentation when submitting WQS variances; and
- Reevaluating long-term WQS variances at least every five years.

The WQS regulation requires these information collections to enable EPA to make required approvals and disapprovals and for the Administrator to determine that new or revised WQS are necessary.

(B) Great Lakes WQS Requirements

Authorities: CWA section 118(c)(2) and 40 CFR part 132.

CWA section 118(c)(2) requires states and authorized tribes in the Great Lakes basin to establish certain water quality criteria, implementation procedures, and antidegradation provisions that are as protective as the requirements in EPA's Water Quality Guidance for the Great Lakes System, 40 CFR part 132. The Great Lakes information collections in this ICR consist of information that water dischargers, states, and tribes must provide to carry out two types of actions under the Guidance:

- (1) Great Lakes antidegradation demonstrations to enable states and tribes to approve certain discharger activities that would lower water quality in high quality waters; and
- (2) Great Lakes regulatory relief requests for states and tribes to take such actions as modifying water quality criteria or issuing WQS variances.

(C) Tribal-State Dispute Resolution Requests

Authorities: CWA section 518(e) and 40 CFR 131.7.

The WQS regulation (§131.7) establishes a mechanism for resolution of disputes that arise between states and tribes over differing WQS on common bodies of water. Where a state or authorized tribe desires a formal dispute resolution action, a written request is necessary to enable EPA to fulfill its responsibilities under CWA section 518(e) in a reasonable and timely manner. Such a request constitutes an information collection to obtain a benefit.

(D) Tribal Applications for TAS

Authorities: CWA section 518(e) and 40 CFR 131.8.

The WQS regulation (§131.8) specifies requirements for Indian tribes to apply for authority to administer a WQS program. To be found eligible, a tribe must apply to EPA to be treated in a similar manner as a state (TAS) and demonstrate that it meets certain criteria.⁵ The tribal application constitutes an information collection to obtain a benefit.

(E) Voluntary WQS Program Information

Authorities: CWA section 104(a)(1), authorizing surveys and studies related to prevention, reduction, and elimination of water pollution.

From time to time, EPA may request states and tribes to provide information voluntarily that would assist in administering state, tribal, regional and national WQS programs effectively and efficiently, and further cooperative federalism. For example, EPA may request technical information to assist in developing guidance or other materials; technical comments on draft program-related policies and guidance documents; and information concerning program operations to assist in information sharing and improving program efficiency. EPA may also invite state and tribal participation in program-related work groups. Submission of state or tribal information and participation by states and tribes in workgroups is voluntary.

2.2 Practical Utility/Users of the Data

(A) Administering State and Tribal WQS

EPA will use the information collected under 2.1(A) above to carry out its oversight responsibilities under the CWA and the WQS regulation. Specifically, §131.21 requires the agency to review any state or tribal submissions of new or revised WQS, and all supporting materials, and to approve or disapprove the WQS. The decision criteria for approving or disapproving the WQS are specified in the WQS regulation, including §§131.5 and 131.6.

Once approved by EPA, WQS adopted by states and authorized tribes generally become effective for all CWA purposes.^{6,7} WQS serve as the basis for water quality-based effluent limitations in NPDES permits for point source dischargers (including publicly-owned treatment works and industrial facilities) under sections 301(b)(1)(C) and 402 of the Act. In addition, under CWA section 303(d), states and authorized tribes must identify which waters are not meeting their WQS. For waters identified under section 303(d), WQS serve as the basis for establishing total maximum daily loads. WQS are also used as a basis for water quality certifications of federally issued permits and licenses under section 401 of the Act.

If new or revised WQS adopted by states or tribes are not approved by EPA, they do not become effective for CWA purposes. Thus, if the information collection activities in this ICR were not

⁵ Per 40 CFR 131.8, the tribe must be federally recognized; the tribe must have a governing body carrying out substantial governmental duties and powers; the WQS program must be administered for water resources within the borders of an Indian reservation or legal equivalent; and, the tribe must reasonably be expected to be capable of carrying out the functions of an effective WQS program under the Act.

⁶ The full text of all applicable WQS are available on the Agency website. See <https://www.epa.gov/wqs-tech/state-specific-water-quality-standards-effective-under-clean-water-act-cwa>.

⁷ Exceptions can occur for waters where the Agency has promulgated corresponding federal WQS. Such federal WQS would need to be withdrawn for the state or tribal approved standards to become effective for CWA purposes.

performed, EPA could not review the WQS, and the state or tribal WQS would likely not go into effect and could not serve as the basis for CWA regulatory actions to restore and maintain water quality.

(B) Great Lakes WQS Requirements

Great Lakes states, authorized tribes, and EPA will use the information collected under 2.1(B) above to help determine whether to approve certain requests from dischargers under provisions of 40 CFR part 132. Specifically, the information will: (1) enable states and tribes to make and document antidegradation decisions whether to allow proposed discharger activities that may lower high water quality; and (2) enable states and tribes to decide whether to grant discharger requests for certain types of regulatory relief, and to facilitate EPA's oversight of those actions. States, tribes, and EPA could not carry out these responsibilities without the information collected.

(C) Tribal-State Dispute Resolution Requests

EPA will use information collected under 2.1(C) above to determine whether to initiate the dispute resolution mechanism in §131.7 to resolve disputes between states and authorized tribes that may arise as a result of differing water quality standards on common bodies of water. The agency could not make such decisions without the information collected.

(D) Tribal Applications for TAS

EPA will use information collected under 2.1(D) above to determine whether to find an applicant tribe eligible for TAS to administer the WQS program under §131.8. The agency could not make such decisions without the information collected.

(E) Voluntary WQS Program Information

EPA will use WQS technical program information provided voluntarily under 2.1(E) above to help make program-related policies and guidance documents useful and technically accurate; to facilitate sharing of information; and to improve program efficiency.

3. Non-Duplication, Consultations, and Other Collection Criteria

3.1 Non-Duplication

The information collection requirements described in this ICR do not duplicate the information collection requirements described in other EPA ICRs.

Two currently approved collections – (B)(1) Great Lakes Antidegradation Demonstrations and (B)(2) Great Lakes Regulatory Relief Requests – appear in both this WQS Regulation ICR and in the separate NPDES Program ICR, OMB Control Number 2040-0004. The WQS ICR and NPDES ICR each cover 50% of the burden under each said collection. At the suggestion of the Office of Management and Budget to improve administrative efficiency, EPA later will remove the WQS program’s shares of the two collections from this WQS ICR and consolidate them with the NPDES program’s shares into the NPDES ICR at its next renewal in 2022, now in progress. After this transfer, each of the two collections will appear in full in the renewed NPDES ICR and will no longer appear in this WQS ICR.

3.2 Public Notice Required Prior to ICR Submission to OMB

On March 24, 2021, EPA published a Federal Register notice⁸ to solicit comments and information to enable it to: (1) evaluate whether the proposed collection of information in the proposed ICR is necessary and will have practical utility; (2) evaluate the accuracy of the agency’s estimate of the burden and the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond.

EPA received five comments from the public in response to the notice. Copies of the comments are available in the docket for this ICR.⁹ EPA appreciates the comments and has considered them in finalizing this ICR. See the Response to Comments document in the docket.

3.3 Consultations

For this renewal, EPA consulted with managers responsible for administering WQS in the environmental agencies of three states¹⁰ and two tribes¹¹ regarding the reporting and recordkeeping burden imposed on them by EPA’s WQS regulation. As part of the consultations, EPA asked participants about the accuracy of EPA’s burden estimates in the currently approved ICR, solicited their views on ways to reduce the burden, and asked for any other comments they had to offer on the paperwork process.

⁸ *Proposed Information Collection Request for Water Quality Standards Regulation (renewal)*, EPA, 86 FR 15665, March 24, 2021.

⁹ The docket for this ICR is available for online viewing at <http://www.regulations.gov> by searching for ID No. EPA-HQ-OW-2011-0465. See section 6.4 below for more information about the docket.

¹⁰ The Minnesota Pollution Control Agency, the Texas Commission on Environmental Quality; and the Washington Department of Ecology. Consulted in June and December 2020.

¹¹ The Department of Environmental Quality of the Gila River Indian Community of the Gila River Indian Reservation, Arizona; and the Department of Natural Resources of the Red Lake Band of Chippewa Indians, Minnesota. Consulted in August 2019.

All three state respondents said that EPA's burden estimates are in the right general range. One state added that while the state's burden this year might be lower than the EPA estimate, it will likely be higher in a future year when the state conducts its triennial review. Another state added that EPA's estimates are low for the state's work on variances but may be offset by high estimates for information required during triennial reviews, and that the overall EPA burden estimate is reasonable considering that much staff time is spent on state-required paperwork.

One tribal respondent felt that EPA's estimate for TAS applications was too low considering the extra work required to document the tribe's land grant history. The other tribe believed that EPA's estimate was in the right general range.

Both state and tribal respondents supported EPA's recent work to provide templates and other tools to simplify developing WQS and TAS applications and suggested that EPA continue and expand such efforts. One tribe commented that the overall TAS process has improved dramatically in the past 15 years.

As a result of these consultations, EPA is generally maintaining its burden estimates from the currently approved ICR in this renewal. In addition, the consultations indicated that while the overall burdens appear to be in the right range, the individual components of the burden fluctuate from state to state and from year to year depending on specific adoption and review issues and actions that arise. Consistent with that observation, EPA has consolidated the component collections within Collection (A) Administering State and Tribal WQS. See section 9.1(A) below and the Appendix to this statement.

EPA welcomes the positive feedback received on its recent development of templates and tools to assist states and tribes. The agency plans further similar work over the next few years.

Additionally, some of the burden estimates retained in this renewal from prior approved ICRs are based, in whole or in part, on the following prior consultations:

- In 2014, EPA consulted with seven states to gather input to help develop burden estimates for amendments to the WQS regulation that were finalized in 2015.
- Also in 2014, EPA consulted with eight tribes with experience in applying for TAS for the WQS program regarding anticipated burden reductions under the interpretive rule, *Revised Interpretation of Clean Water Act Tribal Provision*, that were finalized in 2016.
- In the 1980s, EPA consulted with 11 states to develop burden estimates for the WQS regulation that was finalized in 1983.

Aside from the above consultations specifically on ICR issues, EPA continues its practice of consulting with states and tribes. For many years, EPA has had regular monthly or bimonthly meetings with the WQS Managers Association (WQSMA), a group of state and EPA managers responsible for WQS programs at the state, regional, and national level; the Monitoring, Standards, and Assessments Committee of the Association of Clean Water Administrators; and the National Tribal Water Council. These groups discuss a variety of policy and program issues, including information collection. For example, EPA and WQSMA discussed various options for minimizing reporting and recordkeeping burden to assist in developing the 2015 revisions to the WQS regulation.

3.4 Effects of Less Frequent Collection

For collection (A) Administering State and Tribal WQS, the WQS regulation specifies a reporting frequency in only two places. First, §131.20 requires state and tribal reviews of WQS every three years. That is, states and authorized tribes must hold public hearings from time to time (but at least once every three-year period) for the purpose of reviewing applicable WQS, and, as appropriate, modifying and adopting standards. Results of such reviews must be made available to the Administrator. Because these requirements are specified directly in section 303(c) of the Clean Water Act, EPA does not have discretion to adjust the reporting frequency. States and authorized tribes may schedule more frequent WQS reviews at their discretion.

Second, the regulation at §131.14(b)(1)(v) requires states and authorized tribes to reevaluate WQS variances with a term greater than five years, and obtain public input on the reevaluation, at least once every five years. The preamble to the final rule¹² provides an explanation of these requirements. State respondents did not raise concerns about this provision during consultations on this ICR (see section 3.3 above).

For collection (E) Voluntary WQS Program Information, EPA issues requests on an ad hoc basis and limits the number of such requests to as few as possible. Such requests are generally cleared by senior managers before being initiated. The agency often coordinates in advance with state and tribal associations to determine the nature and timing of such requests. In all cases, states' and tribes' submission of program information and participation in workgroups is voluntary.

Collections (B) Great Lakes WQS Requirements, (C) Tribal-State Dispute Resolution Requests, and (D) Tribal Applications for TAS are primarily initiatives to obtain or retain benefits pursuant to EPA regulations. EPA has no control over the frequency of these collections.

3.5 General Guidelines

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

3.6 Confidentiality and Sensitive Questions

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

Most information from dischargers under collection (B), Great Lakes WQS Requirements, will contain no confidential or sensitive information. In some cases, however, Great Lakes dischargers may elect to submit confidential business information to support antidegradation alternatives analyses and WQS variances. Dischargers may request that such information be treated as confidential. All confidential data will be handled in accordance with 40 CFR 122.7 and EPA Security Manual Part III, chapter 9, dated August 9, 1976.

¹² See *Water Quality Standards Regulatory Revisions*, final rule, Aug. 21, 2015, 80 FR 51020 at 51031-39.

4. The Respondents and the Information Requested

This section describes the respondents for this ICR and the information that EPA will collect.

4.1 Respondents/NAICS Codes

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

“States” described as respondents in this ICR refers to the 50 states, the District of Columbia, and five territories (*i.e.*, 56 “states”).¹³

“States and authorized tribes” in this ICR refers to the 102 entities with WQS: the 56 states defined above and any federally-recognized Indian tribes that have EPA approved WQS. As of August 2021, there were 46 such tribes.¹⁴

“Great Lakes states and tribes” refers to the eight states of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin, and tribes that have adopted EPA approved WQS for waters of the Great Lakes system (five tribes to date). These 13 respondents are in NAICS code 92411 “Administration of Air and Water Resources and Solid Waste Management Programs,” formerly SIC code 9511.

Any of over 230 federally recognized tribes with a reservation could potentially apply for TAS to administer a WQS program under collection (B)(2) Tribal Applications for TAS.¹⁵ EPA estimates that 18 of these tribes will apply in the next three years.

The state and tribal respondents affected by this collection activity are in NAICS code 92411 “Administration of Air and Water Resources and Solid Waste Management Programs.”

The potential “discharger” respondents affected by elements of this ICR under (B) Great Lakes WQS Requirements include the following NAICS codes: Mining (except oil and gas) (212), Food manufacturing (311), Paper manufacturing (322), Chemical manufacturing (325), Petroleum refineries (32411), Primary metal manufacturing (331), Fabricated metal product manufacturing (332), Machinery manufacturing (333), Computer and electronic product manufacturing (334), Electrical equipment, appliance, and component manufacturing (335), Transportation equipment manufacturing (336), Electric power generation, transmission, and distribution (2211), and Sewage treatment facilities (22132).

¹³ The five territories are the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands

¹⁴ The tribes with EPA approved WQS are listed on the Agency website. See <https://www.epa.gov/wqs-tech/epa-approvals-tribal-water-quality-standards-and-contacts>.

¹⁵ A federally recognized tribe with a reservation may be approved for TAS if it meets certain eligibility criteria. Over 300 federally recognized tribes have reservations, and of these, as of August 2021, 74 applicant tribes have been approved for TAS, of which 46 have adopted EPA approved WQS. This leaves over 230 tribes that could potentially apply for TAS.

4.2 Information Requested

(A) Administering State and Tribal WQS

The WQS regulation at §§131.6 and 131.20 requires that whenever a state or authorized tribe adopts new or revised WQS, it must submit the WQS and supporting material to EPA for review and approval. The information includes:

- The new or revised WQS, including, for example, designated uses, water quality criteria to protect the uses, and an antidegradation policy;
- Methods used and analyses conducted to support WQS revisions;
- Certification by the state or tribal Attorney General or other appropriate legal authority within the state or tribe that the WQS were duly adopted pursuant to state or tribal law; and
- General information that will aid EPA in determining the adequacy of the scientific basis of the standards which do not include the uses specified in section 101(a)(2) of the Act as well as information on general policies applicable to state standards which may affect their application and implementation.

The WQS regulation at §131.20 requires states and authorized tribes to review applicable WQS – those adopted into state or tribal law pursuant to the WQS regulation as well as federally promulgated WQS – at least once every three years and submit the following information to EPA:

- The results of the review;
- Any supporting analysis for the use attainability analysis;
- The methodologies used for site-specific criteria development;
- Any general policies applicable to WQS;
- Any revisions of the WQS; and
- An explanation for not adopting new or revised criteria for certain parameters (see (A) (3) Criteria Explanations below).

The WQS regulation at §131.10 requires states and authorized tribes to identify, adopt, and document the HAU whenever adopting new or revised WQS based on a required use attainability analysis (UAA), and, in some cases, for certain use removals that do not require a UAA.

The WQS regulation at §131.20 requires states and authorized tribes to provide an explanation as part of a triennial review if they are not adopting new or revised water quality criteria for parameters for which EPA published new or updated CWA section 304(a) national recommended water quality criteria.

The WQS regulation at §131.12 requires states and authorized tribes not to exclude water bodies from Tier 2 antidegradation protection solely because water quality does not exceed levels necessary to support all of the uses specified in CWA section 101(a)(2). The regulation also provides that before allowing a lowering of high water quality, states and authorized tribes must evaluate a range of non-degrading and less degrading practicable alternatives. Furthermore, the regulation specifies that, where states and authorized tribes identify waters to receive Tier 2 protection on a water body-by-water body basis, states and authorized tribes must involve the public on any decisions pertaining to where they will provide Tier 2 protection, and the factors considered in such decisions. Finally, the regulation requires states' and authorized tribes' antidegradation implementation methods to be consistent with these requirements, and to provide

an opportunity for public involvement during the development and any subsequent revisions of antidegradation implementation methods. These requirements result in information collection associated with the following activities:

- Involving the public when developing or revising antidegradation implementation methods;
- Involving the public when a state or authorized tribe uses the water body-by-water body approach to identify waters receiving Tier 2 antidegradation protection; and
- Performing/evaluating Tier 2 antidegradation reviews, including evaluating a range of non-degrading and less degrading practicable alternatives.

The WQS regulation at §131.14 specifies requirements for the development, use, and documentation of WQS variances. States and authorized tribes must submit the variances and documentation to EPA when requesting review and approval. For WQS variances with a term longer than five years, states and authorized tribes must reevaluate the variances, obtain public input on the reevaluation, and submit the results of the reevaluations to EPA.

(B)(1) Great Lakes Antidegradation Demonstrations

Appendix E to 40 CFR part 132 of the WQS regulation specifies that any entity seeking to lower water quality in a high-quality water of the Great Lakes system, or proposing a new or increased discharge to Outstanding International Resource Waters (OIRWs) of the Lake Superior Basin, must submit an antidegradation demonstration to the NPDES permitting authority (normally the state or EPA). The regulation specifies that the demonstration include:

- A pollution prevention alternatives analysis;
- An alternative or enhanced treatment analysis; and
- An important social or economic development analysis.

Appendix E to 40 CFR part 132 contains additional requirements where OIRWs or certain remedial actions¹⁶ are involved.

(B)(2) Great Lakes Regulatory Relief Requests

Appendix F to 40 CFR part 132 specifies at least two ways that the Great Lakes WQS adopted pursuant to 40 CFR part 132 may be modified to provide regulatory relief: site-specific modifications to criteria and values (Procedure 1), and variances from WQS (Procedure 2).

Great Lakes dischargers seeking site-specific water quality criteria modifications would need to provide data to the state or tribe in accordance the methodologies in Appendices A, B, C, and D to 40 CFR part 132.

Great Lakes dischargers seeking variances from WQS need to apply to the state or tribe and provide information demonstrating that attaining the standards is not feasible based on one or more of six specified factors, including natural conditions, human-caused conditions that cannot be remedied, certain hydrologic modifications, or controls that would result in substantial and widespread economic and social impact.

¹⁶ Remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), corrective actions under the Resource Conservation and Recovery Act (RCRA), or similar actions under other federal or state laws.

(C) Tribal-State Dispute Resolution Requests

The WQS regulation at 40 CFR 131.7 specifies that an authorized tribe or state interested in having EPA initiate a formal dispute resolution action must submit a written request to the lead Regional Administrator. Information that a state or tribe must submit with the request includes:

- A concise statement of unreasonable consequences that are alleged to have arisen because of differing WQS;
- A concise description of the actions which have been taken to resolve the dispute without EPA involvement;
- A concise indication of the state/tribal WQS provision which has resulted in the unreasonable consequences;
- Factual data to support the alleged unreasonable consequences; and
- A statement of the relief sought from the alleged unreasonable consequences.

(D) Tribal Applications for TAS

The WQS regulation at 40 CFR 131.8(b) specifies the information a tribe must provide in its program application for TAS. Specifically, an interested tribe must submit:

- A statement that the tribe is recognized by the Secretary of the Interior;
- A descriptive statement demonstrating that the tribal governing body is currently carrying out substantial governmental duties and powers over a defined area;
- A descriptive statement of the Indian tribal authority to regulate water quality, and an identification of the surface waters for which the tribe proposes to establish WQS;
- A narrative statement describing the capability of the Indian tribe to administer an effective WQS program; and
- Any additional documentation required by the Regional Administrator, which in the judgment of the Regional Administrator, is necessary to support the application.

Where a tribe has previously qualified for TAS under another program, the tribe need only provide the required information which has not been submitted in a previous application.

(E) Voluntary WQS Program Information

From time to time, EPA may request technical information from states and tribes in support of its effective and efficient administration of regional and national WQS program. Such information would relate directly to a state or tribe's program and would likely consist of technical information to assist in developing guidance or other materials; technical input used by EPA in developing program-related policies and guidance; information concerning program operations to assist in information sharing and improving program efficiency; and information provided when participating in program-related EPA work groups. Submission of state or tribal information and participation in EPA work groups is voluntary.

4.3 Respondent Activities

EPA identified the following activities respondents may need to undertake under this ICR:

- Reviewing instructions, guidance, and regulations necessary for each collection;
- Planning of information collection activities, including identifying required analyses, gathering and analyzing existing water quality data, effluent data, and waterbody use information as needed;

- Generating, gathering, and organizing information needed for each collection;
- Planning for and conducting required public hearings for triennial reviews and/or proposing and adopting new or revised WQS;
- Conducting public outreach and obtaining public input where appropriate. Includes issuing public notices, managing information for the public on websites, soliciting comments, and documenting, reviewing, and responding to comments;
- Preparing submissions to EPA, including assembling all materials and, where required, obtaining attorney general certifications that WQS have been adopted according to state or tribal law and the agency requirements;
- Organizing and implementing recordkeeping as required; and
- Providing voluntary information in response to requests, providing voluntary technical input to EPA policies, guidance documents, and workgroups.

5. The Information Collected – Agency Activities, Collection Methodology, and Information Management

5.1 Agency Activities

EPA conducts a full range of activities associated with this ICR, including the following:

- Assembling relevant information to review new or revised WQS submitted by states and authorized tribes;
- Reviewing new or revised WQS standards for consistency with the CWA and the WQS regulation;
- Preparing and sending a letter to the state or tribe conveying the EPA approval or disapproval decision(s);
- Making any Administrator determinations that federal WQS are necessary;
- Proposing, seeking comment on, and promulgating federal standards where state or tribal WQS are disapproved or where the Administrator has determined that federal WQS are necessary;
- Proposing, seeking comment on, and finalizing the withdrawal of federal standards when a state or tribe adopts corresponding WQS that EPA has approved;
- Notifying appropriate governmental entities and others, where appropriate, that a tribe has applied for TAS, and providing an opportunity for them to comment on the tribal assertion of authority;
- Evaluating the tribal TAS application and relevant comments to determine whether the tribe meets statutory and regulatory criteria for TAS eligibility, and notifying the tribe if the application is approved; and
- Reviewing requests for EPA assistance to resolve disputes regarding differing state and tribal WQS on common bodies of water.

See also section 2.2, Practical Utility/Users of the Data.

Activities related to, but not included in, this ICR include revising the WQS regulation as needed; developing policies, guidance, and technical resources for states and tribes; developing national recommended water quality criteria; assisting states and tribes in interpreting and implementing regulations, policies and initiatives; providing training to WQS practitioners; and coordinating activities related to standards with other CWA programs and with other federal agencies. The EPA website, Water Quality Standards: Regulations and Resources, provides more information. See <https://www.epa.gov/wqs-tech>.

5.2 Collection Methodology and Management

States and authorized tribes submit their new and revised WQS to the appropriate EPA regional office. Likewise, tribes applying for TAS, and states or tribes requesting dispute resolution, submit their requests to the regional office. Responsibility for EPA decisions on WQS, TAS applications, and dispute resolution requests has been delegated to Regional Administrators or designees.

The WQS staffs in EPA regional offices work closely with states and authorized tribes on WQS issues and are available to review and offer comments on draft proposed and final WQS submissions. Headquarters provides support to the regional offices in the review of these submissions.

EPA posts approved WQS adopted by states and authorized tribes, and federally promulgated WQS on its website. See <https://www.epa.gov/wqs-tech/state-specific-water-quality-standards-effective-under-clean-water-act-cwa>.

The WQS regulation does not specify the form – hardcopy or electronic – for submitting responses under this ICR. EPA is committed to reducing reporting burden through electronic means where feasible. Hardcopy reporting and emailed submission of electronically signed submissions are generally used for the submission of information described in section 4 above. Emailed submissions are generally used for responses to periodic EPA requests for voluntary WQS program information from states and authorized tribes.

5.3 Small Entity Flexibility

The reporting requirements discussed in this ICR do not place an unreasonable burden on small entities.

5.3.1 Indian Tribes

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

In 1994, EPA established a “simplification rule” (59 FR 64339) to make it easier for tribes to obtain agency approval for TAS to administer CWA regulatory programs. This rule enabled tribal applications to be combined with other administrative steps, simplified certain showings that a tribe needs to make, simplified jurisdictional analyses, and gave more flexibility to determining whether a tribe has program capability. Each of these steps helped minimize information to be collected.

In 2016, EPA further simplified the process of applying for TAS. It issued a final interpretive rule, *Revised Interpretation of Clean Water Act Tribal Provision*, 81 FR 30183, May 16, 2016. The rule concluded that CWA section 518 includes an express delegation of authority by Congress to Indian tribes to administer regulatory programs over their entire reservations, subject to the eligibility requirements in section 518. This eliminated the need for applicant tribes to demonstrate inherent authority, which was found to be burdensome for many applicants. Further, EPA provided customizable templates for tribes to prepare TAS applications and draft WQS for adoption. See <https://www.epa.gov/wqs-tech/tribes-and-water-quality-standards>.

5.3.2 Small Dischargers

The Great Lakes WQS requirements at 40 CFR part 132 apply to states, authorized tribes and dischargers in the Great Lakes. Under this ICR, small dischargers to the Great Lakes system may seek relief from some of these requirements by initiating (B)(1) Great Lakes Antidegradation Demonstrations and (B)(2) Great Lakes Regulatory Relief Requests. Although the reporting requirements for these collections are the same regardless of discharger size, the burden for small facilities is typically less because they lack the complexity of larger facilities and may not discharge toxic pollutants that entail more extensive information gathering under the CWA. Further, many small facilities do not require a NPDES discharge permit because they discharge to a municipal sewage treatment plant. EPA provides resources and tools that may assist small dischargers develop the information in these collections. For example, see the WQS Variance Building Tool on the agency website at <https://www.epa.gov/wqs-tech/water-quality-standards-variance-building-tool>.

5.4 Collection Schedule

The CWA and the WQS regulation require state and authorized tribes to conduct reviews of applicable WQS at least once every three years. For WQS long-term variances, the WQS regulation requires reevaluations of the variances no less frequently than every five years. Neither of these collections occur on a fixed national schedule, but rather as determined by each state or authorized tribe. See section 3.4 for a more detailed discussion of collection frequencies in this ICR.

6. Estimating the Burden and Cost of the Collection

6.1 Estimating Respondent Burden and Costs

In this section, EPA calculates respondent burden and costs.

- The respondent **burden** for each collection is generally based on estimates of the number of responses expected multiplied by estimates of the burden hours for each response.
- The respondent **labor cost** for each collection is based on the burden hours calculated above multiplied by estimated personnel compensation rates for each class of respondent. These rates are estimated as follows:
 - Labor costs for state or tribal employees were estimated using the hourly rate of a GS-9, Step 10 federal employee, of \$28.70.¹⁷ Overhead costs are expected to be 60 percent, or \$17.22 per hour, yielding a total hourly rate of \$45.92; and
 - Labor costs for wastewater treatment workers were estimated using the hourly rate of a GS-7, Step 1 federal employee, of \$18.05. Overhead costs are expected to be 50 percent, or \$9.03, yielding a total hourly rate of \$27.08.
- The respondent **Operations and Maintenance (O&M) expenses** are estimated separately. Only one information collection – (D) Tribal Applications for TAS, discussed below – entails such expenses.

There are no Capital Expenses in this ICR.

In developing burden estimates, this ICR generally uses conservative assumptions (*i.e.*, assumptions designed to avoid underestimating the burden).

6.1.1 Burden and Costs by Information Collection

(A) Administering State and Tribal WQS

State and tribal burden: EPA has estimated the respondent burden for all aspects of administering WQS described in section 4.2(A) above, including WQS adoption, review, and revision, and specific requirements of the WQS regulation involving establishing and revising designated uses, keeping water quality criteria up to date, implementing antidegradation provisions of the regulation, and issuing WQS variances. See the Appendix: Estimating the Burden for State and Tribal Administration of WQS at the end of this Supporting Statement. Based on the Appendix, EPA estimates that the annual burden on the average state or authorized tribe for these actions is 4,490.6 hours, rounded conservatively to 4,500 hours. Based on a total of 102 such entities, the total estimated burden hours are thus (102 respondents) * (4,500 hours) = **459,000 hours**.

State and tribal costs: Total estimated annual costs are (459,000 hours) * (\$45.92 per hour) = **\$21,077,280**.

¹⁷ General Schedule rate, effective January 2021, assuming base pay rate with no locality adjustment. See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/21Tables/html/GS_h.aspx

(B) Great Lakes WQS Requirements¹⁸

The burden estimates below were initially developed in conjunction with the final rule, *Water Quality Guidance for the Great Lakes System*, 60 FR 15366, March 23, 1995 (1995 Great Lakes Regulation), and refined to reflect changes during subsequent implementation, including changes in the number of Great Lakes dischargers.

(B)(1) Great Lakes Antidegradation Demonstrations

Discharger burden: There are 2,772 dischargers to the Great Lakes system, of which 1,088 are municipal sources and 1,684 are non-municipal. EPA estimates that 5 percent of these dischargers (approximately 54 municipal and 84 non-municipal) will discharge bioaccumulative chemicals of concern (BCCs). EPA conservatively assumes that all the permittees that discharge BCCs will request an increase in permit limits and be required to perform an antidegradation demonstration. The agency estimates that one-fifth of these permittees (11 municipal and 17 non-municipal) will prepare and submit an antidegradation demonstration each year. Likewise, EPA estimates that another 11 municipal and 17 non-municipal permittees will submit antidegradation demonstrations for discharges of non-BCCs. The results are shown in Column (A) of the table below.

Based on the ICR for the paperwork burden associated with the 1995 Great Lakes Regulation, EPA has developed estimates in Column (B) of the table below of the number of hours required to prepare the antidegradation demonstrations. These estimates vary, as shown, depending on whether the discharger is municipal or non-municipal, and whether the demonstration is for BCCs or non-BCCs.

The antidegradation demonstration includes both WQS elements and NPDES permitting elements. Therefore, EPA has split this activity equally between this ICR and the ICR for the NPDES Program. The share of the burden hours per demonstration for this WQS Regulation ICR is shown in column (C). The total discharger burden hours for antidegradation demonstrations hours – the number of antidegradation demonstrations per year in Column (A) times the share of burden hours charged to this ICR in column (C) – are shown in Column (D).

Thus, the total estimated discharger burden for Great Lakes Antidegradation Demonstrations, shown in Column (D) below, is **722 hours**.

Discharger and Pollutant Type	Demonstrations per year Column (A)	Unit Burden Hours Column (B)	WQS Regulation ICR Share of Burden Hours Column (C)	WQS Regulation ICR Total Burden Hours Column (D)
Municipal – BCCs	11	44.4	22.2	244
Municipal	11	29.6	14.8	163

¹⁸ Note that EPA will be transferring the WQS-related reporting burden in the two Great Lakes collections described in this section to the NPDES Program ICR at its next renewal. See section 3.1 above.

Discharger and Pollutant Type	Demonstrations per year Column (A)	Unit Burden Hours Column (B)	WQS Regulation ICR Share of Burden Hours Column (C)	WQS Regulation ICR Total Burden Hours Column (D)
non-BCCs				
Non-municipal BCCs	17	22.2	11.1	189
Non-municipal non-BCCs	17	14.8	7.4	126
TOTAL	56			722

Discharger costs: Total estimated annual labor costs are (722 hours) * (\$27.08/hour) = **\$19,552**.

State or Tribal Burden. EPA estimates that it would take a Great Lakes state or tribe about 16 hours to review an antidegradation demonstration. The agency has split this activity equally between this ICR and the ICR for the NPDES Program (OMB Control Number 2040-0004) and assumes that 50 percent of the 16 hours (8 hours) will be associated with the WQS-related work to review an antidegradation demonstration. This results in a total estimated burden of (56 reviews) * (8 hours per review) = **448 hours**.

State or Tribal costs: Total estimated annual labor costs are (448 hours) * (\$45.92/hour) = **\$20,572**.

(B)(2) Great Lakes Regulatory Relief Requests

Discharger burden: To be granted relief from certain provisions adopted consistent with 40 CFR part 132, a permittee may perform additional work such as monitoring or special studies to support its request. EPA estimates that 18 permittees per year will request regulatory relief. The agency estimates that each request will entail a burden of 835.33 hours for a discharger. EPA further assumes that the work is equally split between WQS elements and NPDES permitting elements. Therefore, the agency has split this activity equally between this WQS ICR and the ICR for the NPDES Program (OMB Control Number 2040-0004) and assumes that 50 percent of the 835.33 hours (417.67 hours) will be associated with the WQS-related work on regulatory relief requests. This results in a total estimated burden of (417.67 hours/permittee) * (18 permittees) = **7,518 hours** for dischargers for this ICR.

Discharger labor costs: (7,518 hours) * (\$27.08/hour) = **\$203,587**.

State or Tribal burden: To process each of the 18 regulatory relief requests, EPA estimates that a Great Lakes state or tribe will require 88 hours: 4 hours to review the request for completion, including any contact with the permittee for additional information; 4 hours for public notice and comment (assuming conservatively that this process is independent of regular permit public notice); and 80 hours to analyze the regulatory relief request, decide if it is justified, justify the decision, and prepare a permit modification if necessary. EPA has split this activity equally between this ICR and the ICR for the NPDES Program and assumes that 50 percent of the 88

hours (44 hours) will be associated with the WQS-related work to review a regulatory relief request. This results in a total estimated burden of (44 hours/permittee) * (18 permittees) = **792 hours** for Great Lakes states and tribes for this ICR.

State or tribal labor costs: Total estimated annual labor costs are (792 hours) * (\$45.92 hour) = **\$36,369**.

(C) Tribal-State Dispute Resolution Requests

State or Tribal burden: The WQS regulation specifies that when a state or authorized tribe wants EPA to initiate a formal resolution process for a state-tribal dispute over differing WQS on a common body of water. action, the tribe or state must submit a written request to the agency. EPA estimates that up to three tribes/states will submit such a request over the next three years (one request per year). To date, there have been no such formal requests since the regulation went into effect in 1991. The estimated burden to a tribe or state to develop a dispute resolution request is 80 hours. Thus, the total estimated annual burden hours are (1 application per year) * (80 hours/application) = **80 hours**.

State or Tribal costs: Total estimated annual labor costs are (80 hours) * (\$45.92 per hour) = **\$3,674**.

(D) Tribal Applications for TAS

Tribal burden: EPA estimates that up to six tribes per year will apply to administer the WQS program. Based on information from eight tribes with experience in developing TAS applications for CWA regulatory programs, the agency estimates that developing a TAS application requires 1,607 tribal staff hours and an additional \$43,920 for fixed-fee contract costs for legal consultations typically supporting such applications. This results in a total estimated burden of (6 tribes) * (1,607 hours) = **9,642 hours**

Tribal labor costs: Total annual labor costs = (9,642 hours) * (\$45.92/hour) = **\$442,761**.

Tribal Operations and Maintenance (O&M) costs: Total estimated annual tribal costs to cover fixed-fee contractual support are (6 tribes) * (\$43,920) = **\$263,520**.

(E) Voluntary WQS Program Information

State or Tribal burden: The program information in this collection includes: technical information to assist in developing guidance or other materials; technical comments on draft program-related policies and guidance documents; information concerning program operations to assist in information sharing and improving program efficiency; and state and tribal technical materials prepared for program-related work groups. Submission of state or tribal information or participation by state and tribes in workgroups is voluntary. EPA estimates that it will make 10 requests for supporting WQS program information from states and authorized tribes per year. Thus, the total number of responses is (10 requests per state or tribe) * (102 entities) = 1,020 requests annually for voluntary information from states and tribes. The agency estimates that responding to an individual request will average two hours. The total estimated annual burden hours are (1,020 responses) * (2 hours/response) = **2,040 hours**.

State or Tribal costs: Total estimated annual labor costs are (2,040 hours) * (\$45.92 per hour) = **\$93,677**.

6.1.2 Total Burden and Cost

The annual number of estimated responses to information requests for all collections listed above in this ICR is 1,277. The estimated annual burden for states, tribes and dischargers to respond to these requests is **480,242 hours**. The total estimated annual labor costs for states, tribes and dischargers to respond to these requests are **\$21,897,472**. The total estimated O&M costs for tribal TAS applicants using fixed-fee support contracts is **\$263,520** each year. These figures are summarized for each collection in Table 1 in section 7.

6.2 Estimating Agency Burden and Cost

The EPA analysis of annual burden and costs to the federal government are detailed in this section. Agency employee costs were estimated assuming a GS-13 Step 5 federal employee earning \$56.31 per hour.¹⁹ Overhead costs for federal employees are expected to be 60 percent, or \$33.79 per hour, yielding a total hourly rate of \$90.10.

6.2.1 Agency Burden and Cost by Information Collection

(A) Administering State and Tribal WQS

EPA estimates that its reviews of state and tribal WQS submissions and other information provided to EPA in administering their WQS entail 380 staff hours annually per state or authorized tribe. See the Appendix: Estimating the Burden for State and Tribal Administration of WQS at the end of this Supporting Statement. The total estimated agency burden is thus (102 respondents) * (380 hours/respondent) = **38,760 hours**. Estimated agency labor costs are (38,760 hours) * (\$90.10/hour) = **\$3,492,276**.

(B) Great Lakes WQS Requirements

EPA estimates little additional federal government burden or cost because all the Great Lakes states are delegated NPDES permitting authorities.

(C) Tribal-State Dispute Resolution Requests

EPA estimates that each review of a state or tribal request will require 20 hours. The estimated agency burden is thus (1 request/year) * (20 hours/request) = **20 hours**. The estimated agency labor costs are (20 hours) * (\$90.10/hour) = **\$1,802**.

(D) Tribal Applications for TAS

EPA estimates that each review of a tribal TAS program application will require 205 hours. The total agency burden is thus (6 applications/year) * (205 hours/application) = **1,230 hours**. The estimated agency labor costs are (1,230 hours/year) * (\$90.10/hour) = **\$110,823**.

(E) Voluntary WQS Program Information

EPA estimates it will make 10 requests annually for voluntary WQS program information from states and authorized tribes. EPA estimates that each request will average 6 hours to develop the request and to compile and analyze the results. Thus, the total estimated agency burden is (10

¹⁹ From 2021 General Schedule (GS) Locality Pay Tables, U.S. Office of Personnel Management, available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2021/general-schedule/>. See hourly rates for the locality pay area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA.

requests/year) * (6 hours/request) = **60 hours**. Estimated agency labor costs are (60 hours/year) * (\$90.10/hour) = **\$5,406**.

6.2.2 Total Agency Burden and Cost

In summary, the estimated total annual burden to EPA in the collections listed above is **40,070 hours**. The total estimated annual labor costs to the agency are (40,070 hours) * (\$90.10/hour) = **\$3,610,307**. These figures are summarized for each collection in Table 2 in section 7.

6.3 Reasons for Change in Respondent Burden

The current OMB approved burden for the existing WQS Regulation ICR (OMB Control Number 2040-0049) is 507,887. This renewal reflects a net decrease of 27,645 burden hours, resulting in a total of 480,242 burden hours. The net decrease comprises the following changes:

- The 2018 collection, “Great Lakes Bioassay Tests,” conducted by dischargers and reviewed by state and tribes, is being terminated. EPA has confirmed that Great Lakes states, tribes, and dischargers have not conducted such tests or reviews for over ten years. (-37,678 burden hours)
- The collections (A) Administering State and Tribal WQS and (E) Voluntary WQS Program Information increased to reflect the addition of two tribes with WQS and a rounding adjustment. (+9,980)
- The collection (B)(1) Great Lakes Antidegradation Demonstrations increased to reflect a small increase in the number of discharges to the Great Lakes system (+53 burden hours).

The changes in burden for each collection are provided in Table 3 in section 7.

6.4 Burden Statement

The annual public reporting and record keeping burden for this collection of information by states and authorized tribes is estimated to average 4,500 hours per state or tribe for administering WQS, 80 hours per dispute resolution request, 1,607 hours per tribal request for authority to administer WQS, and 2 hours per voluntary WQS program information response. The annual burden for Great Lakes discharger respondents is estimated to average 111 hours per discharger. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the agency 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, the agency has established a public docket for this ICR under

Docket ID No. EPA-HQ-OW-2011-0465, which is available for online viewing at <http://www.regulations.gov>, or in person viewing at the Office of Water Docket Center (EPA/DC), WJC West, Room 3334, 1301 Constitution Avenue, 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. An electronic version of the public docket is available online for viewing at <http://www.regulations.gov>. Use <http://www.regulations.gov> to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. 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, DC 20503, Attention: Desk Office for EPA. Please include EPA Docket ID (EPA-HQ-OW-2011-0465) and OMB Control Number (2040-0049) in any correspondence.

7. Summary Tables

Table 1: Total annual burden and cost for states, tribes, and dischargers

Collection	Respondents in Next Three Years	Responses per year	Burden Hours per Response	Annual Burden Hours	Annual Labor Cost ²⁰	Annual O&M Cost
State and Tribal Respondents						
(A) Administering State and Tribal WQS	102	102	4,500	459,000	\$21,077,280	None
(B)(1) Great Lakes Antidegradation Demonstrations	<i>Included in (A)</i>	56	8	448	\$20,572	None
(B)(2) Great Lakes Regulatory Relief Requests	<i>Included in (A)</i>	18	44	792	\$36,369	None
(C) Tribal-State Dispute Resolution Requests	<i>Included in (A)</i>	1	80	80	\$3,674	None
(D) Tribal Applications for TAS	18	6	1,607	9,642	\$442,761	\$263,520
(E) Voluntary WQS Program Information	<i>Included in (A)</i>	1,020	2	2,040	\$93,677	None
Total State and Tribal Responses	120²¹	1,203	varies as above	472,002	\$21,674,333	\$263,520
Great Lakes Discharger Respondents						
(B)(1) Great Lakes Antidegradation	168	56	varies	722	\$19,552	None

²⁰ See section 6.1 for derivation of hourly labor rates used: \$45.92/hour for states and tribes, and \$27.08/hour for wastewater treatment workers.

²¹ This state and tribal burden is associated with 120 potential respondents: 50 states, the District of Columbia, 5 territories, 46 authorized tribes with approved WQS and 18 additional tribal respondents over the three-year duration of the ICR (based on six additional tribal respondents estimated to apply per year for TAS to administer the WQS program).

Water Quality Standards Regulation (Renewal) ICR

Collection	Respondents in Next Three Years	Responses per year	Burden Hours per Response	Annual Burden Hours	Annual Labor Cost	Annual O&M Cost
Demonstrations						
(B)(2) Great Lakes Regulatory Relief Requests	54	18	417.65	7,518	\$203,587	None
Total for Great Lakes Discharger Responses	222	74	varies as above	8,240	\$223,139	None
Grand Total						
GRAND TOTAL	342	1,277	varies as above	480,242	\$21,897,472	\$263,520

Table 2: Total agency burden and cost

Collection	No. Responses per Year	Burden Hours per Response	Annual Burden Hours	Annual Labor Cost	Annual O&M Cost
(A) Administering State and Tribal WQS	102	380	38,760	\$3,492,276	None
(B) Great Lakes WQS Requirements	Not applicable ²²				
(C) Tribal-State Dispute Resolution Requests	1	20	20	\$1,802	None
(D) Tribal Applications for TAS	6	205	1,230	\$110,823	None
(E) Voluntary WQS Program Information	10	6	60	\$5,406	None
Total	119	varies as above	40,070	\$3,610,307	None

²² The agency estimates little additional federal government burden or cost because all the Great Lakes states are delegated NPDES permitting authorities.

Table 3: Change in Respondent Burden

(Negative numbers are in parentheses)

Collection	Previously Approved Burden Hours	Burden Hours in This ICR	Difference (hours)	Comments
(A) Administering State and Tribal WQS	449,060	459,000	+9,940	Addition of two tribes
(B)(1) Great Lakes Antidegradation Demonstrations	1,117	1,170	+53	Two additional dischargers responding
(B)(2) Great Lakes Regulatory Relief Requests	8,310	8,310	0	
(C) Tribal-State Dispute Resolution Requests	80	80	0	
(D) Tribal Applications for TAS	9,642	9,642	0	
(E) Voluntary WQS Program Information	2,000	2,040	+40	Addition of two tribes
Great Lakes Bioassay Tests	37,678	removed	(37,678)	No longer performed
TOTAL	507,887	480,242	(27,645)	

APPENDIX: Estimated Burden per State or Tribe to Administer WQS

The purpose of this Appendix is to estimate the average annual paperwork burden per state or tribe for states, authorized tribes, and EPA to administer water quality standards (WQS) under the Clean Water Act (CWA). These estimates are based on EPA's estimates made in 2018 for the currently approved ICR which expires December 31, 2021.²³ The 2018 estimates were validated by EPA's consultations with state respondents in 2020 as described in section 3.3 of the Supporting Statement.

State and Tribal Burden

To estimate the state and tribal burden in the 2018 ICR, EPA considered the ten individual information collections listed below. Based on the 2020 state consultations, EPA believes that the ten estimates below, when aggregated and apportioned to the average state or tribe, are a fair representation of the overall burden that continues to be borne not only by each of the 100 states and tribes for which the 2018 estimates were made, but also by tribes added after the estimates were made.

In this Appendix, EPA uses two steps. First, EPA estimates the total national burden for each collection in sections (1) through (10) below. Second, EPA calculates the combined burden per state or tribe in the final section below.

(1) WQS Adoption, Review, and Revision

The CWA and the WQS regulation require a WQS review and associated information collection at least once every three years from states and authorized tribes with WQS. In the consultation with states in the 1980s described in section 3.3 of the Supporting Statement, EPA asked the states to quantify the reporting and recordkeeping burden of the WQS program as a whole to meet the statutory requirements, including reviewing the WQS at least once every three years. The state representatives provided aggregate annualized burden estimates for conducting WQS adoptions, reviews, and revisions. Based on this input, EPA estimated the average burden per state or tribe as 2,500 hours per year over a triennial cycle. Based on subsequent consultations, described in section 3.3 of the ICR Supporting Statement, the agency believes that the estimate is still valid. Based on 100 states and tribes with WQS in 2018, the total estimated annual burden hours were $(100 \text{ respondents}) * (2,500 \text{ hours}) = \mathbf{250,000 \text{ hours}}$.

(2) Rulemaking

When issuing the final 2015 WQS Program Revisions, EPA estimated that each state or authorized tribe would need to perform a one-time WQS rulemaking as described in this ICR within the first three years. For the currently approved ICR, the agency estimated that half of these rulemakings, or $(100 \text{ entities with WQS}) * 50\% = 50$, were completed while the other half had been delayed and would occur in the next three years, at a rate of 16.33 (rounded to 17) per year. Based on the consultation described in section 3.3 of the supporting statement, the agency estimated that 1,000 hours were required for each rulemaking. The total estimated annual burden hours were thus $(17 \text{ rulemakings}) * (1,000 \text{ hours per rulemaking}) = \mathbf{17,000 \text{ hours}}$.

²³ See *Information Collection Request for the Water Quality Standards Regulation*, supporting statement, November 2018, EPA Office of Water, available at <https://www.regulations.gov/document/EPA-HQ-OW-2011-0465-0024>.

(3) Identifying the Highest Attainable Use

Based on the 2014 consultation described in section 3.3, EPA estimated that 15 UAAs are conducted per year that need additional work to identify the HAU. EPA estimated that identifying the HAU for a UAA requires 300 hours. The total estimated annual burden hours are thus (15 responses) * (300 hours per response) = **4,500 hours**.

(4) Criteria Explanations

Between 1972 and 2018, EPA issued a total of 468 new or updated national water quality criteria recommendations under CWA section 304(a). Recognizing that the issuance rate fluctuates from year to year, the agency conservatively estimated that the rate of 10 such recommendations per year will continue. As discussed in section 4.2 of the Supporting Statement, the WQS regulation requires states and authorized tribes to adopt new or revised water quality criteria into their WQS for all parameters for which such recommendations have been issued, or to provide an explanation for why they have not done so. EPA estimated that states and authorized tribes adopt half of such criteria; this work is covered under collection (1) WQS Adoption, Review, and Revision above. For the remainder, the agency estimated that each of the 100 entities with WQS in 2018 would need to provide an average of 5 criteria explanations per year, or 500 responses nationally. Based on experience and the 2014 consultation described in section 3.3, the agency estimated 50 burden hours per explanation. The total estimated annual burden hours were thus (500 responses) * (50 hours per response) = **25,000 hours**.

(5) Antidegradation Implementation Methods

As discussed in section 4.2 of the Supporting Statement, the WQS regulation requires states and authorized tribes to provide an opportunity for public involvement when developing or revising antidegradation implementation methods (AIMs). EPA estimated that about five (5) states and tribes will revise their AIMs each year to ensure that their methods remain in compliance with the antidegradation requirements and to make other adjustments at their discretion.

To revise AIMs, EPA assumed conservatively that states and tribes would need to conduct public involvement activities, such as notification, documentation, and recordkeeping, that were not covered completely by (1) WQS Adoption, Review, and Revision above. Based on stakeholder input, the agency estimated that 300 hours were needed per state and tribe for such activities. The total estimated annual burden hours were thus (5 responses) * (300 hours per response) = **1,500 hours**.

(6) Tier 2 Waters Designations

As discussed in section 4.2 of the Supporting Statement, the WQS regulation requires states and authorized tribes to provide an opportunity for public involvement when a state or authorized tribe uses the water body-by-water body approach to identify waters receiving Tier 2 antidegradation protection. EPA conservatively assumed that 45%²⁴ of states and tribes were using the water body-by-water body approach, and that they would be taking action to revise their Tier 2 waters lists about once every six years. This resulted in 45% * (100 states and tribes with WQS) divided by 6 resulting in 7.6 (rounded to 8) such actions per year. Based on stakeholder input, EPA estimated that 300 hours are required for each public involvement process. The total estimated annual burden hours were thus (8 processes) * (300 hours per process) = **2,400 hours**.

²⁴ *Ibid.*, section 6.1.1, item (B)(5), pp. 24-25.

(7) Tier 2 Alternatives Analyses

As discussed in section 4.2 of the Supporting Statement, the WQS regulation requires states and tribes with WQS to evaluate a range of non-degrading and less degrading practicable alternatives when performing or evaluating Tier 2 antidegradation reviews. Such reviews occur most frequently when a state or tribe participates in the issuance of a new or revised NPDES individual permit to high quality waters, as defined in the WQS regulation. EPA estimated that about 2% of NPDES individual permits were issued each year that require a Tier 2 antidegradation review. EPA estimated that about 46% of such reviews²⁵ may require additional work to conduct alternatives analyses than was covered under (1) WQS Adoptions, Reviews, and Revisions above. Thus, EPA estimated that (50,302 individual NPDES permits nationally) * (2% per year) * (46%) = 461 Tier 2 antidegradation reviews each year would require such additional work for alternatives analyses. The agency estimated that 90 hours were required per review. The total estimated annual burden hours were thus (461 responses) * (90 hours per response) = **41,490 hours**.

(8) Additional Tier 2 Reviews

The WQS regulation's provisions at §131.12(a)(2)(i) which limit where waters can be excluded from Tier 2 protection may result in states and tribes conducting more Tier 2 reviews than were covered by (1) WQS Adoptions, Reviews, and Revisions above. Specifically, EPA estimated that about 0.512% of NPDES permits requiring Tier 2 antidegradation reviews per year may not be so covered.²⁶ Thus, the agency estimated that (50,302 individual NPDES permits nationally) * (0.512%) = 258 would require such additional work. The agency estimated that the additional work needed for one Tier 2 review would require 390 hours. The total estimated annual burden hours are thus (258 responses) * (390 hours per response) = **100,620 hours**.

(9) WQS Variance Submissions

The WQS regulation includes requirements for states and tribes to document variances when submitting them for EPA review. Some of the documentation may not be covered in (1) WQS Adoptions, Reviews, and Revisions above. EPA estimated that states and tribes would develop up to 150 WQS variances during the coming three years, 2019-2021, or 50 per year. EPA estimated that the submission requirements would result in 75 additional burden hours per variance. The total estimated annual burden hours are thus (50 responses) * (75 hours per response) = **3,750 hours**.

(10) WQS Variance Reevaluations

The WQS regulation provides that variances with terms longer than five years must be reevaluated at least every five years. Under the conservative assumptions that (a) all variances issued since the previous renewal of the ICR would have terms longer than five years, and (b) all states and tribes would choose to conduct their reevaluations on a three-year cycle, EPA estimated that this requirement would result in reevaluations in 2019-2021 of each of the estimated 150 variances issued in 2016-2018 (see (8) above), or 50 estimated reevaluations per year. EPA estimated that the increased reevaluation provisions would require 56 hours per variance reevaluated. The total estimated annual burden hours were thus (50 responses) * (56 hours per response) = **2,800 hours**.

²⁵ *Ibid*, section 6.1.1, item (B)(6). p. 25.

²⁶ *Ibid*, section 6.1.1, item (B)(7). pp. 25-26.

Combined Burden per State or Tribe

The combined annual burden on the 100 state and tribal entities for the above ten collections in 2018 was **449,060 hours**. Thus, the average annual burden was (449,060 hours) divided by (100 entities) = 4,490.6 hours. For the purposes of this renewal ICR, EPA is rounding the estimate conservatively to **4,500 hours** per state or authorized tribe.

Agency Burden

The 2018 ICR estimated that reviews of each state's or tribe's submissions of new or revised WQS under (1) above would require 168 hours per year in the average year. The total estimated agency burden was thus (100 respondents) * (168 hours/respondent) = 16,800 hours. The agency estimated that an additional 20,951 EPA staff hours would be needed to review the information provided for collections (2) through (10) described under State and Tribal Burden above. Thus, the average annual EPA burden hours to review state and tribal WQS and related information was (16,800 hours) + (20,951 hours) = (37,751 hours), divided by (100 entities), equaling 377.51 hours.

For the purposes of this renewal ICR, EPA is rounding the estimate conservatively to **380 hours** per state or authorized tribe.