

# **Information Collection Request**

## **Supporting Statement for Information Collection Request for the EPA's National Fish Program**

### **Renewal ICR**

**December 2021**

**EPA ICR Number 1959.07  
OMB Control No. 2040-0226  
(Non-Regulatory)**

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**

Environmental Protection Agency (EPA) National Fish Program.

### **1.2 Short Characterization/Abstract**

The Clean Water Act (CWA) Section 101(a)(2) interim goal provides for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water. EPA includes the safe consumption of fish and shellfish as part of this fundamental CWA goal. There is a continuing need to maintain the overall quality and availability of public information concerning fish advisories, which includes, but is not limited to, water quality standards, monitoring and assessment activities, and the issuance of advisories and bans related to fish and shellfish consumption. Primary responsibility for these activities lies with states, territories, and tribes.

This ICR is for voluntary information collections under the national fish advisory program. EPA will analyze the information to determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes reduce risks to consumers, including those in underserved communities, of locally caught, contaminated fish. EPA will also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate. These information collections would help EPA advance equitable and effective fish advisory programs that protect recreational and subsistence fishers and other underserved populations from consumption of contaminated fish. This information is collected under the authority of CWA Section 104, which provides for the collection of information to be used to protect human health and the environment.

The information to be collected from states and tribes on a voluntary basis would include the following: (A) fish advisory information and fish tissue data collected to assist in making advisory decisions, once over a three-year period; (B) state or tribal fish program information for the National Fish Advisory Program Evaluation, once over a three-year period; and, (C) technical program information, from time to time. Over the three-year period of this ICR (2022-2025), the EPA will collect data/information on a voluntary basis from potentially 103 respondents which include states<sup>1</sup>, tribes<sup>2</sup>, and the Great Lakes Indian Fish & Wildlife Commission. EPA will analyze the information to determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes have equitable and effective fish advisory programs. In addition, EPA will also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate.

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<sup>1</sup> "States" in this document includes 56 entities: the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

<sup>2</sup> "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. As of May 2021, there are 46 federally recognized Indian tribes that have EPA approved WQS in effect under the CWA.

This ICR renews the EPA ICR Number 1959.07, OMB Control Number 2040-0226, which is approved through April 30, 2022. In this renewal, EPA anticipates the burden associated with the renewed ICR to be 1,185 hours annually, which again includes a National Program Evaluation<sup>3</sup> and additional collections related to the President's priorities to support efforts to advance equity and environmental justice in fish advisory programs by ensuring that recreational and subsistence fishers and other underserved populations are protected from consumption of contaminated fish. The annual total cost from all potential respondents under this ICR is estimated to be \$65,268.77.

## 2. Need for and Use of the Collection

### 2.1 Need/Authority for the Collection

**Authority:** CWA Section 104, which provides for the collection of information to be used to protect human health and the environment.

The nationwide collection of fish advisory information by EPA began in 1994 with a survey of the 50 states, the District of Columbia, and U.S. territories (Guam, American Samoa, Puerto Rico, and the U.S. Virgin Islands) and the Great Lakes Indian Fish & Wildlife Commission. In 2000, EPA began to collect such information from 36 tribes. The previous fish program surveys were voluntary surveys used to obtain both qualitative and quantitative information on fish advisories and fish tissue data that served as the basis for these advisories. Both the advisory information and fish tissue data that EPA has collected so far are available publicly in the National Listing of Fish Advisories (NLFA) database at [www.epa.gov/fish-tech](http://www.epa.gov/fish-tech). Over the years different ICRs included different collection activities. For example, the last ICR that included collection of fish advisory, fish tissue data, and programmatic information was in 2010, more than a decade ago. In 2014, the ICR included collection of fish advisory and fish tissue data, while in 2019, the ICR only included collection of fish tissue data.

The information to be collected on a voluntary basis under this ICR would include the following: (A) fish advisory information and fish tissue data collected to assist in making advisory decisions; (B) state or tribal fish program information for the National Fish Advisory Program Evaluation; and, (C) technical program information from time to time (such as technical comments from states and tribes on draft program policies and guidance documents; and information concerning program operations to assist in information sharing and improving program efficiency). EPA will analyze the collected information to determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes have effective fish advisory programs. EPA will also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate. In addition, EPA will use the collected information to support its efforts to advance equity and environmental justice in fish advisory programs by ensuring that recreational and subsistence fishers and other underserved populations are protected from over-consumption of contaminated fish. The 2017 Report from the EPA Office of the Inspector General – *EPA Needs to Provide Leadership and Better Guidance to Improve Fish Advisory Risk Communications*<sup>4</sup> - found that:

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<sup>3</sup> The last information collection to support a national program evaluation was in 2010.

*Some subsistence fishers, tribes, sport fishers and other groups consume large amounts of contaminated fish without health warnings. Although most states and some tribes have fish advisories in place, this information is often confusing, complex and does not effectively reach those segments of the population. Fish advisories differ from state to state, between states and tribes, and across state and tribal borders, which in some cases leads to multiple advisories with conflicting advice for a single waterbody.*

**(A) Fish Advisory Information and Fish Tissue Data Collection; and, (B) Fish Program Information for the National Fish Advisory Program Evaluation**

Once over the three-year period of this ICR, EPA will collect from states and tribes, on a voluntary basis, the following: fish advisory information and fish tissue data collected to assist in making advisory decisions; and, state and/or tribal fish program information for the National Fish Advisory Program Evaluation.

Although fish advisory information is often available on state or tribal websites, it is not currently available in formats that can easily be combined to analyze trends, identify areas with environmental justice concerns, or identify which contaminants are having the greatest national impact on consumers of locally caught fish and recreational uses. With a national compilation of fish advisories, EPA will identify the overlap between waters with state/tribal fish advisories and areas with environmental justice concerns and make information available to states/tribes and the public. Additionally, the fish tissue data are useful for determining which pollutants states and tribes are monitoring for and the levels they are finding as well as identifying contaminants of emerging concern in fish tissue. The information collected under this ICR will increase the understanding of whether recreational and subsistence fishers as well as underserved communities are at additional risk of exposure to chemical contaminants through their consumption of locally caught fish and shellfish.

The information from the National Program Evaluation will provide information on the types of contaminants that trigger the issuance of advisories, the monitoring designs states and tribes use with respect to the numbers of samples collected and number of stations surveyed, the contaminants being analyzed in fish tissue, and the risk assessment methodology currently being used to evaluate the potential health risk to fish consumers. In addition, information such as what languages states/tribes use to communicate fish advisories to underserved communities, what fish consumption rates states/tribes use to support advisories, and what channels states/tribes use to communicate to target populations will be used by EPA to plan more effective research and policies to reduce risks to consumers, including underserved populations, of locally caught, chemically contaminated fish.

**(C) Voluntary Technical Program Information**

From time to time, EPA may request states and tribes to voluntarily provide information that would assist in administering state, tribal, regional and national fish advisory programs effectively and efficiently, and further cooperative federalism. For

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<sup>4</sup> U.S. Environmental Protection Agency, Office of the Inspector General. 2017. EPA Needs to Provide Leadership and Better Guidance to Improve Fish Advisory Risk Communication. Report No. 17-P-0174, <https://www.epa.gov/office-inspector-general/report-epa-needs-provide-leadership-and-better-guidance-improve-fish>.

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 workgroups. 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) Fish Advisory Information and Fish Tissue Data Collection; and, (B) Fish Program Information for the National Fish Advisory Program Evaluation**

The EPA uses the information collected to help states and tribes develop or implement equitable and effective fish advisory programs by:

- Enhancing the public's right-to-know about the safety of fish and shellfish harvested from local waters by making this information available online.
- Improving the scientific and policy foundations to support of state, territorial, tribal, and local actions.
- Providing up-to-date and technically accurate guidance on sampling and analysis methods, risk assessment, risk management, and risk communication procedures for the states, territories and tribes to use to better protect the health of recreational and subsistence fishers in a more timely and comprehensive manner.

Fish tissue contaminant data helps to characterize the pollutants that trigger fish advisories. For many years, mercury, dioxins/furans, polychlorinated biphenyls (PCBs), chlordane, and dichlorodiphenyl-trichloroethane (DDT) have accounted for most of the advisories issued nationwide. More recently, states and tribes are beginning to issue advisories for per- and polyfluoroalkyl substances (PFAS). Regular collection of fish tissue information allows the evaluation of whether waters under advisories are meeting water quality standards, so that trends can be identified, and resources allocated to deal with the pollutants of greatest concern. It will help with identifying bioaccumulative pollutants of emerging concern in fish.

The information collected will be compiled to determine the status and nature of chemical contamination in the nation's waters and the level of effort by jurisdictions to monitor and evaluate fish tissue data at their monitoring sites. The information collected will also help EPA determine the successes and challenges that states and tribes have experienced in the implementation of EPA guidance recommendations in fish advisory programs. EPA will analyze the information to determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes reduce risks to consumers, including those in underserved communities, of locally caught, chemically contaminated fish. In addition, EPA will also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate.

The information collected under this ICR will allow state, tribes, and local organizations, to easily review cumulative information on fish monitoring and advisory programs to address

water quality concerns directly related to chemical contamination of fish. EPA will use this data to analyze trends over time, identify areas with environmental justice concerns, and identify which contaminants are having the greatest national impact on consumers of locally caught fish and recreational uses. EPA's Office of Water will share this information with other EPA program offices, such as the Office of Research and Development and the Office of Policy, to evaluate scientific research needs and policy implications. EPA regional offices also could use the information to address regional concerns regarding fish advisories and monitoring programs. The Centers for Disease Control and Prevention and other federal agencies will also be able to use this information.

Summary and individual state/tribal fish advisory and fish tissue data will also be made available to non-governmental organizations and the public. By accessing the data through the one national dataset on the Internet, the public will be able to determine whether the waterbody they want to fish has been monitored to assess the level of chemical contamination in the fish. This data coupled with advisory information will provide consumers with information that they can use to make informed decisions on waterbodies they fish in, the amount and types of fish they consume and how to prepare fish caught in local waters for recreation and subsistence to reduce health risks.

### **(C) Voluntary Technical Program Information**

EPA will use technical program information provided voluntarily under 2.1(C) 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 survey of fish advisories has been performed under an approved ICR for the National Listing of Fish Advisories (OMB Control No. 2040-0226; EPA ICR No. 1959.01, expired on 01/31/2004; EPA ICR No. 1959.02, expired on 09/30/2007; EPA ICR No. 1959.03, expired on 02/28/2011; EPA ICR No. 1959.04, expired on 11/30/2014; EPA ICR No. 1959.05 expiring on 07/31/2018; EPA ICR No. 1959.06 expiring on 4/30/2022). This ICR is a renewal to gather fish advisory information and fish tissue data, fish advisory programmatic information, and technical program information.

Additionally, based on repeated requests from states for information on how other states and tribes implement their fish advisory programs, EPA plans to collect fish advisory program information, for the first time in more than 11 years, as part of the National Fish Advisory Program Evaluation (see Appendix A).

Information collected under this ICR are already collected by state, territorial and/or tribal fish programs. Consequently, respondents would not be collecting data specifically for EPA, but instead sharing their individual data with EPA for national consolidation and reporting.

### **3.2 Public Notice Required Prior to ICR Submission to OMB**

In compliance with the 1995 Paperwork Reduction Act, EPA solicited comments for a 60-day period on this ICR. Comments were requested on the proposed ICR renewal in the Federal Register on August 3, 2021 at 86 FR 41837. The notice included a request for comments

and information to enable the EPA to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and, (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses.

EPA only received comments from the Great Lakes Consortium for Fish Consumption Advisories (a collaboration of fish advisory program managers from U. S. states bordering the Great Lakes, the Great Lakes Indian Fish and Wildlife Commission, and Canadian Ministry of the Environment, Conservation and Parks). Comments can be viewed on [www.regulations.gov](http://www.regulations.gov) under Docket ID: EPA-HQ-OW-2014-0350. The Consortium expressed concern about the collection of the fish advisory information including the utility of the collection of fish advisory information, the burden on state and tribal resources; and lack of plans for ensuring quality, utility and clarity of information shared; and, how the burden of collections would be minimized.

In response, EPA would like to note that the responses to the information collection requests from jurisdictions are voluntary, and use of the fish advisory and fish tissue information collection templates is optional. Prior to the collection of information, EPA will work with states and tribes to revise the fish advisory and fish tissue data elements, as needed. Additionally, EPA plans to work with state and tribal fish advisory programs on the best ways to analyze and present the data so that the information is accurate and properly presented. EPA also notes that when it solicited input in September 2021, from nine jurisdictions on the burden estimates (as discussed in Section 3.3), it did not receive any adverse comment from the two respondents on any of the three information collections.

More importantly, consistent with the Biden Administration's strong commitment to the issue of environmental justice and ensuring racial equity and support for disadvantaged communities (see [Executive Order 13985](#) and [Executive Order 14008](#)), EPA believes that having a national dataset of fish advisory information will be useful in better understanding whether disadvantaged communities face disparate impacts. High frequency consumers of fish such as subsistence fishers or those who eat several meals of fish per week, often include individuals in



underserved communities<sup>5</sup>. Additionally, an OIG report<sup>6</sup> found that some states sharing a waterbody may issue different fish advisories. Having a national dataset of recent fish advisory information including specific locational data, would be an important additional data layer to [EPA's Environmental Justice Screening and Mapping Tool \(EJScreen\)](#), and to a similar tool being developed by the Office of Management and Budget (OMB) called the Climate and Environmental Justice Screening Tool, which will be used to implement the Administration's [Justice40 initiative](#). A fish advisory data layer could be used to identify disadvantaged communities, whether they overlap where fish advisories are issued and whether such advisories provide adequate and consistent recommendations to protect fish consumers in those communities. The national collection of fish advisory information was last compiled in 2010. EPA had evaluated other ways for pulling advisory information from state websites since then; however, given that this information is presented in various ways, the cost for developing an automated process for pulling the data from state and tribal websites was extremely high. So, while jurisdictions have fish advisory information on their websites, fully carrying out EPA's mission to protect public health and implement the Biden Administration's priority to deliver environmental justice would be facilitated by having an updated national dataset of fish advisory information.

### 3.3 Consultations

In 2017, EPA sought input on burden hours from nine jurisdictions (Alaska, Arizona, Delaware, Maryland, Michigan, New York, Utah, Great Lakes Indian Fish and Wildlife Commission, and the Aroostook Band of Micmacs) for calculating burden estimates. Delaware, Michigan and Utah provided burden hours for reviewing instructions, and entering fish advisory information and fish tissue data into each respective template. For the collection of information for the National Fish Advisory Program Evaluation, EPA used burden estimates from the last survey conducted in 2010. EPA used these burden estimates for the currently approved National

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<sup>5</sup> von Stackelberg, Katherine, Li, Miling, Sunderland, Elsie. (2017). Results of a national survey of high-frequency fish consumers in the United States. Environmental Research. Volume 158:126-136. Available at:

<https://www.sciencedirect.com/science/article/pii/S0013935117304024?via%3Dihub>

Pulford, E., Polidoro, B. A., Nation, M. (2017). Understanding the relationships between water quality, recreational fishing practices, and human health in Phoenix, Arizona. Journal of Environmental Management. Volume 199: 242-250. Available at:

<https://www.sciencedirect.com/science/article/pii/S0301479717305030?via%3Dihub>

USDOI. 2020. An Ethnographic Study of Subsistence Fishing on the Potomac and Anacostia Rivers. National Park Service. National Capital Area. Available at:

<http://npshistory.com/publications/nace/subsistence-fishing.pdf>

Pitchon, Ana and Norman, Karma. (2012). Fishing off the Dock and Under the Radar in Los Angeles County: Demographics and Risks. Bulletin of the Southern California Academy of Sciences. 111(2): 141-152. Available at: <https://www.semanticscholar.org/paper/Fishing-off-the-Dock-and-Under-the-Radar-in-Los-and-Pitchon-Norman/8eb038706376e6743fb482e8ed440de2569dfb4c>.

<sup>6</sup> U.S. Environmental Protection Agency, Office of the Inspector General. 2017. EPA Needs to Provide Leadership and Better Guidance to Improve Fish Advisory Risk Communication. Report No. 17-P-0174, <https://www.epa.gov/office-inspector-general/report-epa-needs-provide-leadership-and-better-guidance-improve-fish>.

Fish Program ICR, as applicable, and in preparing the Supporting Statement for the first Federal Register notice of this ICR renewal.

In September 2021, EPA again solicited input from nine jurisdictions (Connecticut, District of Columbia, Delaware, Louisiana, Maryland, Michigan, Oregon, South Carolina, and Virginia) about the accuracy of EPA's burden estimates provided in the first Supporting Statement to renew this ICR, solicited their views on ways to reduce the burden, and asked for any other comments they had to offer on the paperwork process. EPA received responses from two jurisdictions (Maryland and South Carolina). Maryland indicated a lower estimate than the previous estimates for all of the information collections. South Carolina indicated a very minor increase (from 1.47 to 1.5 hours per respondent) to the previous burden estimate for Information Collection (A) and lower estimates for the other two information collections. EPA adjusted upward the estimate for Information Collection (A); however, EPA retained the higher previous estimates for the other two information collections to be conservative.

### **3.4 Effects of Less Frequent Collection**

#### **(A) Fish Advisory Information and Fish Tissue Data Collection; and, (B) Fish Program Information for the National Fish Advisory Program Evaluation**

EPA estimates that voluntary requests will be sent to potential respondents once over a three-year period for: information on fish advisories and fish tissue data, and for fish program information for the National Fish Advisory Program Evaluation.

#### **(C) Voluntary Technical 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.

### **3.5 General Guidelines**

This ICR is in compliance with the OMB guidelines found 5 CFR 1320.5(d)(2).

### **3.6 Confidentiality and Sensitive Questions**

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

## **4. Respondents and the Information Requested**

### **4.1 Respondents/SIC Codes**

The following describes the universe of potential respondents.

- “States” described as respondents in this ICR refers to the 50 states, the District of Columbia, and five territories (i.e., 56 “states”).<sup>7</sup>
- “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 May 2021, there were 46 such tribes.
- Great Lakes Fish and Wildlife Commission.

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”), formerly SIC code #9511.
- NAICS code 92312 ( “Administration of public health programs”), formerly SIC code #9431.

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<sup>7</sup> 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.

## 4.2 Information Requested

### (i) *Data items, including record keeping*

#### **(A) Fish Advisory Information and Fish Tissue Data Collection; and, (B) Fish Program Information for the National Fish Advisory Program Evaluation**

The information that the EPA is requesting states, territories and tribes to voluntarily provide under this ICR is already routinely collected as part of their fish monitoring efforts to protect public health. No additional collection effort will be required by these entities in order to respond to EPA's request for the following:

- (1) Tissue data that supports the advisory determination including contaminant, contaminant concentration, type(s) of sample(s) (e.g., fillet, whole, plug, shellfish, wildlife, composite), sample length, and locational coordinates for the data/sample locations (e.g., station IDs, site names, locations, counties, latitude/longitude); or any other fish tissue data (even if it was not used to issue an advisory).
- (2) Fish advisory information including waterbody assessed with locational information, advisory extent, species (and species size) under advisory, contaminant causing advisory, population affected by advisory, meal size recommendation and frequency fish can be consumed.
- (3) Information on state fish advisory programs, including differences in monitoring procedures used to collect and analyze fish samples, risk assessment methodologies used to evaluate chemical residue data and issue advisories, risk management approaches employed to protect the public, and risk communication procedures used to communicate the human health risks associated with the consumption of chemically contaminated species.

#### **(C) Voluntary Technical 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 fish advisory 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.

### (ii) *Respondent Activities*

EPA identified the following activities respondents may need to undertake under this ICR to voluntarily respond to the information collection.

- Review information requested and instructions on submitting fish tissue data and advisory information. States, territories and tribes will have the flexibility to submit their data to the EPA in the manner that is most convenient and efficient for them.
- Gather fish advisory information and fish tissue data for electronic submission.

- Prepare transmittal email to submit fish advisory information and fish tissue data to EPA.
- Review instructions and questions in the National Fish Advisory Program Evaluation (approximately 100 questions).
- Gather information needed to complete questions on the Program Evaluation.
- Complete and submit online Program Evaluation.
- Provide 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**

Agency activities associated with this ICR consist of the following:

- Updating current mailing list of state, territory, and tribal fish advisory programs
- Preparing transmittal email and instructions for suggested ways to submit fish advisory and tissue data, fish advisory program information and technical program information..
- Sending voluntary information requests to respondents and respond to any questions from them.
- Compiling information and data from respondents.
- Entering data and information into a database.
- Analyzing fish advisory information for summary statistics for communications to states, tribes, territories and the public.
- Preparing and conducting the online Evaluation information collection questionnaire.
- Analyzing information collected as part of the Evaluation.
- Preparing requests for technical information.
- Compiling and analyzing results.

### **5.2 Collection Methodology and Management**

All state, territorial, or tribal respondents on the mailing list developed and maintained by EPA will receive email requests to voluntarily provide fish advisory information and fish tissue data, provide information for the National Fish Advisory Program Evaluation, and periodic technical program information. The EPA periodically, and at least annually, checks in with fish advisory program managers to ensure we have the correct contacts listed on EPA’s Fish Program website. The transmittal email will explain the purpose of the information/data collection effort, the voluntary nature of the request, and the instructions on how to submit the data to EPA. An example transmittal email request is included in Appendix B. States, territories and tribes have

the flexibility to submit their data to the EPA in the manner that is most convenient and efficient for them or to choose not to participate.

### 5.3 Small Entity Flexibility

The reporting requirements discussed in this ICR do not place an unreasonable burden on small entities. The submission of information under this ICR is voluntary. Thus, smaller entities that cannot provide the staff and resources to respond to EPA's information request are not required to do so. Identification of such smaller entities that do not initially respond will allow EPA to develop options to assist these smaller entities. Options may include additional time for responding, simplifying the response procedures, providing assistance in completing the request or forgoing the response.

### 5.4 Collection Schedule

EPA estimates that voluntary requests will be sent to potential respondents once over a three-year period for: information on fish advisories and associated fish data; and, fish program information for the National Fish Advisory Program Evaluation. In addition, from time to time, EPA may request states and tribes to provide information voluntarily that would assist in administering state and tribal, fish advisory programs effectively and efficiently.

## 6. Estimating the Burden and the Cost of the Collection

### 6.1 Estimating Respondent Burden and Cost

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 rates were obtained from the Bureau of Labor Statistics' Employer Costs for Employee Compensation – December 2020 (USDL- 21-1647, September 16, 2021) at <http://www.bls.gov/news.release/pdf/ecec.pdf>, and the following categories were used:

|   |              |
|---|--------------|
| Manager (White collar: Executive, administrative, and managerial) | \$64.24/hour |
| Technical (White collar)  | \$51.84/hour |

Rates are total compensation which includes cost for wages and salaries and benefits, as reported by Bureau of Labor Statistics.

- The respondent Operations and Maintenance (O&M) expenses are estimated separately.
  - No capital/start-up costs are anticipated for the jurisdictions responding to the data request because they already collect the information requested for the public record.

- o No operations and maintenance (O&M) cost are anticipated. Jurisdictions already maintain the information requested in this collection for the public record and will submit this information to the EPA electronically. Currently, all jurisdictions provide the fish advisory and tissue data via email. The information request for the National Fish Advisory Program Evaluation will be online, with a link shared with respondents to complete it.

### **(A) Fish Advisory Information and Fish Tissue Data Collection**

The EPA considered its previous burden estimates for collecting fish tissue and fish advisory information and revised them based on responses received from states (see section 3.3). The annual respondent burden and cost presented in Table 1 reflects the estimated average annual labor hours and costs, calculated to occur during the three-year OMB-approved period of this ICR.

- Labor hours are based on initial assumptions that up to 103 potential respondents will be asked to provide fish advisory information and fish tissue data, once during the three-year period of the ICR.
- Senior-level managers (e.g., director, chief) are most likely to receive the data request and review instructions; however, it is anticipated that a lower-level technical staff member would provide the fish advisory information and fish tissue data electronically to EPA. The amount of time needed to gather advisory information varies considerably, depending on how many new fish advisories have been issued within the jurisdiction during the past three-year period and/or how many revisions there are to previously issued advisories. The amount of time needed to complete the new advisory information or update existing information will vary depending on the number of advisories within the respondent's jurisdiction. For the purposes of this ICR, EPA estimates (based on the responses from states), on the average, that it will require 4.40 hours to provide fish advisory information and fish tissue data once in the three-year period of this ICR. These estimates are based on states having the flexibility to provide the information/data in any format (except PDF) to EPA. [Note that the 2019 ICR estimates were based on the respondents submitting the data to EPA by entering the WQX web biological template, which EPA estimated would take more time.] If available, the information requested is already compiled by each jurisdiction for the public record; hence little, if any, additional time will be needed to gather the information.
  - State and tribal total respondent burden hours, based on 103 respondents, once in the three-year period of the ICR:  
 $(1.10 \text{ manager-hours}) * (103 \text{ respondents}) = 113 \text{ total manager hours once in three years, or annual manager hours of } 38$   
 $(3.40 \text{ technical-hours}) * (103 \text{ respondents}) = 350 \text{ total technical hours once in three years, or annual technical hours of } 117$
  - State and tribal total estimated costs, based on 103 respondents, once in the three-year period of the ICR:

$[(113 \text{ total manager-hours}) * (\$64.24 \text{ per hour})] + [(350 \text{ technical -hours}) * (\$51.84 \text{ per hour})] = \$25,403.12$  once in three years, or an annual total cost of \$8,467.71.

### **(B) Fish Program Information for the National Fish Advisory Program Evaluation**

Once in three-year period of this ICR, EPA will conduct an evaluation of the fish advisory programs via an online survey to determine the status of state and tribal fish advisory programs considering that EPA conducted the last evaluation in 2010. Senior-level managers (e.g., director, chief) are most likely to receive the requests related to the National Fish Advisory Program Evaluation; however, it is anticipated that a lower-level technical staff member would actually complete the survey electronically. Thus, it is estimated that the manager and the technical person could together spend a total of 12 hours once in the three-year period of this ICR to the responding to the Program Evaluation, as shown below:

- State and tribal total respondent burden hours, based on 103 respondents, once in the three-year period of the ICR:  
 $(2.00 \text{ manager-hours}) * (103 \text{ respondents}) = 206 \text{ total manager hours once in three years, or annual manager hours of } 69$   
 $(10 \text{ technical-hours}) * (103 \text{ respondents}) = 1,030 \text{ total technical hours once in three years, or annual technical hours of } 343$
- State and tribal total estimated costs, based on 103 respondents, once in the three-year period of the ICR:  
 $[(206 \text{ total manager-hours}) * (\$64.24 \text{ per hour})] + [(1,030 \text{ technical-hours}) * (\$51.84 \text{ per hour})] = \$66,628.64$  once in three years, or an annual total cost of \$22,209.55

### **(C) Voluntary Technical Program Information**

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 3 requests for supporting technical program information from states and authorized tribes per year and it will take states or tribes an average of two hours to respond to an individual request. Thus, it is estimated that both the manager and the technical person together could spend a total of 6 hours per year per request (equivalent to a total of 18 hours for the three-year period of the ICR) to respond to the Voluntary Technical Program Information requests, as shown below:

- State and tribal total respondent burden hours, based on 103 respondents, for the three-year period of the ICR:  
 $(6 \text{ manager-hour}) * (103 \text{ respondents}) = 618 \text{ total manager hours for the three-year ICR period, or annual manager hours of } 206$



(12 technical-hours) \* (103 respondents) = 1,236 total manager hours once in three years, or annual manager hours of 412

- State and tribal total estimated annual costs, based on 103 respondents:  
 [(618 total manager-hours) \* (\$64.24 per hour)] + [(1,236 technical-hours) \* (\$51.84 per hour)] = \$103,774.56 for the three-year period of the ICR, or an annual total cost of \$34,591.52 per year

**Table 1. Respondent Burden and Cost**

| Information Collection Activity  | Hours and Costs Per Respondent   |   |  |  |                       |               | Total Hours and Costs     |  |   |
|--|--|---|--|--|-----------------------|---------------|---------------------------|--|---|
|  | Mgr. Hours at \$64.24/ Hour, Annual (# in parenthesis is 3-year total) | Tech. Hours at \$51.84/ Hour, Annual (# in parenthesis is 3-year total) | Resp. Hours, Annual (# in parenthesis is 3-year total) | Labor Cost per Respondent                                | Capital Start-Up Cost | O&M Cost      | No. of Resp. <sup>1</sup> | Total Resp. Hours, Annual (# in parenthesis is 3-year total) | Total Resp. Cost, Annual (# in parenthesis is 3-year total) |
| <b>(A) Fish Advisory &amp; Fish Tissue Data Collection to be collected once in three years</b>   |  |   |  |  |                       |               |                           |  |   |
| <i>Fish advisory/tissue collection (includes reviewing request, compiling and submitting information requested)</i>                                    | 0.37<br>(1.10)   | 1.13<br>(3.40)  | 1.50<br>(4.50)   | <i>varies (depending on manager and technical hours)</i> | \$0.00                | \$0.00        | 103                       | 155<br>(464)   | \$8,467.71<br>(\$25,403.12)                                 |
| <b>(B) Fish Program Information for the National Fish Advisory Program Evaluation to be collected once in three years</b>                              |  |   |  |  |                       |               |                           |  |   |
| <i>National Fish Advisory Program Evaluation (includes reviewing request, compiling and submitting information requested)</i>                          | 0.67<br>(2.00)   | 3.33<br>(10.00)   | 4.00<br>(12.00)  | <i>varies (depending on manager and technical hours)</i> | \$0.00                | \$0.00        | 103                       | 412<br>(1,236)   | \$22,209.55<br>(\$66,628.64)                                |
| <b>(C) Voluntary Technical Program Information to be collected annually</b>  |  |   |  |  |                       |               |                           |  |   |
| <i>Voluntary Technical Program Information (includes request for technical information for guidance development and/or participation in workgroup)</i> | 2.00<br>(6.00)   | 4.00<br>(12.00)   | 6.00<br>(18.00)  | <i>varies (depending on manager and technical hours)</i> | \$0.00                | \$0.00        | 103                       | 618<br>(1,854)   | \$34,591.52<br>(\$103,774.56)                               |
| <b>Grand Total for all three information collections (A), (B) and (C)</b>  | <b>3.03<br/>(9.10)</b>   | <b>8.43<br/>(25.3)</b>  | <b>11.5<br/>(34.4)</b>                                 | <i>varies (depending on manager and technical hours)</i> | <b>\$0.00</b>         | <b>\$0.00</b> | <b>103</b>                | <b>1,185<br/>(3,554)</b>                                     | <b>\$65,268.77<br/>(\$195,806.32)</b>                       |

<sup>1</sup>Calculations are based on the total number of respondents but actual responses may vary.

## 6.2 Estimating Agency Burden and Cost

In this section, EPA calculates Agency burden and costs. Federal employee rates were obtained from the 2021 OPM General Schedule (GS) Salary Table for the Washington, DC, area for the midpoint (i.e., Step 5) of each salary grade (Available at the [http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB\\_h.pdf](http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB_h.pdf)), and the following categories were used:

|                   |               |
|-------------------|---------------|
| Manager (GS 15)   | \$125.23/hour |
| Technical (GS 13) | \$90.10/hour  |

These hourly rates include overhead costs and locality pay of 30.48% for the Washington-Baltimore-Arlington, DC-MD-VA-WV-PA area and a 1% General Schedule increase effective January 2021. A benefits multiplication factor of 1.6 was used to obtain the total labor cost for the EPA.

- The **Operations and Maintenance (O&M) expenses** are estimated separately.
  - There are no capital/startup costs anticipated for the Agency. The database for storing fish tissue data is already in place. No Agency or contractor labor for this activity is anticipated.
  - O&M costs are anticipated for storing and archiving fish advisory information and fish tissue data.

Table 2 includes the estimated costs for data collection and other activities in the three-year of the ICR period. The following resources and assumptions were used to prepare the burden estimate for each activity

#### **(A) Fish Advisory Information and Fish Tissue Data Collection**

- Once in the three-year period of the ICR, EPA will collect fish advisory information and fish tissue data. For all agency activities associated with this data collection effort, EPA estimates the following burden and cost as shown below:
  - Agency total burden hours based on 103 respondents, once in the three-year period of the ICR:
    - $(0.7 \text{ manager-hour}) * (103 \text{ respondents}) = 72 \text{ total manager-hours once in three years, or annual manager hours of 24}$
    - $(4.3 \text{ technical-hours}) * (103 \text{ respondents}) = 443 \text{ total technical-hours once in three years, or annual technical hours of 148}$
  - Agency total estimated costs, based on 103 respondents, once in the three-year period of the ICR:
    - $[(72 \text{ total manager-hours}) * (\$125.23 \text{ per hour})] + [(443 \text{ technical-hours}) * (\$90.10 \text{ per hour})] = \$48,930.86 \text{ or an annual total cost of } \$16,310.29$
- O&M costs are anticipated for storing and archiving fish advisory information and fish tissue data.
  - Fixed O&M costs include an estimate for computer equipment maintenance for this program of \$1,000 per year and \$5,000 per year for contractor services to maintain the database and perform troubleshooting, if needed.

#### **(B) Fish Program Information for the National Fish Advisory Program Evaluation**

- Once in the three-year period of the ICR, EPA will conduct a National Fish Advisory Program Evaluation to understand the status of state, territorial and tribal fish advisory program implementation.
- For all agency activities associated with the National Fish Advisory Program Evaluation, EPA estimates the following burden and cost as shown below:

- Agency total burden hours based on 103 respondents, once in the three-year period of the ICR:  
(1.2 manager-hour) \* (103 respondents) = 124 total manager-hours once in three years, or annual manager hours of 41  
(8.0 technical-hours) \* (103 respondents) = 824 total technical-hours once in three years, or annual technical hours of 275
- Agency estimated annual costs, based on 103 respondents, once in the three-year period of the ICR:  
[(124 total manager-hours) \* (\$125.23 per hour)] + [(824 technical-hours) \* (\$90.10 per hour)] = \$89,770.92, or an annual total cost of \$29,923.64
- No O&M costs are expected.

**(C) Voluntary Technical Program Information**

EPA estimates it will make 3 requests annually for voluntary fish program information from states and authorized tribes. The Agency estimates that each request will average 6 hours per request (equivalent to 54 hours for the three-year period of the ICR) to develop the request and to compile and analyze the results, as shown below:

- Agency burden hours per year, based on 103 respondents, for the three-year period of the ICR:  
(9.0 manager-hours) \* (103 respondents) = 927 total manager-hours once in three years, or annual manager hours of 309  
(45.0 technical-hours) \* (103 respondents) = 4,635 total technical-hours once in three years, or annual technical hours of 1,545
- Agency estimated total annual costs, based on 103 respondents:  
[(927 total manager-hours) \* (\$125.23 per hour)] + [(4,635 technical-hours) \* (\$90.10 per hour)] = \$533,701.71 for the three-year period of the ICR, or an annual total cost of \$177,900.57

**Table 2. Agency Burden and Cost**

| Information Collection Activity   | Annual Hours Burden and Cost  |  |  |                                   |                        |                                    |                              | Total Hours and Costs   |   |  |
|---|---|--|--|-----------------------------------|------------------------|------------------------------------|------------------------------|-------------------------|---|--|
|   | Mgr. Hours at \$125.23/ Hour, Annual (# in parenthesis is 3-year total) | Tech Hours at \$90.10/ Hour, Annual (# in parenthesis is 3-year total) | Agency Hours per Resp, Annual (# in parenthesis is 3-year total) | Labor Cost per Resp. <sup>1</sup> | Capital/ Start-Up Cost | Fixed O&M Cost <sup>1</sup> Annual | Number of Resp. <sup>2</sup> | Total Fixed O&M, Annual | Total Agency Hours, Annual (# in parenthesis is 3-year total) | Total Agency Cost, Annual (# in parenthesis is 3-year total) |
| <b>(A) Fish Advisory &amp; Fish Tissue Data Collection to be collected once in three years</b>  |   |  |  |                                   |                        |                                    |                              |                         |   |  |
| <i>Fish advisory/tissue collection (includes updating mailing list, preparing transmittal email and instructions, sending request, compiling information, entering into database and analyzing data and O/M cost for storing fish advisory and tissue data)</i> | 0.23<br>(0.70)  | 1.43<br>(4.30)   | 1.67<br>(5.00)   | varies                            | \$0.00                 | \$6,000                            | 103                          | \$6,000                 | 171.67<br>(515)   | \$22,310.29<br>(\$66,930.86)                                 |
| <b>(B) Fish Program Information for the National Fish Advisory Program Evaluation to be collected once in three years</b>   |   |  |  |                                   |                        |                                    |                              |                         |   |  |
| <i>National Fish Advisory Program Evaluation (includes developing evaluation instrument, conducting evaluation and analyzing results)</i>   | 0.40<br>(1.20)  | 2.67<br>(8.00)   | 3.07<br>(9.20)   | varies                            | \$0.00                 | \$0.00                             | 103                          | \$0.00                  | 315.87<br>(947.6)   | \$29,923.64<br>(\$89,770.92)                                 |
| <b>(C) Voluntary Technical Program Information to be collected annually</b>   |   |  |  |                                   |                        |                                    |                              |                         |   |  |
| <i>Voluntary Technical Information request includes preparing requests and compiling and analyzing results</i>  | 3.00<br>(9.00)  | 15.00<br>(45.00)   | 18.00<br>(54.00)   | varies                            | \$0.00                 | \$0.00                             | 103                          | \$0.00                  | 1,854<br>(5,562)  | \$177,900.57<br>(\$533,701.71)                               |
| <b>Grand Total for all three information collections (A), (B) and (C)</b>   | <b>3.63<br/>(10.90)</b>   | <b>19.10<br/>(57.30)</b>   | <b>22.73<br/>(68.20)</b>   | <b>varies</b>                     | <b>\$0.00</b>          | <b>\$6,000</b>                     | <b>103</b>                   | <b>\$6,000</b>          | <b>2,341.53<br/>(7,024.60)</b>                                | <b>\$230,134.50<br/>(\$690,403.49)</b>                       |

costs of contractor services.

<sup>2</sup> Calculations are based on the total number of respondents but actual responses may vary since responses are voluntary.

### **6.3 Reasons for Change in Burden**

The Fish Advisory Program annual ICR burden has fluctuated over the program's history because the ICRs included different collection activities. Therefore, annual burden hours and dollars are not always directly comparable between ICRs. For example, the currently approved (2019) ICR only has one collection activity while this renewal ICR includes additional activities some of which have been included in prior collections. Although this ICR renewal's burden estimate is comparable or lower than annual burden in the 2010 or 2014 ICRs, there is an increase to the annual respondent burden hours (from 578 to 1,185) and an increase to the annual respondent cost from the 2019 ICR (from \$25,968 to \$65,268.77). As described in section 2.1, EPA is adding information collections on a voluntary basis for several reasons, including to support its efforts to advance equity and environmental justice in fish advisory programs. The information will help EPA determine what science, guidance, technical assistance, and nationwide information are needed to help state and tribes have equitable and effective fish advisory programs that protect recreational and subsistence fishers and other underserved populations from consumption of contaminated fish. In addition, EPA will also use the information provided to facilitate information sharing and to ensure guidance documents are useful and technically accurate. The net increase in annual respondent burden from the 2019 ICR comprises of the following changes:

- Addition of 412 hours and \$22,290.55 costs for the voluntary information collection (B) - Fish Program Information for the National Fish Advisory Program Evaluation (to be requested once in the three-year period of this ICR)
- Addition of 618 hours and \$34,591.52 costs for the voluntary and periodic information collection (C) - Voluntary Technical Program Information (to be collected from time to time).

### **6.4 Burden Statement**

The public reporting and record keeping burden for this voluntary collection of information is estimated to average 11.5 hours per respondent annually. The primary requests to respondents would only occur once during this 3-year ICR period. 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 requirement; 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. These numbers for the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the EPA'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 No. EPA-HQ-OW-2014-0350. 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. Once in the system, select “search,” then type in the docket ID number identified above. Comments can also be submitted by email to [OW-Docket@epa.gov](mailto:OW-Docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Additionally, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17<sup>th</sup> Street, NW, Washington, DC 20503, Attention: Desk Office for EPA. Please include EPA Docket ID (EPA-HQ-OW-2014-0350) and OMB Control Number (2040-0226) in any correspondence.