

**Information Collection Request  
for  
Water Quality Standards Regulatory Revisions to  
Protect Tribal Reserved Rights (Proposed Rule)**

**November 2022**

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U.S. Environmental Protection Agency  
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## 1. Identification of the Information Collection

This section describes the information collection.

### 1(a) Title of the Information Collection

The title of this Information Collection Request (ICR) is *Water Quality Standards Regulatory Revisions to Protect Tribal Reserved Rights (Proposed Rule)*.

### 1(b) Short Characterization/Abstract

Under the Clean Water Act (CWA), states<sup>1</sup> and authorized tribes<sup>2</sup> establish water quality standards (WQS) for waters of the United States under their jurisdiction. WQS establish goals to protect public health or welfare, enhance the quality of water, and serve the purposes of the CWA. WQS serve as the regulatory basis for other CWA actions, including impairment and listing decisions under CWA Section 303(d) and establishing water quality-based effluent limits issued through state or National Pollutant Discharge Elimination System (NPDES) Programs under CWA Section 402. Any new or revised WQS must be submitted to EPA for review and approval or disapproval.

Many federally recognized tribes hold rights to aquatic and aquatic-dependent resources through treaties, statutes, executive orders, or other sources of federal law, in waters of the U.S. where states establish WQS. For the purposes of the proposed rule and this document, these are called “tribal reserved rights.” In implementing CWA Section 303(c), EPA has an obligation to ensure that its actions are consistent with treaties, statutes, and executive orders reserving tribal rights. Therefore, wherever these rights exist, states and EPA must ensure that the WQS established for those waters protect the reserved resources. For example, where a tribal fishing right exists, water quality cannot be diminished to the point that consuming fish threatens human health; otherwise, the tribal fishing right would not be protected.

EPA’s implementing regulation at 40 CFR part 131 specifies requirements for states to develop WQS for EPA review that are consistent with the CWA. EPA’s existing WQS regulation does not, however, explicitly address how WQS must protect tribal reserved rights. The proposed rule would clarify and prescribe how WQS must protect aquatic and aquatic-dependent resources reserved to tribes.

The current WQS regulation at 40 CFR part 131 requires states to include supporting information to accompany WQS submissions to help EPA determine whether the submitted new and revised WQS are consistent with the CWA. The proposed rule would add a new requirement to 40 CFR

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<sup>1</sup> “States” for the purpose of this document includes 56 entities: the 50 states, the District of Columbia, Guam, the Commonwealth of Puerto Rico, Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

<sup>2</sup> “Tribe” in this document refers to federally recognized tribes and “authorized tribes” refers to those federally recognized tribes with authority to administer a CWA WQS program in the same manner as states.

part 131 to require, where applicable, that state WQS submissions provide additional supporting information about whether the submitted WQS protect tribal reserved rights, as informed by the right holders.

This ICR provides estimates of burden and cost to states to implement new collection requirements in the proposed rule. These estimates represent the incremental burden and cost over and above the estimates presented in the ICR entitled *Water Quality Standards Regulation (Renewal)* (EPA ICR Number 0988.15, OMB Control Number 2040-0049). The burden and cost in this ICR are the same as the burden and cost EPA estimated in the Economic Analysis for the proposed rule, which is available in the docket for this proposed rule.

## 2. Need for and Use of the Collection

This section describes why the information is needed, the legal authority for collecting the information, and how EPA will use the information.

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

EPA's existing WQS regulation at 40 CFR part 131 does not explicitly address how WQS must protect tribal reserved rights. In this proposed rule EPA is exercising its discretion in implementing CWA Section 303(c) to propose new regulatory requirements to ensure that WQS give effect to rights to aquatic and aquatic-dependent resources reserved in federal laws. The agency is proposing to establish a transparent and consistent process by which states and EPA can set WQS that protect applicable reserved rights. The proposed rule would add a new requirement to 40 CFR part 131 to require, where applicable, that state WQS submissions provide additional supporting information about whether the submitted WQS protect tribal reserved rights, as informed by the right holders. This mandatory information collection would provide EPA with information necessary to review and approve or disapprove standards in accordance with the CWA, 40 CFR part 131, and other federal laws.

### **2(b) Practical Utility/Users of the Data**

The proposed rule includes a new regulatory section at § 131.6 requiring that when states submit WQS to EPA for approval or disapproval, states include additional supporting information that would allow EPA to evaluate if a WQS protects tribal reserved rights, where applicable. EPA would use the information collected as a result of this rule to inform its review and approval or disapproval decisions on state-submitted new and revised WQS in accordance with the requirements of the proposed rule.

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

This section addresses non-duplication, public support, and other collection criteria.

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

The information collection requirements described in this ICR do not duplicate the information collection requirements described in other ICRs provided by EPA. The burden and cost estimated in this ICR are in addition to the burden and cost provided in the ICR entitled *Water Quality Standards Regulation (Renewal)* (EPA ICR Number 0988.15, OMB Control Number 2040-0049).

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

The EPA will issue a Federal Register notice requesting comments on the proposed rule, including the ICR, and will provide a 90-day public notice and comment period.

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

During development of the proposed rule EPA held a presentation and Q&A session in September 2021 with the Association of Clean Water Agencies (ACWA) Monitoring, Standards, and Assessment (MSA) Subcommittee at which EPA provided an overview of the Agency's preliminary thinking on potential regulatory revisions, received feedback, and answered questions. EPA also met with representatives of state agencies responsible for WQS development from Idaho, Oklahoma, and Minnesota. States expressed concerns about how they should determine where tribal reserved rights apply; requested additional resources and tools, such as geospatial data; and asked how they would be expected to handle situations where data are not available, the state and tribe disagree, or multiple tribes have overlapping rights and do not agree on the level of protection. Early feedback received during these meetings helped inform EPA's proposed regulatory revisions.

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

The information collection schedule is applicable when states revise WQS. At a minimum, CWA Section 303(c) requires states to review WQS once every three years. Less frequent data collection would result in WQS submissions that lack adequate supporting information. In such cases, EPA would lack the information necessary to determine whether there are any reserved rights applicable to the submission, and if yes, whether the submission protects those rights. This would mean that EPA would be unable to determine compliance with the proposed rule and the CWA and would not have enough information to make the approval or disapproval decision required by CWA Section 303(c).

EPA estimates that all 50 states will each undertake three WQS rulemakings to protect tribal reserved rights. After these three rulemakings, EPA does not anticipate any future recurring data

collection will be needed because WQS will have been established to protect all applicable tribal reserved rights.

**3(e) General Guidelines**

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

**3(f) Confidentiality And Sensitive Questions**

State submissions under this ICR will contain no confidential or sensitive information.



## 4. Respondents and Information Collected

This section describes the respondents and information EPA will collect.

### 4(a) Respondents/NAICS Codes

This section describes the “universe” of potential respondents. Section 6. provides estimates of the number of respondents that will submit information annually to EPA.

The WQS regulation at 40 CFR part 131 requires reporting at least once every three years from 103 jurisdictions – 50 states, 5 territories, the District of Columbia, and the 47 authorized tribes that have EPA-approved WQS in place.<sup>3</sup>

EPA does not anticipate this rule will impose any compliance costs on the District of Columbia or any U.S. territories because EPA is not aware of any federally recognized tribes with reserved rights in or downstream of these jurisdictions. EPA also does not anticipate costs to authorized tribes because:

- EPA anticipates that few, if any tribes have reserved rights to resources on another tribe’s reservation or otherwise under the jurisdiction of another tribe.
- EPA anticipates that should there be authorized tribes with EPA-approved authority to administer a WQS program for waters where one or more other tribes hold reserved rights, their interests may align such that any adopted WQS would reflect protecting such rights in the absence of this proposed rule. Should this not be the case, then authorized tribes could be subject to similar administrative costs as presented below for states.

Therefore, EPA anticipates the universe of potential respondents to be the 50 states.

The respondents affected by this collection activity are in NAICS code 92411 “Administration of Air and Water Resources and Solid Waste Management Programs,” formerly SIC 9511.

While tribal right holders would not be required to provide any specific information in any specific format and therefore would not be direct respondents, EPA acknowledges that the proposed regulation would require that state submissions be informed by the right holders. EPA believes this would not lead to increased burden on right holders because the proposed rule would not require any additional coordination beyond that which already occurs in connection with the WQS public participation processes and EPA’s consultations with tribal governments.

EPA requests comment on this conclusion.

### 4(b) Information Requested

All information requested in this ICR would be required by the proposed rule.

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<sup>3</sup> 47 federally recognized tribes have received EPA authorization to administer the WQS program under 40 CFR 131.8 and have EPA-approved WQS. EPA maintains a current list of tribes authorized to administer WQS at <http://water.epa.gov/scitech/swguidance/standards/wqslibrary/approvable.cfm>.

The rule may require states to perform a WQS rulemaking for the purpose of ensuring state WQS protect tribal reserved rights. State WQS are subject to EPA review and approval, and states must submit new and revised WQS to EPA along with supporting information documenting the WQS' compliance with the CWA and implementing regulations at 40 CFR Part 131.

The proposed rule would require that, where applicable, states include in their submission information which will aid EPA in evaluating whether the submission protects tribal reserved rights, including:

- (1) Information about the scope, nature, and current and past use of the tribal reserved rights; and,
- (2) Data and methods used to develop the water quality standards.

#### **4(c) Respondent Activities**

EPA identified the following activities states may need to undertake as a result of the rule:

- Searching data sources to determine the scope and nature of applicable tribal reserved rights and the level of protection necessary to protect those rights.
- Coordinating as necessary with EPA, other state and federal agencies, and federally recognized tribes within their jurisdiction as well as those outside their jurisdiction who may hold reserved rights to aquatic and aquatic-dependent resources within their jurisdiction.
- Identifying and prioritizing WQS that need to be updated, gathering and analyzing existing water quality data and waterbody use information as needed, and planning activities such as developing site-specific criteria, revising waterbody designated uses, and revising antidegradation protection tiers.
- Initiating rulemaking activities, including new efforts or increased scope of other planned regulatory changes.
- Compiling and developing materials to support public proposals of revised WQS and submission to EPA.
- Preparing, reviewing and completing the revised WQS package.
- Adopting the revised WQS according to states' internal administrative procedures and EPA's public participation requirements, including conducting public hearings.
- Submitting revised WQS to EPA for review and approval or disapproval.

## 5. Information Collected – Agency Activities, Collection Methods, and Information Management

This section describes how EPA will collect and manage the information.

### 5(a) Agency Activities

The CWA and implementing regulation require states to review and, as appropriate, revise WQS at least once every three years. States must submit the results of such reviews to EPA for review and approval or disapproval. EPA reviews the states' WQS for consistency with the CWA and the WQS regulation at 40 CFR Part 131. If the WQS are inconsistent with the Act or regulation and the state does not revise their WQS accordingly, EPA must promptly propose federal replacement WQS.

EPA conducts a range of activities to manage the WQS program. Activities related to but not included in this ICR include:

- Transmission of policy and guidance to the states,
- Development of CWA Section 304(a) national recommended water quality criteria,
- Assistance to states in interpretation and implementation of laws and regulations,
- Coordination of activities related to standards with other CWA programs, with other federal agencies, and for interstate and international waters.

See EPA's website, <http://water.epa.gov/scitech/>, for more information.

For this ICR, EPA activities associated with WQS review include:

- Reviewing WQS revisions for consistency with the CWA, including protection of tribal reserved rights.
- Initiating government-to-government consultation with all federally recognized tribes whose rights or interests may be affected by the WQS revision.
- Preparing and sending a letter to the state conveying EPA's approval or disapproval decision(s).
- Determining whether federal WQS are necessary to meet the requirements of the CWA.
- Proposing and promulgating federal replacement standards when necessary.
- Proposing and finalizing the withdrawal of federal standards when a state adopts WQS that meet CWA requirements.

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

States submit their revised WQS via e-mail to their EPA regional office. Regional offices have the responsibility to review the submissions for consistency with the CWA and regulation and approve or disapprove the WQS. The WQS staff in regional offices work closely with their states on WQS issues, including the review of both draft and final submissions of WQS. EPA headquarters provides support to the regional offices in the review of these submissions. EPA posts approved state and authorized tribal WQS at <https://www.epa.gov/wqs-tech/state-specific-water-quality-standards-effective-under-clean-water-act-cwa>. EPA provides links to promulgated WQS for states and tribes at <https://www.epa.gov/wqs-tech/federally-promulgated-water-quality-standards-specific-states-territories-and-tribes>.

EPA also maintains informational copies of state submission materials and EPA decisions in an internal system.

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

The 1995 Paperwork Reduction Act (PRA) incorporates the Regulatory Flexibility Act (RFA). The RFA requires EPA to prepare a regulatory flexibility analysis for any rule that has a “significant economic impact on a substantial number of small entities.” EPA must also consider the requirements of the Small Business Regulatory Enforcement Fairness Act of 1996. Small entities warrant special consideration because they generally cannot devote staff resources to follow regulatory developments and often are less likely to have their interests represented by lobbyists and associations. In addition, smaller entities may be less able to bear the burden of an information collection because of their small staff and resources.

The Small Business Administration (SBA) establishes size eligibility provisions and standards (codified at 13 CFR Part 121). The RFA also provides some guidance for defining a small entity. Section 601 of the RFA defines a “small entity” to include “small business,” “small organization,” and “small governmental jurisdiction.” The RFA defines these terms as follows:

- “Small Business” is any business that is independently owned and operated and not dominant in its field as defined by the Small Business Administration (SBA) regulations under Section 3 of the Small Business Act.
- “Small Organization” is any not-for-profit enterprise that is independently owned and operated and not dominant in its field (e.g., private hospitals and educational institutions).
- “Small Governmental Jurisdiction” is the governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000, and may also include Indian Tribes.

EPA may also develop regulation-specific definitions of small entities when the above definitions are not appropriate.

This proposed rule would have no direct impact on small businesses because the primary impact would be on state and authorized tribal governments. There may be a secondary impact on some

permitted facilities, including businesses, federal government entities, and local governments with publicly owned treatment works. However, EPA has no means to estimate secondary impacts.

The Agency has instituted several efforts to minimize the impact of its regulations on small businesses. EPA's Small Business Division (SBD) maintains a website and a telephone hotline that small businesses can access with their questions about complying with environmental requirements. Small businesses are assisted by programs in the states, so partnerships between EPA and the states are essential. The Agency has also developed an extensive network with State Compliance Advisory Panels, Small Business Ombudsmen and Small Business Assistance Providers. EPA's SBD hosts an annual conference providing an opportunity for state small business assistance providers, Compliance Advisory Panel members, trade association representatives, EPA, and other federal agency staff to learn and share information about helping the small business community and better coordinate their small business assistance delivery mechanisms. EPA Small Business Ombudsman also periodically reports to Congress on the activities and progress of the state Small Business Assistance Programs.

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

The CWA requires states to review WQS at least once every three years and provide the results to EPA. In practice, some states choose to review and revise portions of their WQS more frequently. EPA estimates that all 50 states will each undertake three WQS rulemakings to protect tribal reserved rights.

## 6. Burden, Cost, and Benefit of the Collection

This section describes how EPA estimates the burden and cost of the information collection, summarizes the results, and summarizes the benefit of collecting the information.

### 6(a) Estimating Respondent Burden & Universe

This section describes how EPA estimated the burden per respondent and total universe of respondents.

EPA estimated the incremental number of labor hours required to comply with the proposed rule based on past experience estimating the cost of state WQS rulemaking efforts to comply with EPA's 2015 WQS regulation revisions and the best professional judgment of EPA's personnel with experience administering the WQS program.

For the proposed rule, in order to minimize the risk of underestimating potential costs, EPA assumed that all 50 states will each undertake three WQS rulemakings to protect tribal reserved rights. The Agency assumed one rulemaking for each of the following purposes:

- To evaluate or revise WQS for protection of human health;
- To evaluate or revise WQS for protection of aquatic life; and
- To account for any other WQS changes needed to protect tribal reserved rights, including addressing the emergence of any information in the future that informs either the applicability of the reserved rights or the necessary level of water quality.

EPA estimated that the incremental labor hours needed to complete the first state rulemaking to protect tribal reserved rights would range from 100 hours for a relatively small rule change to 500 hours for a more complex rulemaking. EPA assumed that each subsequent rulemaking would benefit from the data, information, and experience gained from the prior rulemaking(s) and would require a smaller level of effort. EPA assumed that the second rulemaking would require 90% of the level of effort of the first rulemaking and the third rulemaking would require 75% of the level of effort of the first rulemaking. As shown in Table 6-2 below, the average burden per response therefore ranges from 75-500 hours. EPA was not able to apportion the burden estimate by professional category required for each activity as it does not have information on the division of labor hours by professional category that states use to administer their WQS programs.

### 6(b) Estimating Respondent Costs

This section describes how EPA estimated respondent costs per reporting activity and for all respondents.

EPA estimated the cost of labor from data on state government hourly wage rates. Table 6-1 shows the 2020 labor rates for the categories EPA identifies as applicable to the rule, accounting

for benefits using the Bureau of Labor Statistics Employer Cost for Employee Compensation for state and local professional government workers (36% of total compensation is attributable to benefits). EPA uses an average wage rate because it does not have information on the division of labor hours by professional category that states use to administer their WQS programs.

<b>Labor Category</b>	<b>Hourly Labor Rate</b>	<b>Hourly Benefits</b>	<b>Hourly Wage Rate</b>
Economist (19-3011)	\$36.33	\$20.34	\$67.21
Environmental Engineer (17-2081)	\$42.15	\$23.60	\$77.97
Environmental Scientist (19-2041)	\$33.91	\$18.99	\$62.73
Lawyer (23-1011)	\$46.85	\$26.24	\$86.68
Natural Sciences Manager (11-9121)	\$42.52	\$23.81	\$78.66
<b>Average</b>	--	--	<b>\$74.65</b>

Sources: Occupational Employment and Wage Statistics for May 2020 (USBLS 2021a); Employer Cost for Employee Compensation—December 2020 (USBLS 2021b); *Handbook on Valuing Changes in Time Use Induced by Regulatory Requirements and Other EPA Actions* (USEPA 2020)

The estimated total one-time cost per state to comply with the proposed rule ranges from \$19,782 to \$98,911. Using the estimated average hourly labor rate shown in Table 6-1 (\$74.65), EPA estimated that the total cost associated with state rulemaking activities for all 50 states would range from approximately \$989,112 (\$74.65 per hour x 13,250 hours) to \$4,945,562 (\$74.65 per hour x 66,250 hours). EPA chose to not annualize these costs given uncertainty about the period over which that annualization would occur. EPA anticipates that once a state updates its WQS to protect all applicable tribal reserved rights, it will not have any recurring costs (i.e., ongoing annual burden and costs) that would be specifically attributable to the proposed rule, because periodic evaluation of and revision to state WQS is already a requirement of the CWA and WQS regulation.

Table 6-2 summarizes the potential incremental burden and cost associated with state rulemaking activities.

**Table 6-2: Potential One-Time Burden and Cost Associated with State Rulemaking Activities**

<b>Rulemaking Effort<sup>1</sup></b>	<b>Burden per State (hours)</b>	<b>Cost per State (2020 \$)<sup>2</sup></b>	<b>Number of Potentially Affected States<sup>3</sup></b>	<b>Total Burden (hours)<sup>4</sup></b>	<b>Total Cost (2020 \$; one-time)<sup>5</sup></b>
Rulemaking #1	100–500	\$7,465–\$37,325	50	5,000–25,000	\$373,250–\$1,866,250
Rulemaking #2	90–450	\$6,718–\$33,592	50	4,500–22,500	\$335,925–\$1,679,625

Rulemaking Effort <sup>1</sup>	Burden per State (hours)	Cost per State (2020 \$) <sup>2</sup>	Number of Potentially Affected States <sup>3</sup>	Total Burden (hours) <sup>4</sup>	Total Cost (2020 \$; one-time) <sup>5</sup>
Rulemaking #3	75–375	\$5,599–\$27,994	50	3,750–18,750	\$279,938–\$1,399,688
<b>Total</b>	<b>265-1,325</b>	<b>\$19,782–\$98,911</b>	<b>50</b>	<b>13,250–66,250</b>	<b>\$989,112–\$4,945,562</b>

<sup>1</sup> Reflects potential new or increased rulemaking activities to adopt provisions consistent with the proposed rule into WQS.

<sup>2</sup> Hours per state multiplied by average hourly labor rate of \$74.65 and rounded to the nearest dollar.

<sup>3</sup> Includes 50 states, but no territories or tribes.

<sup>4</sup> Burden per state multiplied by total number of potentially affected states.

<sup>5</sup> Total burden for all potentially affected states multiplied by average hourly labor rate of \$74.65 and rounded to the nearest dollar.

Because EPA has assumed that there are no recurring costs to states associated with the proposed rule and did not estimate costs to regulated entities, the potential one-time burden and costs in Table 6-2 represent the total estimated burden and cost of the proposed rule.

Error: Reference source not found<sup>3</sup> provides a summary of the uncertainties associated with the estimates.

Key Assumption/Uncertainty	Potential Impact on Estimated Burden and Cost	Comment
Labor hours required to implement various provisions based on best professional judgment.	?	Labor hours needed for a given state depend on several factors, including the size of each state, level of economic activity involving dischargers to water, and the existing regulatory framework; labor hours may be higher or lower than EPA’s estimates.
Labor cost based on state government wage and labor rates.	?	The mix of labor categories (economist, environmental engineer, environmental scientist, lawyer, natural sciences manager) may be different for individual states from the mix that EPA used to calculate hourly wage and labor rates.



<b>Table 6-3: Uncertainties in the Analysis</b>		
<b>Key Assumption/Uncertainty</b>	<b>Potential Impact on Estimated Burden and Cost</b>	<b>Comment</b>
The number of rulemakings to ensure reserved rights are protected in WQS is unknown.	?	The number of rulemakings will depend on the extent of reserved rights to aquatic and aquatic-dependent resources across the country and the extent to which existing WQS already protect reserved resources. Determining the extent of reserved rights to aquatic and aquatic-dependent resources will require a careful case-by-case analysis of each legal agreement that reserves resources to tribes, including relevant case law, where applicable. It is also uncertain how states will elect to conduct the rulemakings (e.g., all at once or in stages) and whether new information about the reserved rights will become available over time.
The time period over which states undertake rulemakings to revise their WQS to ensure protection of tribal reserved rights is unknown and may vary by state.	?	States may take more or less time to complete rulemakings than the nine years assumed in the analysis, based on when issues are identified and how long it takes to formulate a solution. This uncertainty potentially affects the estimated annualized burden and cost.
States may have varying access to data from which to perform analyses necessary to evaluate the extent and applicability of tribal reserved rights to aquatic and aquatic-dependent resources and the level of water quality necessary to protect those rights. In some cases, states may want to collect additional data.	?	The cost of resources required to collect data and perform analyses is unknown. The number of analyses will depend on the number of WQS changes needed to protect reserved rights and the sufficiency of existing, readily available data on the scope of the right(s) and level of water quality necessary to protect those rights.

<b>Table 6-3: Uncertainties in the Analysis</b>		
<b>Key Assumption/Uncertainty</b>	<b>Potential Impact on Estimated Burden and Cost</b>	<b>Comment</b>
All states undertake a rulemaking effort in response to the proposed rule.	+	The cost may be overestimated because there may not be tribal reserved rights applicable to waterbodies in all 50 states. Additionally, some resources reserved to tribes may already be protected by existing WQS.
Key: “+” = Burden and cost potentially overestimated “-“ = Burden and cost potentially underestimated “?” = Impact on burden and cost uncertain		

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

In addition to the potential burden and cost to states, the rule could result in incremental burden and cost to EPA associated with reviewing the WQS program information submitted by states. On the basis of best professional judgment, EPA conservatively estimates the incremental burden and cost to EPA as approximately 20% of the cost to states. Thus, EPA estimates that one-time incremental cost to the Agency could range from \$199,622 ( $\$998,112 \times 20\%$ ) to \$989,112 ( $\$4,945,562 \times 20\%$ ).

EPA assumes that review of WQS program submissions would be performed by General Schedule (GS) 13, Step 5 federal employees (including EPA regional staff). Using the Washington, D.C. salary table as a conservative estimate, in 2020 the hourly wage rate for all federal employees at this grade and step receiving the Washington, D.C. locality pay adjustment was \$55.75 per hour<sup>4,5</sup>. Assuming that benefits and overhead are equal to 60% of the hourly wage, the average loaded hourly wage rate for federal employees is equal to \$89.20 ( $\$55.75 \text{ per hour} + (60\% \times (\$55.75 \text{ per hour}))$ ). Full-time equivalent (FTE) employees work 2,080 hours per year (40 hours per week  $\times$  52 weeks).

Using the average loaded wage rate and the number of hours worked per FTE, EPA estimates the burden and EPA FTEs associated with the incremental effort. Burden to EPA associated with one-time incremental activities ranges from 2,238 hours ( $\$199,622 \div \$89.20 \text{ per hour}$ ) to 11,089 hours ( $\$989,112 \div \$89.20 \text{ per hour}$ ). These one-time incremental burden estimates correspond to 1.1 FTEs (2,238 burden hours  $\div$  2,080 hours worked per FTE) to 5.3 FTEs (4,717 burden hours  $\div$  2,080 hours worked per FTE).

<sup>4</sup> <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/>

<sup>5</sup> The employees reviewing and approving WQS materials submitted by states include EPA staff in the Washington, DC area and EPA regional staff. Hence, EPA calculates the average of all locality wage rates for federal employees at GS 13, Step 5 in 2020.

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

EPA is proposing changes to the WQS regulation at 40 CFR Part 131. The rule would add new burden as described in this ICR.

**6(e) Burden Statement**

The annual public reporting and recordkeeping burden for this collection of information is estimated to range from 75 to 500 hours per response. 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. Burden 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.