

**THE INFORMATION COLLECTION REQUEST (ICR)
SUPPORTING STATEMENT**

**Establishing No-discharge Zones (NDZs)
under Clean Water Act Section 312 (Renewal)
EPA ICR Number 1791.09, OMB Control Number 2040-0187**

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ESTABLISHING NO-DISCHARGE ZONES (NDZs) UNDER CLEAN WATER ACT SECTION 312 (Renewal)

EPA ICR # 1791.09 / OMB Control # 2040-0187

Introduction

This application is made by the Oceans, Wetlands, and Communities Division in the Office of Water, U.S. Environmental Protection Agency (EPA). As will be demonstrated in this application, the proposed information collection activities are accomplished by the least burdensome and costly means; are not duplicated by other sources; and are pivotal to EPA's responsibilities regarding no-discharge zones (NDZs) and petitions for review of standards under Clean Water Act (CWA) section 312. Chapters 1 of this supporting statement discuss the information collection activities associated with the establishment of no-discharge zones and petitions for review of standards for discharges incidental to the normal operation of vessels of the Armed Forces. Chapter 2 discusses the establishment of no-discharge zones for vessel sewage.

This ICR was developed based on program office knowledge and experience of the process to apply for and designate NDZs, a review of EPA's guidance for developing applications for vessel sewage NDZs, and interviews conducted with Federal and local officials working on vessel discharge issues.

Chapter I. No-Discharge Zones and Petitions for Review for Discharges Incidental to the Normal Operation of Armed Forces Vessels under CWA Section 312(n) (Renewal)

SECTION 1: Identification of the Information Collection

1(a): Title of the Information Collection

Establishing No-Discharge Zones and Petitioning for Review for Discharges Incidental to the Normal Operation of Armed Forces Vessels Under Clean Water Act Section 312(n) (Renewal)

1(b): Short Characterization/Abstract

CWA Section 312(n) – the Uniform National Discharge Standards (UNDS) – requires EPA and the Department of Defense (DoD) to establish uniform national discharge standards to control discharges incidental to the normal operation of a vessel of the Armed Forces (hereafter “UNDS discharges”). CWA section 312(n)(7) and the implementing regulations in 40 CFR part 1700 identify the information that a state must submit to EPA in the state's application to establish an NDZ for one or more UNDS discharges. A state may seek an NDZ designation for any UNDS discharge for which EPA and DoD have promulgated national standards of performance and corresponding implementing regulations, respectively. In addition, CWA section 312(n)(5) provides that that the Governor of any state may petition EPA and DoD to review any discharge determination or standard promulgated under CWA section 312(n) for vessels of the Armed Forces if there is significant new information that could reasonably result in a change to the discharge determination or standard (hereafter “petition for review”). This chapter of the ICR addresses the burden to a state respondent to develop applications for NDZs by state or EPA prohibition and petitions for review, as well as the burden to EPA to review the applications.

SECTION 2: Need for and Use of the Collection

2(a): Need/Authority for the Collection

1) *NDZ by State Prohibition:* In order for a state to prohibit one or more UNDS discharges, EPA must determine that: (1) adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and (2) the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel (33 U.S.C. 1322(n)(7)(A)). The state must provide EPA with sufficient information to make such a determination. The specific information that must be submitted to EPA by the state is identified in 40 CFR 1700.9(a).

2) *NDZ by EPA Prohibition:* Upon application by a state, in order for EPA to prohibit one or more UNDS discharges, EPA must determine that: (1) the protection and enhancement of the quality of the specified waters require a prohibition of the discharge; (2) adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and (3) the prohibition will not have the effect of discriminating against a vessel of the Armed Forces by reason of the ownership or operation by the Federal

Government, or the military function, of the vessel (33 U.S.C. 1322(n)(7)(B)). The state must provide EPA with sufficient information to make such a determination. The specific information that must be submitted to EPA by the state is identified in 40 CFR 1700.10(a).

3) *Petition for review*: A state may submit a petition to EPA and DoD for review a determination of whether an UNDS discharge will require a control. Additionally, a state may petition for review of a standard of performance for control on an UNDS discharge. The petition must identify significant new scientific and technical information that could reasonably result in a change to the determination or standard (33 U.S.C. 1322(n)(5)(D)) and discuss how the information is relevant to one or more of the seven factors which EPA and DoD are required to consider (33 U.S.C. 1322(n)(2)(B)). These requirements are identified in 40 CFR 1700.11 – 1700.13.

2(b): Practical Utility/Users of the Data

1) *NDZ by State Prohibition*: The information requested from the state will be used by EPA to make the determinations that are required by law for a state prohibition to go into effect.

2) *NDZ by EPA Prohibition*: The information requested from the state will be used by EPA to make the determinations that are required by law to establish a federally designated NDZ.

3) *Petition for review*: The information requested from the state will be used by EPA and DoD to review any determinations or standards promulgated under UNDS.

SECTION 3: Non-duplication, Public Notice, Consultations, and Other Collection Criteria

3(a): Non-duplication

1) *NDZ by State Prohibition*: EPA is responsible for making the determinations necessary for an NDZ by state prohibition to be effective under CWA section 312(n)(7)(A). There is no duplication of effort in the NDZ application process.

2) *NDZ by EPA Prohibition*: EPA is responsible for the establishment of an NDZ by EPA prohibition under CWA section 312(n)(7)(B). There is no duplication of effort in the NDZ application process.

3) *Petition for review*: EPA and DoD are responsible for reviewing determinations and standards upon petition by a state. There is no duplication of effort in the petition for review process.

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

The announcement of this ICR was made in the Federal Register on January 25, 2022, 87 FR 3804. It was titled “Proposed Information Collection Request; Comment Request; Establishing Vessel Sewage No-Discharge Zones (NDZs) Under Clean Water Act (Renewal); EPA ICR No. 1791.09; OMB Control No. 2040-0187.” EPA received no comments on this Notice.

3(c): Consultations

Three representatives of state environmental offices were contacted by EPA in February of 2022 and asked to provide comments on EPA's burden estimate. Two representatives responded (see section 6(e): Todd Callaghan (Massachusetts Office of Coastal Zone Management, 617-626-1233) and Renan Jauregui (California State Water Resources Control Board - Division of Water Quality, 916-341-5505)) and had no comment on the burden estimates in this ICR.

3(d): Effects of Less Frequent Collection

The information collection activities described in this Chapter are not required unless a state chooses to pursue an NDZ designation or petition for review. In such a case, information is submitted on a one-time basis to fulfill the regulatory requirements. Reductions below this level are not feasible.

3(e): General Guidelines

The information collection activities discussed in this chapter of the ICR are fully consistent with all guidelines in 5 CFR 1320.5(d)(2).

3(f): Confidentiality

The information collection activities discussed in this chapter of the ICR do not require the submission of any confidential information.

3(g): Sensitive Questions

The information collection activities discussed in this chapter of the ICR do not require the submission of any sensitive information.

SECTION 4: The Respondents and the Information Requested

4(a): Respondents/SIC Codes

State governments (SIC code 9511, NAICS code 924110) are the only respondents to the data collection activities described in this chapter of the ICR.

4(b): Information Requested

No-discharge Zone (NDZ) by State Prohibition under 40 CFR 1700.9

(i) Data Items

- Identification of discharge
- Definition of waters in the proposed NDZ
- Determination of necessity for greater environmental protection
- Description of discharge removal facilities
- Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition

(ii) Respondent Activities

For the establishment of an NDZ by state prohibition, a state must submit to EPA:

- A certification that it has determined that the protection and enhancement of the quality of the proposed waters require greater environmental protection, and
- A request with enough information for EPA to determine that: (1) adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and (2) the prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.

No-discharge Zone (NDZ) by EPA Prohibition under 40 CFR 1700.10

(i) Data Items

- Identification of discharge
- Definition of waters in proposed NDZ
- Technical analysis showing why protection requires a prohibition of the discharge
- Description of discharge removal facilities
- Information on whether vessels other than those of the Armed Forces are subject to the same type of prohibition

(ii) Respondent Activities

For the establishment of an NDZ by EPA prohibition, a state must submit an application to EPA with enough information for EPA to determine that: (1) the protection and enhancement of the quality of the proposed waters require a prohibition of the discharge; (2) adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and (3) the prohibition will not have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.

Petition for Review under 40 CFR 1700.11 - 1700.13

(i) Data Items

- Identification of discharge or standard
- Scientific and technical information on which petition is based
- An explanation of why the state believes that consideration of the information provided should result in a change to the determination or standard on a nationwide basis, and an explanation of how the technical information provided is relevant to one or more of the seven factors considered in making the original determination or standard as required by the statute (33 U.S.C. 1322(n)(2)(B))

(ii) Respondent Activities

If a state believes there is significant new information that could reasonably result in a change to a determination of whether a particular discharge requires control, or to a Federal standard of performance for a Marine Pollution Control Device, it may submit a petition requesting that the Secretary of Defense and EPA review the determination or standard.

SECTION 5: The Information Collected – Agency Activities, Collection Methodology, and

Information Management

5(a): Agency Activities

No-discharge Zone (NDZ) by State Prohibition under 40 CFR 1700.9

Agency activities associated with a request by a state to establish an NDZ by state prohibition consist of the following:

- Clarify any questions from state applicants
- Review the information in the request to determine whether:
 - (1) adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and
 - (2) the prohibition will have the effect of discriminating against vessels of the Armed Forces by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.
- Notify the state in writing of the above determinations and publish a Federal Register Notice
- Copy, store, file, and maintain the state's request and EPA's response letter

No-discharge Zone (NDZ) by EPA Prohibition under 40 CFR 1700.10

Agency activities associated with an application from a state to establish an NDZ by EPA prohibition consist of the following:

- Clarify any questions from state applicants
- Review the information in the application to determine whether:
 - (1) the protection and enhancement of the quality of the proposed waters require a prohibition of the discharge;
 - (2) adequate facilities for the safe and sanitary removal of the discharge are reasonably available for the waters to which the prohibition would apply; and
 - (3) the prohibition will have the effect of discriminating against Armed Forces vessels by reason of the ownership or operation by the Federal Government, or the military function, of the vessel.
- Notify the state in writing whether the application for the NDZ was approved
- If the application is approved, publish a notice of proposed rulemaking in the Federal Register, receive and review public comments, then issue a final determination taking into account any comments submitted
- Copy, store, file, and maintain the state's request and EPA's response letter

Petition for Review under 40 CFR 1700.11 - 1700.13

Agency activities (in coordination with DoD) associated with an application from a state to review a determination or standard consist of the following:

- Clarify any questions from state applicants
- Review the petition and decide whether the requested change will be made within two years after receiving the complete petition
- If the change requested in the petition is approved, publish a notice of proposed rulemaking in the Federal Register, receive and review public comments, then issue a

- final determination taking into account any comments submitted
- If the change requested in the petition is not approved, notify the state of the reasons in writing
 - Copy, store, file, and maintain the state's request and EPA's response letter

5(b): Collection Methodology and Management

The information described in this chapter of the ICR will be given to EPA by states in the form of a request letter or petition. EPA will ensure the accuracy and completeness of this information by reviewing each submittal. This information will be made available to the public when necessary for rulemaking through the Federal Register.

5(c): Small Entity Flexibility

The only possible respondents to the activities described in this chapter of the ICR are states. Therefore, there are no small entities affected.

5(d): Collection Schedule

No-discharge Zone (NDZ) by State Prohibition under 40 CFR 1700.9

EPA expects few requests for NDZs by state prohibition for UNDS discharges. EPA has not yet received any requests for NDZs and is not aware of any states with applications under development. Requesting an NDZ is also voluntary on behalf of the state, so there is no reporting requirement or deadlines associated with these requests. EPA is estimating one request in the three years covered by this ICR.

No-discharge Zone (NDZ) by EPA Prohibition under 40 CFR 1700.10

EPA expects few requests for NDZs by state prohibition for UNDS discharges. EPA has not yet received any requests for NDZs and is not aware of any states with applications under development. Additionally, the process for establishing an NDZ by EPA prohibition is more complex than an NDZ by state prohibition. Requesting an NDZ is voluntary on behalf of the state, so there is no reporting requirement or deadlines associated with these requests. EPA is estimating one request in the three years covered by this ICR.

Petition for Review under 40 CFR 1700.11 - 1700.13

EPA expects few petitions for review of determinations or standards for UNDS discharges. Such petitions require there to be significant new information, not considered previously, that could reasonably result in a change to a particular determination or standard. Petitioning for review is voluntary on behalf of the state, so there is no reporting requirement or deadlines associated with these petitions. EPA is estimating one petition in the three years covered by this ICR.

SECTION 6: Estimating the Burden and Cost of the Collection

Burden and cost estimates are in Tables 1 to 8, in the Appendix. The text in this section explains how these estimates were derived.

6(a): Estimating Respondent Burden

Respondent labor burden hours listed in Tables 1 to 3 are primarily based on data and assumptions presented in previous iterations of EPA’s ICR analysis for Clean Water Act section 312 mandates. Level-of-effort determinations correspond to the specific information collection requirements of 40 CFR 1700.7 – 1700.13, which have not changed since the last renewal cycle. The estimates presented in Tables 1 to 3 have been reviewed for accuracy and reasonableness by EPA.

6(b): Estimating Respondent Costs

(i) Estimating Labor Costs

All labor cost-rate data used in Tables 1 to 3 were obtained from the U.S. Bureau of Labor Statistics (BLS) Compensation Cost Trends webpage published for June of 2021 (<http://www.bls.gov/ncs/ect/>) estimating the salaries for state and local government employees.

Table 3 of the BLS report contains employee compensation data for state and local government employers. The labor rates for respondent management, technical, and clerical personnel in Tables 1 to 3 of the ICR were obtained from the “State and local government workers - occupational group” category.

State and Local Government Labor Compensation

BLS Report - State and Local Government Workers Job Classification Titles	ICR Respondent Job Classification Titles Used in ICR Tables 1-3	Corresponding Labor Compensation (hourly rate) from BLS Report
Management, professional, and related	Management	\$ 64.24
Professional and related	Technical	\$ 62.37
Office and administrative support	Administrative	\$ 37.73

The above labor rate data are “fully burdened” and include wages/salaries and benefits. The BLS report provides a breakdown of benefit costs, which includes paid leave, supplemental pay, insurance, retirement, and legally required benefit. Only fully burdened BLS labor cost data (i.e., total compensation) are used in the analysis described in this chapter of the ICR.

(ii) Estimating Capital and Operations and Maintenance (O&M) Costs

There are no predicted respondent capital or start-up costs associated with the activities described in this chapter of the ICR. Non-labor O&M includes costs for photocopying, postage, telephone charges, paperwork distribution expenses, and similar expenses.

6(c): Estimating Agency (EPA) Burden and Cost

EPA labor burden hours listed in Tables 4 to 6 are primarily based on data and assumptions presented in previous iterations of EPA’s ICR analysis for Clean Water Act section 312 mandates. Level-of-effort determinations correspond to the specific information collection

requirements of 40 CFR 1700.7 - 1700.13, which have not changed since the last renewal cycle. The estimates presented in Tables 4 to 6 have been reviewed for accuracy and reasonableness by EPA.

Agency labor costs data associated with this chapter of the ICR were obtained using pay scale rates for GS-9, GS-12, and GS-14 employees. The 2021 General Schedule Locality Pay Tables can be found at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2021/general-schedule/>. The salary scales contained in the table were effective January 2021.

Step 1 of the GS salaries was used in this chapter of the ICR analysis. The annual GS salary rates were converted to hourly rates according to instructions in Section 6(c) of the *EPA ICR Handbook* (10/2009 version). Total salaries were divided by 2,080, which represent the average number of hours of work in a calendar year, and then multiplied by a factor of 1.6. The multiplier represents the benefits multiplication factor. The result is the true hourly cost to the federal government to employ a federal worker for one hour. These calculated hourly rates are used in Tables 4 to 6 of the ICR.

EPA Labor Compensation

ICR Agency Job Classification Title	2021 Annual GS Salary (Step 1)	Work Hours Per Year Factor	Benefits Factor	Calculated Hourly Rate
Management (GS-14)	122,530	÷ 2,080	× 1.6	94.25
Technical (GS-12)	87,193	÷ 2,080	× 1.6	67.07
Administrative (GS-9)	60,129	÷ 2,080	× 1.6	46.25

6(d): Bottom Line Burden Hours and Cost Tables

Total estimated burdens associated with the requirements under 40 CFR 1700.7 – 1700.13 to the state respondents and to EPA are summarized in Tables 7 and 8, respectively. The data contained in both tables are transcribed from Tables 1 to 6.

Bottom Line Respondent (State Agency) Estimated Burden and Cost Summary Per Year for CWA section 312(n) (from Table 7)

	Number of Respondents	Number of Activities	Total Hours	Total Labor Cost (\$)	Total Capital Costs (\$)	Total O&M Costs (\$)
TOTAL	0.99	0.99	138.52	8,200.74	0	148.5

Bottom Line Agency (EPA) Estimated Burden and Cost Summary Per Year for CWA section 312(n) (from Table 8)

	Number of Respondents	Number of Activities	Total Hours	Total Labor Cost (\$)	Total Capital Costs (\$)	Total O&M Costs (\$)
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TOTAL	0.99	0.99	30.855	2,146.13	0	59.4
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6(e): Burden Statement

The annual public reporting and recordkeeping burden for this collection of information associated with CWA section 312(n) is estimated to average 139 hours per response (139 hours/1) (From Table 7, rounded off). 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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2008-0150, which is available for online viewing at www.regulations.gov, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID EPA-HQ-OW-2008-0150, and OMB control number 2040-0187 in any correspondence.

Chapter II. Establishment of No-Discharge Zones for Vessel Sewage under CWA Sections 312(f)(3) and 312(f)(4)

SECTION 1: Identification of the Information Collection

1(a): Title of the Information Collection

Establishing No-Discharge Zones for Vessel Sewage Under Clean Water Act §312(f) (Renewal)

1(b): Short Characterization/Abstract

CWA section 312(f) and the implementing regulations in 40 CFR part 140 identify the information that must be included in a state's application to EPA to establish an NDZ for vessel sewage for some or all of the state's waters. In designated NDZs, the discharge of both treated and untreated sewage from vessels is prohibited. A state is not required to designate an NDZ and therefore need only develop applications for waters where such a discharge prohibition has been deemed necessary and beneficial by the state. This ICR addresses the burden to state respondents to develop applications containing the necessary information, as well as the burden associated with EPA's review of state applications. The information collection activities discussed in this ICR do not require the submission of any confidential information.

SECTION 2: Need for and Use of the Collection

2(a): Need/Authority for the Collection

States interested in establishing an NDZ for vessel sewage are required to provide information to EPA, per statutory and regulatory requirements. A summary of these requirements follows.

1) *Statutory Authority*: There are three different types of vessel sewage NDZs under CWA section 312(f), each with unique application information requirements. The first type of designation (CWA section 312(f)(3)) requires the state to obtain a determination from EPA that "adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters proposed for designation." Following an affirmative determination from EPA, the state may then proceed with establishment of the NDZ. The other two types of sewage NDZs, established for the protection and enhancement of the quality of specified waters (CWA section 312(f)(4)(A)) and drinking water intakes (CWA sections 312(f)(4)(B)), respectively, are applied for by a state but designated by EPA and promulgated through federal regulations. Excerpts of the statute are provided, below.

§312(f)(3). After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such States require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and

treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

§312(f)(4)(A). If the Administrator determines upon application by a State that the protection and enhancement of the quality of specified waters within such State require such a prohibition, the Administrator shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

§312(f)(4)(B). Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

2) *Regulatory Authority*: As authorized by CWA section 312, EPA's implementing regulations identify the required information for a state's application to establish a vessel sewage NDZ (40 CFR 140.4). Per 40 CFR 140.4(a), a state's application for a CWA section 312(f)(3) application must contain seven pieces of information that will assist EPA in determining whether adequate facilities are reasonably available for the removal and treatment of sewage from all vessels in the specified waters. CWA section 312(f)(4)(A) applications must contain information that demonstrate that the specified waters require greater protection (40 CFR 140.4(b)). Finally, applications for CWA section 312(f)(4)(B) applications must provide information on the drinking water intake(s) present in the specified waters (40 CFR 140.4(c)).

2(b): Practical Utility/Users of the Data

The information collected under this chapter of the ICR is used by a state to prepare and submit an application to EPA and by EPA to carry out the Agency's statutory responsibilities to review state NDZ applications.

SECTION 3: Non-duplication, Public Notice, Consultations, and Other Collection Criteria

3(a): Non-duplication

Information collected for application preparation and review is site-specific depending on the waters proposed for the NDZ. This information is not generally available in an aggregated form to support an application for an NDZ nor to provide EPA with adequate information to make the necessary determination in responding to state applications. Under each of the three designation types, the state collects the required information and submits the application to EPA. EPA is responsible for reviewing the submitted applications and making a determination. For CWA section 312(f)(3) applications, following an affirmative determination by EPA, the state may proceed with establishment of the NDZ. For CWA section 312(f)(4) designations, EPA is responsible for establishment of the NDZ by federal regulation. There is no duplication of effort in the process. The application can be prepared using existing sources of data, if available.

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

The announcement of this ICR was made in the Federal Register on January 25, 2022, 87 FR 3804. It was titled “Proposed Information Collection Request; Comment Request; Establishing Vessel Sewage No-Discharge Zones (NDZs) Under Clean Water Act (Renewal); EPA ICR No. 1791.09; OMB Control No. 2040-0187.” EPA received no comments on this Notice.

3(c): Consultations

Three representatives of state environmental offices were contacted by EPA in February of 2022 and asked to provide comments on EPA’s burden estimate. Two representatives responded (see section 6(e): Todd Callaghan (Massachusetts Office of Coastal Zone Management, 617-626-1233) and Renan Jauregui (California State Water Resources Control Board - Division of Water Quality, 916-341-5505)) and had no comment on the burden estimates in this ICR.

3(d): Effects of Less Frequent Collection

The information collection activities described in this Chapter are not required unless a state chooses to pursue an NDZ designation. In such a case, information is submitted on a one-time basis to fulfill the regulatory requirements. Reductions below this level are not feasible.

3(e): General Guidelines

The information collection activities discussed in this chapter of the ICR are fully consistent with all guidelines in 5 CFR 1320.5(d)(2).

3(f): Confidentiality

The information collection activities discussed in this Chapter of the ICR do not require the submission of any confidential information.

3(g): Sensitive Questions

The information collection activities discussed in this Chapter of the ICR do not require the submission of any sensitive information.

SECTION 4: The Respondents and the Information Requested

This section provides a description of the information collection requirements associated with an NDZ application for vessel sewage. Although the three types of NDZ designations have different information collection requirements, the application development and submittal process is comparable.

4(a): Respondents/SIC Codes

States (SIC 9511, NAICS code 924110) are the only respondents to the data collection activities described in this Chapter of the ICR, since only states are authorized to apply for vessel sewage NDZs.

4(b): Information Requested

NDZ Designation under 40 CFR 140.4(a) (CWA section 312(f)(3))

(i) Data Items

The following application information requirements are identified in 40 CFR 140.4(a):

- A certification that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard;
- A map showing the location of commercial and recreational pumpout facilities;
- A description of the location of pumpout facilities within waters designated for no-discharge;
- The general schedule of operating hours of the pumpout facilities;
- The draft requirements on vessels that may be excluded because of insufficient water depth adjacent to the facility;
- Information indicating that treatment of wastes from such pumpout facilities is in conformance with Federal law; and
- Information on vessel population and vessel usage of the subject waters.

(ii) Respondent Activities

The state respondent develops an NDZ application in accordance with the information requirements identified in 40 CFR 140.4(a). To obtain the necessary information, the state respondent may need to contact individual pumpout facility operators to verify location and/or service area, operating hours, draft limitations, among any other relevant facility characteristics. The state respondent then submits the complete application to EPA. Upon an affirmative determination from EPA that adequate facilities are reasonably available, the state may designate the specified waters as an NDZ.

NDZ Designation under 40 CFR 140.4 (b) (CWA section 312(f)(4)(A))

(i) Data Items

The following application information requirements are identified in 40 CFR 140.4(b):

- Specification of the waters or portions thereof for which a complete prohibition is desired;
- Identification of water recreational areas, and/or;
- Identification of aquatic sanctuaries, and/or;
- Identification of identifiable fish-spawning and nursery areas, and/or;
- Identification of areas of intensive boating activities; and
- A map of the waters to be designated as an NDZ.

(ii) Respondent Activities

The state respondent develops an NDZ application in accordance with the information requirements identified in 40 CFR 140.4(b) then submits the complete application to EPA.

NDZ Designation under 40 CFR 140.4(c) (CWA section 312(f)(4)(B))

(ii) Data Items

The following application information requirements are identified in 40 CFR 140.4(b):

- Specification and description of the location of the drinking water supply intake(s) and the community served by the intakes;
- Specification and description of the waters for which a complete prohibition is desired;
- A map of the waters to be designated as a drinking water intake zone; and
- A statement justifying the size of the requested drinking water intake zone.

(ii) Respondent Activities

The state respondent develops an NDZ application in accordance with the information requirements identified in 40 CFR 140.4(c) then submits the complete application to EPA.

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

5(a): Agency Activities

NDZ Designation under 40 CFR 140.4(a) (CWA section 312(f)(3))

Agency activities consist of the following:

- Clarify any questions from state applicant
- Review the information in the application and determine whether adequate facilities for the safe and sanitary removal of the discharges are reasonably available for the waters to which the prohibition would apply
- Publish a tentative determination in the Federal Register for public comment
- Notify the state in writing of the above determinations and publish the final determination in the Federal Register
- Copy, store, file, and maintain the state’s request and EPA’s response letter

NDZ Designation under 40 CFR 140.4(b) (CWA section 312(f)(4)(A))

Agency activities consist of the following:

- Clarify any questions from state applicant
- Review the information in the application and determine whether the specified waters require greater protection
- Notify the state in writing of the above determination
- If the Administrator makes an affirmative determination, undertake the necessary procedures to establish the NDZ by federal regulation
- Copy, store, file, and maintain the state’s request and EPA’s response letter

NDZ Designation under 40 CFR 140.4(c)

Agency activities consist of the following:

- Clarify any questions from state applicant
- Review the information in the application and verify that a drinking water intake zone is appropriate
- Notify the state in writing of the above determination
- If the Administrator makes an affirmative determination, undertake the necessary

- procedures to establish the NDZ by federal regulation
- Copy, store, file, and maintain the state's request and EPA's response letter

5(b): Collection Methodology and Management

The information described in this chapter of the ICR will be given to EPA by states in the form of an application. EPA will ensure the accuracy and completeness of this information by reviewing each submittal. The information will be made available to the public through notices in the Federal Register.

5(c): Small Entity Flexibility

The only respondents to the activities described in this chapter of the ICR are states. Therefore, there are no small entities affected.

5(d): Collection Schedule

NDZ Designation under 40 CFR 140.4(a)

Historically, this NDZ designation type has been pursued most frequently by states compared to the two other NDZ designation types. Requesting an NDZ is also voluntary on behalf of the state, so there is no reporting requirement or deadlines associated with these requests. EPA is estimating six applications in the three years covered by this ICR.

NDZ Designation under 40 CFR 140.4(b)

There are only three NDZs designated under this provision and EPA is not aware of any states currently developing applications for this NDZ designation type. Requesting an NDZ is also voluntary on behalf of the state, so there is no reporting requirement or deadlines associated with these requests. EPA is estimating one request in the three years covered by this ICR.

NDZ Designation under 40 CFR 140.4(c)

There is only one NDZ designated under this provision and EPA is not aware of any states currently developing applications for this NDZ designation type. Requesting an NDZ is also voluntary on behalf of the state, so there is no reporting requirement or deadlines associated with these requests. EPA is estimating one request in the three years covered by this ICR.

SECTION 6: Estimating the Burden and Cost of the Collection

Burden and costs associated with the information collection activities described in this chapter are in Tables 9-16 of the Appendix. The subsections below explain how the burden and costs estimates were derived.

6(a): Estimating Respondent Burden

Respondent labor burden hours listed in Tables 9, 11, and 13 are based on EPA's experience with over 90 vessel sewage NDZs since the first was established in 1975. Level-of-effort determinations correspond to the specific information collection requirements of 40 CFR 140.4(a)-(c). These estimates have been reviewed for accuracy and reasonableness by EPA.

6(b): Estimating Respondent Costs

(i) Estimating Labor Costs

All labor cost-rate data used in Tables 9, 11, and 13 were obtained from the U.S. Bureau of Labor Statistics (BLS) Compensation Cost Trends webpage published for June of 2021 (<http://www.bls.gov/ncs/ect/>) estimating the salaries for state and local government employees.

Table 3 of the BLS report contains employee compensation data for state and local government employers. The labor rates for respondent management, technical, and clerical personnel were obtained from the “State and local government workers - occupational group” category.

State and Local Government Labor Compensation

BLS Report - State and Local Government Workers Job Classification Titles	ICR Respondent Job Classification Titles	Corresponding Labor Compensation (hourly rate) from BLS Report
Management, professional, and related	Management	\$ 64.24
Professional and related	Technical	\$ 62.37
Office and administrative support	Administrative	\$ 37.73

The above labor rate data are “fully burdened” and include wages/salaries and benefits. The BLS report provides a breakdown of benefit costs, which includes paid leave, supplemental pay, insurance, retirement, and legally required benefit. Only fully burdened BLS labor cost data (i.e., total compensation) are used in the analysis described in this chapter of the ICR.

(ii) Estimating Capital and Operations and Maintenance (O&M) Costs

There are no predicted respondent capital or start-up costs associated with the activities described in this chapter of the ICR. Non-labor O&M includes costs for photocopying, postage, telephone charges, paperwork distribution expenses, and similar expenses.

6(c): Estimating Agency (EPA) Burden and Cost

Agency Burden

EPA labor burden hours listed in Tables 10, 12, and 14 are based on EPA’s experience with over 90 vessel sewage NDZs since the first was established in 1975. Level-of-effort determinations correspond to the specific information collection requirements of 40 CFR 140.4(a)-(c).

Adjustments have been made to increase the level-of-effort in Table 10 since the last renewal of this ICR. Additional hours have been added to account for EPA’s time to clarify questions from state applications. Hours have also been added because EPA must now consider cost during the review of applications submitted under CWA section 312(f)(3). These estimates have been reviewed for accuracy and reasonableness by EPA.

Agency labor costs data associated with this chapter of the ICR were obtained using pay scale rates for GS-9, GS-12, and GS-14 employees. The 2021 General Schedule Locality Pay Tables can be found at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2021/general-schedule/>. The salary scales contained in the table were effective January 2021.

Step 1 of the GS salaries was used in this chapter of the ICR analysis. The annual GS salary rates were converted to hourly rates according to instructions in Section 6(c) of the *EPA ICR Handbook* (10/2009 version). Total salaries were divided by 2,080, which represent the average number of hours of work in a calendar year, and then multiplied by a factor of 1.6. The multiplier represents the benefits multiplication factor. The result is the true hourly cost to the federal government to employ a federal worker for one hour. These calculated hourly rates are used in Tables 10, 12, and 14 of the ICR.

EPA Labor Compensation

ICR Agency Job Classification Title	2021 Annual GS Salary (Step 1)	Work Hours Per Year Factor	Benefits Factor	Calculated Hourly Rate
Management (GS-14)	122,530	÷ 2,080	× 1.6	94.25
Technical (GS-12)	87,193	÷ 2,080	× 1.6	67.07
Administrative (GS-9)	60,129	÷ 2,080	× 1.6	46.25

6(d): Bottom Line Burden Hours and Cost Tables

Total estimated burdens associated with 40 CFR 140.4(a)-(c) to the state respondents and to EPA are summarized in Tables 15 and 16, respectively.

Bottom Line Respondent (State Agency) Estimated Burden and Cost Summary Per Year for CWA 312(f) (from Table 15)

	Number of Respondents	Number of Activities	Total Hours	Total Labor Cost (\$)	Total Capital Costs (\$)	Total O&M Costs (\$)
TOTAL	2.66	2.66	437.83	25,964.09	0.00	399.00

Bottom Line Agency (EPA) Estimated Burden and Cost Summary Per Year for CWA 312(f) (from Table 16)

	Number of Respondents	Number of Activities	Total Hours	Total Labor Cost (\$)	Total Capital Costs (\$)	Total O&M Costs (\$)
TOTAL	2.66	2.66	169.20	1,802.24	0.00	159.60

6(e): Burden Statement

The annual public reporting and recordkeeping burden for this collection of information for CWA section 312(f) is estimated to average 165 hours per response (437.83/2.66) (From Table 15, rounded off). The combined annual public reporting and recordkeeping burden for this entire Information Collection Request (including both CWA sections 312(n) and 312(f)) is estimated to average 158 hours per response (576.34/3.65) (From Table 17, rounded off). 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 EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OW-2008-0150, which is available for online viewing at www.regulations.gov, or in person viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget at oir_submission@omb.eop.gov, Attention: Desk Officer for EPA. Please include the EPA Docket ID EPA-HQ-OW-2008-0150, and OMB control number 2040-0187 in any correspondence.

APPENDIX

See the accompanying Excel workbook with the referenced tables.

Attachment A

Summary Tables for Information Collection under CWA Section 312

Table 17: Total CWA Section 312 Estimated Respondent (State Agency) Burden and Cost Summary

* This data is taken from Tables 7 and 15 of this ICR

	Number of Respondents Per Year	Number of Activities Per Year	Total Number of Hours Per Year	Total Annual O&M Costs (\$)	Total Labor Cost Per Year (\$)	Total Cost Per Year (\$)
Armed Forces Vessels; Table 7	0.99	0.99	138.52	148.5	8,200.74	8,349.24
Vessel Sewage; Table 15	2.66	2.66	437.83	399.00	25,964.09	26,363.09
Total	3.65	3.65	576.34	547.50	34,164.83	34,712.33

Table 18: Total CWA Section 312 Estimated Agency (EPA) Burden and Cost Summary

* This data is taken from Tables 8 and 16 of this ICR

	Number of Respondents Per Year	Number of Activities Per Year	Total Number of Hours Per Year	Total Annual O&M Costs (\$)	Total Labor Cost Per Year (\$)	Total Cost Per Year (\$)
Armed Forces Vessels; Table 8	0.99	0.99	30.86	59.4	2,146.13	2,205.53
Vessel Sewage; Table 16	2.66	2.66	169.20	159.60	11,802.24	11,961.84
Total	3.65	3.65	200.05	219	13,948.37	14,167.37