

U.S. Environmental Protection Agency Information Collection Request

Title of the Information Collection: Water Quality Standards Regulation (Renewal)

OMB Control Number: 2040-0049

EPA ICR Number: 0988.17

Short Characterization/Abstract

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

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

This ICR renews the WQS Regulation ICR, OMB Control Number 2040-0049, which is approved through February 28, 2025. At this time, the EPA is working to consolidate the two activities that were previously split 50/50 between this WQS Regulation ICR and a separate NPDES Program ICR, OMB Control Number 2040-0004. These activities are the Great Lakes Antidegradation Demonstrations (burden of 1,170 hours) and Great Lakes Regulatory Relief Requests (burden of 8,310 hours). The EPA anticipates that by the time this WQS ICR renewal is finalized, the full reporting burden for both activities (Great Lakes Antidegradation Demonstrations and Regulatory Relief Requests) would have been transferred from the WQS ICR to, and

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

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

consolidated within, the NPDES Program ICR. Therefore, the EPA is not reporting burden estimates for these two Great Lakes related activities in this WQS ICR renewal. The EPA anticipates the burden associated with this renewed ICR to be **493,362 hours**, an increase of **22,600 hours** from the previously approved burden of **470,762 hours**,³ reflecting the addition of **five** authorized Tribes with WQS.

In addition, this ICR does not include estimates for the burden and costs of activities related to the changes to protect Tribal Reserved Rights the EPA made to the Water Quality Standards Regulation, 40 CFR part 131, effective on 6/3/2024 (see 89 FR 35717, May 2, 2024). For the separate ICR covering those additional activities to protect Tribal Reserved Rights, see OMB control #2040-0309, EPA ICR 2700.02. Given the uncertainties in the burden and costs estimates in that separate ICR, the EPA expects to revise the estimates based on experience gained from implementing the regulation changes to protect Tribal Reserved Rights. The EPA then expects to consolidate that revision of the burden and costs related to the additional activities to protect Tribal Reserved Rights into a future renewal of the WQS ICR. Therefore, in the future, the EPA anticipates having one WQS ICR that includes the current separate ICR for the additional activities to protect Tribal Reserve Rights.

This WQS ICR renewal includes the following information collections:

- (A) Administering State and Tribal WQS
- (B) Tribal-State Dispute Resolution Requests
- (C) Tribal Applications for TAS
- (D) Voluntary WQS Program Information

SUPPORTING STATEMENT A

1. NEED AND AUTHORITY FOR THE COLLECTION

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

(A) Administering State and Tribal WQS

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

The CWA under section 303(c) and the EPA WQS regulation under 40 CFR part 131 govern the WQS program. They require states and authorized Tribes⁴ to review and, as appropriate, revise their WQS (or adopt new standards) at least once every three years, and to submit to EPA the

³ 470,762 hours reflects the current WQS ICR approved burden (before consolidation) of 480,242 – 1,170 hours (Great Lakes Antidegradation Demonstration burden for States, Tribes, and dischargers) – 8,310 hours (Great Lakes Regulatory Relief Requests burden for States, Tribes, and dischargers).

results and WQS revisions or new standards resulting from the reviews. The agency then reviews each state or Tribal submission for approval or disapproval. Once approved by the EPA, the standards become effective for all purposes under the Act.

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

In 2015, the EPA revised 40 CFR part 131 to clarify certain specific requirements of the WQS regulation.⁵ In 2018, the EPA consolidated the additional information collections associated with the clarifications into the currently approved ICR, and is retaining the following ongoing collections in this renewal:

- Providing any required use attainability analysis and identifying and adopting the highest attainable use (HAU) whenever adopting new or revised WQS based on a required use attainability analysis;

⁴ Tribes that have received EPA authorization to administer the water quality standards program under 40 CFR 131.8. The agency maintains a current list of such Tribes at <https://www.epa.gov/wqs-tech/epa-approvals-Tribal-water-quality-standards-and-contacts>.

⁵ See *Water Quality Standards Regulatory Revisions*, final rule, Aug. 21, 2015, 80 FR 51020.

- Providing an explanation for not adopting new or revised water quality criteria for parameters for which the EPA has published new or updated CWA section 304(a) criteria recommendations;
- Involving the public when developing or revising antidegradation implementation methods;
- Involving the public when a state or authorized Tribe uses the water body-by-water body approach to identify waters receiving Tier 2 antidegradation protection;
- Including a range of non-degrading and less degrading practicable alternatives when performing or evaluating Tier 2 antidegradation reviews, and selecting one for implementation;
- Performing or evaluating more Tier 2 antidegradation reviews to reflect additional water bodies receiving Tier 2 protection pursuant to the EPA's 2015 requirements;
- Developing a WQS variance consistent with 40 CFR 131.14 and providing the required supporting documentation when submitting WQS variances;
- Reevaluating WQS variances greater than five years no less frequently than every five years and obtaining public input.
- Holding public hearings, at least once every three years, for purposes of reviewing applicable water quality standards and modifying or adopting standards, as appropriate.
- Submitting the results of a triennial review, including any WQS revisions and supporting documentation resulting from the triennial review.
- Re-examining any waterbody segment with designated uses that do not include the uses specified in CWA section 101(a)(2) to determine if new information indicates that such uses are attainable and, if so, revising WQS accordingly.

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

(B) Tribal-State Dispute Resolution Requests

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

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

(C) Tribal Applications for TAS

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

The WQS regulation (§131.8) specifies requirements for Indian Tribes to apply for authority to administer a WQS program. To be found eligible, a Tribe must apply to the EPA to be treated in a similar manner as a state (TAS) and demonstrate that it meets certain criteria.⁶ The Tribal application constitutes an information collection to obtain a benefit.

(D) Voluntary WQS Program Information

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

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

2. PRACTICAL UTILITY/USERS OF THE DATA

(A) Administering State and Tribal WQS

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

Once approved by the EPA, WQS adopted by states and authorized Tribes generally become effective for all CWA purposes.^{7,8} WQS serve as the basis for water quality-based effluent limitations in NPDES permits for point source dischargers (including publicly owned treatment

⁶ Per 40 CFR 131.8, the Tribe must be federally recognized; the Tribe must have a governing body carrying out substantial governmental duties and powers; the WQS program must be administered for water resources within the borders of an Indian reservation or legal equivalent; and the Tribe must reasonably be expected to be capable of carrying out the functions of an effective WQS program under the Act.

⁷ The full text of all applicable WQS are available on the agency website. See <https://www.epa.gov/wqs-tech/state-specific-water-quality-standards-effective-under-clean-water-act-cwa>.

⁸ Exceptions can occur for waters where the agency has promulgated corresponding federal WQS. Such federal WQS would need to be withdrawn for the state or Tribal approved standards to become effective for CWA purposes.

works and industrial facilities) under sections 301(b)(1)(C) and 402 of the Act. In addition, under CWA section 303(d), states and authorized Tribes must identify which waters are not meeting their WQS. For waters identified under section 303(d), WQS serve as the basis for establishing total maximum daily loads. WQS are also used as a basis for water quality certifications of federally issued permits and licenses under section 401 of the Act.

If new or revised WQS adopted by states or Tribes are not approved by EPA, they do not become effective for CWA purposes. Thus, if the information collection activities in this ICR were not performed, the EPA could not review the WQS, and the state or Tribal WQS would likely not go into effect and could not serve as the basis for CWA regulatory actions to restore and maintain water quality.

(B) Tribal-State Dispute Resolution Requests

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

(C) Tribal Applications for TAS

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

(D) Voluntary WQS Program Information

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

3. USE OF TECHNOLOGY

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

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

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

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

4. EFFORTS TO IDENTIFY DUPLICATION

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

5. MINIMIZING BURDEN ON SMALL ENTITIES

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

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

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

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

In March 2023, the EPA hosted its first virtual TAS for WQS Workshop. This workshop was open to Tribes across the country who were interested in or wanted a refresher on TAS, specifically Tribes interested in administering a WQS program under the CWA. The goals of the workshop were to provide an opportunity for participants to learn about the TAS application process, to hear directly from Tribes with TAS, and to also hear from the EPA regional and headquarters staff who work closely with Tribes to process TAS applications with the intent to reduce reporting burden on Tribes. The EPA also provided instruction on using the customizable tools and templates available on EPA's website to assist with TAS and WQS capacity building.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION

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

Second, the regulation at §131.14(b)(1)(v) requires states and authorized Tribes to reevaluate WQS variances with a term greater than five years, and obtain public input on the reevaluation, at least once every five years. The preamble to the final rule⁹ provides an explanation of these requirements. State respondents did not raise concerns about this provision during consultations on this ICR (see section 7b of this document).

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

For collection (D) Voluntary WQS Program Information, the 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.

7. GENERAL GUIDELINES

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

8. PUBLIC COMMENT AND CONSULTATIONS

(8A) PUBLIC COMMENT

On June 5, 2024, EPA published a Federal Register⁹ notice to solicit comments and information to enable it to: (1) evaluate whether the proposed collection of information in the proposed ICR is necessary and will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden and the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond.

The EPA received two comments from the public in response to the Federal Register notice. Copies of the comments are included as a supplementary document in this ICR package and are also available in the docket for this ICR.¹⁰ The EPA appreciates the comments and has considered them in finalizing this ICR. See the Response to Comments document in the docket.

(8B) CONSULTATIONS

For this renewal, the EPA consulted with managers responsible for administering WQS in the environmental agencies of three states¹¹ regarding the reporting and recordkeeping burden

⁹ *Proposed Information Collection Request for Water Quality Standards Regulation (renewal)*, EPA 89 FR 48163, June 5, 2024.

¹⁰ The docket for this ICR is available for online viewing at <https://www.regulations.gov> by searching for ID No. EPA-HQ-OW-2011-0465.

¹¹ The Alabama Department of Environmental Management, the Virginia Department of Environmental Quality and the Missouri Department of Natural Resources. Consulted from September 2023 - February 2024.

imposed on them by EPA's WQS regulation. As part of the consultations, the EPA asked participants about the accuracy of the EPA's burden estimates in the currently approved ICR, solicited their views on ways to reduce the burden, and asked for any other comments they had to offer on the paperwork process.

Two of the three states generally agreed that the burden estimates were in the right range, although they all mentioned that additional technical support staff would be useful. One state expressed that the burden estimate might be too low because the state included in its estimate the resources needed (e.g., equipment, supplies, and labor) to collect monitoring data to support water quality criteria development and modelling. While related, such burdens are beyond the paperwork burden to implement the WQS program.

As a result of these consultations, the EPA is generally maintaining its burden estimates from the currently approved ICR in this renewal.

The EPA welcomes the positive feedback received on its recent development of templates and tools to assist states and Tribes. The agency plans further similar work over the next few years. Aside from the above consultations specifically on ICR issues, the EPA continues its practice of consulting with states and Tribes. For many years, the EPA has had regular monthly or bimonthly meetings with the WQS Managers Association (WQSMA), a group of state and EPA managers responsible for WQS programs at the state, regional, and national level; the Monitoring, Standards, and Assessments Committee of the Association of Clean Water Administrators (ACWA); and the National Tribal Water Council. These groups discuss a variety of policy and program issues, including information collection. For example, the EPA reached out to some WQSMA members in 2023 on the reporting and recordkeeping burden imposed by the WQS Regulation.

9. PAYMENTS OR GIFTS TO RESPONDENTS

EPA OW, OST is not aware of any payments or gifts to respondents.

10. ASSURANCE OF CONFIDENTIALITY

If information is submitted to the EPA for which a claim of confidentiality is needed, that information will be safeguarded according to the EPA policies set forth in Title 40, Chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 28, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

11. JUSTIFICATION FOR SENSITIVE QUESTIONS

State and authorized Tribal submissions to the EPA under this ICR will contain no confidential or sensitive information; therefore, this section is not applicable.

12. RESPONDENT BURDEN HOURS AND LABOR COSTS

(12A) RESPONDENTS/NAICS CODES

The following describes the universe of potential respondents. The actual numbers estimated to submit information annually are described in section 11(D) of this document.

“States” described as respondents in this ICR refers to the 50 states, the District of Columbia, and five territories (i.e., 56 “states”).¹²

“States and authorized Tribes” in this ICR refer to the 107 entities with WQS: the 56 states defined above and any federally recognized Indian Tribes that have the EPA approved WQS. As of October 2024, there were 51 such Tribes.¹³

Any of over 300 federally recognized Tribes with a reservation could potentially apply for TAS to administer a WQS program under collection (C) Tribal Applications for TAS.¹⁴ The EPA estimates that 18 of these Tribes will apply in the next three years.

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

(12B) INFORMATION REQUESTED

(I) Administering State and Tribal WQS

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

- The new or revised WQS, including, for example, designated uses, water quality criteria to protect the uses, and an antidegradation policy;
- Methods used and analyses conducted to support WQS revisions;

¹² 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.

¹³ The Tribes with the EPA approved WQS are listed on the agency website.

See <https://www.epa.gov/wqs-tech/epa-approvals-tribal-water-quality-standards-and-contacts>.

¹⁴ A federally recognized Tribe with a reservation may be approved for TAS if it meets certain eligibility criteria. Over 300 federally recognized Tribes have reservations, and of these, as of October 2024, 87 applicant Tribes have been approved for TAS, of which 51 have adopted the EPA approved WQS. This leaves over 213 Tribes that could potentially apply for TAS.

- Certification by the state or Tribal Attorney General or other appropriate legal authority within the state or Tribe that the WQS were duly adopted pursuant to state or Tribal law; and
- General information that will aid the EPA in determining the adequacy of the scientific basis of the standards which do not include the uses specified in section 101(a)(2) of the Act as well as information on general policies applicable to state standards that may affect their application and implementation.

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

- The results of the triennial review;
- Any supporting analysis for the use attainability analysis;
- The methodologies used for site-specific criteria development;
- Any general policies applicable to WQS;
- Any revisions of the WQS and any required supporting documentation, as listed in 131.6; and
- An explanation for not adopting new or revised criteria for certain parameters.

The WQS regulation at §131.10 requires states and authorized Tribes conduct a use attainability analysis, as defined at §131.3(g), whenever adopting a designated use that does not include the uses specified in CWA section 101(a)(2) or when revising a designated use to adopt one that requires less stringent criteria than previously applicable (see §131.10(j)). §131.10 also requires states and authorized Tribes to identify and adopt the HAU whenever adopting new or revised WQS based on a required use attainability analysis (UAA). States and authorized Tribes would be required to provide the methods and analysis used to support adoption of the HAU, per §131.6. States and authorized Tribes must provide a use and value demonstration to support an adoption or revision of a non 101(a)(2) use, as defined at §131.3(q) (see §131.10(k)(3)). Finally, states and authorized Tribes must “...ensure that its water quality standards provide for the attainment and maintenance of the water quality standards of downstream waters” (see §131.10(b)).

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

The WQS regulation at §131.12 requires states and authorized Tribes not to exclude water bodies from Tier 2 antidegradation protection solely because water quality does not exceed levels necessary to support all the uses specified in CWA section 101(a)(2). The regulation also provides that before allowing a lowering of high-water quality, states and authorized Tribes must evaluate a range of non-degrading and less degrading practicable alternatives. When this analysis of alternatives identifies one or more [practicable](#) alternatives, the [State](#) or authorized Tribe must select one of the alternatives for implementation before authorizing a lowering of water quality. Furthermore, the regulation specifies that, where states and authorized Tribes identify waters to receive Tier 2 protection on a water body-by-water body basis, states and authorized Tribes must involve the public on any decisions pertaining to where they will provide Tier 2 protection, and the factors considered in such decisions. Finally, the regulation requires states' and authorized Tribes' antidegradation implementation methods to be consistent with these requirements, and to provide an opportunity for public involvement during the development and any subsequent revisions of antidegradation implementation methods. These requirements result in information collection associated with the following activities:

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

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

(II) Tribal-State Dispute Resolution Requests

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

- A concise statement of unreasonable consequences that are alleged to have arisen because of differing WQS;

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

(III) Tribal Applications for TAS

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

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

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

(IV) Voluntary WQS Program Information

From time to time, the EPA may request technical information from states and Tribes in support of its effective and efficient administration of regional and national WQS program. Such information would relate directly to a state or Tribe's program and would likely consist of technical information to assist in developing guidance or other materials; technical input used by the 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 the EPA work groups is voluntary.

(12C) RESPONDENT ACTIVITIES

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

- Reviewing instructions, guidance, and regulations necessary for each collection;

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

(12D) RESPONDENT BURDEN HOURS AND LABOR COSTS

In this section, the 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:
 - o Labor costs for state or Tribal employees were estimated using the hourly rate of a GS-9, Step 10 federal employee of **\$31.97**.¹⁵ Overhead costs are expected to be 60 percent, or **\$19.18** per hour, yielding a total hourly rate of **\$51.15**.

(I) Administering State and Tribal WQS

State and Tribal burden: The EPA has estimated the respondent burden for all aspects of administering WQS described in section 12(B) above, including WQS adoption, review, and revision, and specific requirements of the WQS regulation involving establishing and revising designated uses, keeping water quality criteria up to date, implementing antidegradation provisions of the regulation, and issuing WQS variances. The EPA estimates that the annual burden on the average state or authorized Tribe for these actions is approximately 4,500 hours.

¹⁵ General Schedule rate, effective January 2024, assuming base pay rate with no locality adjustment.

See https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/24Tables/html/GS_h.aspx

Based on a total of 107 such entities, the total estimated burden hours are thus: (107 respondents) * (4,500 hours) = **481,500 hours**.

State and Tribal costs: Total estimated annual costs are (481,500 hours) * (\$51.15 per hour) = **\$24,628,725**.

(II) Tribal-State Dispute Resolution Requests

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

State or Tribal costs: Total estimated annual labor costs are (80 hours) * (\$51.15 per hour) = **\$4,092**.

(III) Tribal Applications for TAS

Tribal burden: The EPA estimates that up to six Tribes per year will apply to administer the WQS program. Based on information from eight Tribes with experience in developing TAS applications for CWA regulatory programs, the agency estimates that developing a TAS application requires 1,607 Tribal staff hours and an additional **\$57,530** or fixed-fee contract costs for legal consultations typically supporting such applications. This results in a total estimated burden of (6 Tribes) * (1,607 hours) = **9,642 hours**

Tribal labor costs: Total annual labor costs = (9,642 hours) * (\$51.15/hour) = **\$493,188**.

Tribal Operations and Maintenance (O&M) costs: Total estimated annual Tribal costs to cover fixed-fee contractual support are (6 Tribes) * (\$57,530) = **\$345,180**.

(IV) Voluntary WQS Program Information

State or Tribal burden: The program information in this collection includes technical information to assist in developing guidance or other materials; technical comments on draft program-related policies and guidance documents; information concerning program operations to assist in information sharing and improving program efficiency; and state and Tribal technical materials prepared for program-related work groups. Submission of state or Tribal information or participation by state and Tribes in workgroups is voluntary. The EPA estimates that it will make 10 requests for supporting WQS program information from states and authorized Tribes per year. Thus, the total number of responses is (10 requests per state or Tribe) * (107 entities) = 1,070 requests annually for voluntary information from states and Tribes. The agency

estimates that responding to an individual request will average two hours. The total estimated annual burden hours are (1,070 responses) * (2 hours/response) = **2,140 hours**.

State or Tribal costs: Total estimated annual labor costs are (2,140 hours) * (\$51.15 per hour) = \$ **109,461**

Table 1: Summary of total annual burden and cost for states and Tribes

Collection	Respondents in Next Three Years	Responses per year	Burden Hours per Response	Annual Burden Hours	Annual Labor Cost ¹⁶	Annual O&M Cost
(A) Administering State and Tribal WQS	107	107	4,500	481,500	\$24,628,725	None
(B) Tribal-State Dispute Resolution Requests	Included in (A)	1	80	80	\$4,092	None
(C) Tribal Applications for TAS	18	6	1,607	9,642	\$493,188	\$345,180
(D) Voluntary WQS Program Information	Included in (A)	1,070	2	2,140	\$109,461	None
Total State and Tribal Responses	125¹⁷	1,184	Varies as above	493,362	\$ 25,235,466	\$345,180

13. RESPONDENT CAPITAL AND O&M COST

The respondent **Operations and Maintenance (O&M) expenses** are estimated separately. Only one information collection – (C) Tribal Applications for TAS – entails such expenses. As noted above under 12(D)(III), the *Tribal Operations and Maintenance (O&M) costs for that information collection is \$345,180*. There are no Capital Expenses in this ICR. In developing burden estimates, this ICR generally uses conservative assumptions (*i.e.*, assumptions designed to avoid underestimating the burden).

14. AGENCY COSTS

The EPA analysis of annual burden and costs to the federal government are detailed in this section. Agency employee costs were estimated assuming a GS-13 Step 5 federal employee

¹⁶ See section 12(D) for derivation of hourly labor rates used: \$51.15/hour for states and Tribes.

¹⁷ This state and Tribal burden is associated with 125 potential respondents: 50 states, the District of Columbia, 5 territories, 51 authorized Tribes with approved WQS and 18 additional Tribal respondents over the three-year duration of the ICR (based on six additional Tribal respondents estimated to apply per year for TAS to administer the WQS program).

earning **\$64.06** per hour¹⁸. Overhead costs for federal employees are expected to be 60 percent, or **\$38.44** per hour, yielding a total hourly rate of **\$102.50**.

(14A) Agency Activities

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

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

See also section 1, Practical Utility/Users of the Data.

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

(14B) Agency Labor Costs

¹⁸ From 2024 General Schedule (GS) Locality Pay Tables, U.S. Office of Personnel Management, available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2024/general-schedule/>. See hourly rates for the locality pay area of Washington-Baltimore-Arlington, DC-MD-VA-WV-PA.

(I) Administering State and Tribal WQS

The EPA estimates that its reviews of state and Tribal WQS submissions and other information provided to the agency in administering their WQS entail 380 staff hours annually per state or authorized Tribe. The total estimated agency burden is thus (107 respondents) * (380 hours/respondent) = **40,660 hours**. Estimated agency labor costs are (40,660 hours) * (\$102.50/hour) = **\$ 4,167,650**.

(II) Tribal-State Dispute Resolution Requests

The EPA estimates that each review of a state or Tribal request will require 20 hours. The estimated agency burden is thus (1 request/year) * (20 hours/request) = **20 hours**. The estimated agency labor costs are (20 hours) * (\$102.50/hour) = **\$2,050**.

(III) Tribal Applications for TAS

The EPA estimates that each review of a Tribal TAS program application will require 205 hours. The total agency burden is thus (6 applications/year) * (205 hours/application) = **1,230 hours**. The estimated agency labor costs are (1,230 hours/year) * (\$102.50/hour) = **\$126,075**.

(IV) Voluntary WQS Program Information

The EPA estimates it will make **10 requests** annually for voluntary WQS program information from states and authorized Tribes. The EPA estimates that each request will average 6 hours to develop the request and to compile and analyze the results. Thus, the total estimated agency burden is (10 requests/year) * (6 hours/request) = **60 hours**. Estimated agency labor costs are (60 hours/year) * (\$102.50/hour) = **\$6,150**.

Table 2. Summary of total agency burden and cost

Collection	No. Responses per Year	Burden Hours per Response	Annual Burden Hours	Annual Labor Cost	Annual O&M Cost
(A) Administering State and Tribal WQS	107	380	40,660	\$ 4,167,650	None
(B) Tribal-State Dispute Resolution Requests	1	20	20	\$2,050	None
(C) Tribal Applications for TAS	6	205	1,230	\$126,075	None
(D) Voluntary WQS Program Information	10	6	60	\$6,150	None
Total	124	varies as above	41,970	\$ 4,301,925	None

15. REASONS FOR CHANGE IN BURDEN

The current OMB approved burden for the existing WQS Regulation ICR (OMB Control Number 2040-0049) is **470,762 hours**.¹⁹ This renewal reflects a net increase of 22,600 burden hours, resulting in a total of **493,362** burden hours. The net increase comprises of the following changes:

- The burdens for collections (A) Administering State and Tribal WQS and (D) Voluntary WQS Program Information increased to reflect the addition of four Tribes with approved WQS and a rounding adjustment.
- The EPA anticipates that by the time this ICR renewal is finalized, the full reporting burden for the two Great Lakes collections (i.e., Great Lakes Antidegradation Demonstrations and the Great Lakes Regulatory Relief Requests) would have been transferred and consolidated within the NPDES Program ICR. Therefore, the EPA is basing the change in burden hours in this renewal on the current WQS ICR after the consolidation has taken place.

Table 3: Change in Respondent Burden

(Negative numbers are in parentheses)

Collection	Previously Approved Burden Hours	Burden Hours in This ICR	Difference (hours)	Comments
(A) Administering State and Tribal WQS	459,000	481,500	+22,500	Addition of five Tribes
(B) Tribal-State Dispute Resolution Requests	80	80	0	
(C) Tribal Applications for TAS	9,642	9,642	0	
(D) Voluntary WQS Program Information	2,040	2,140	+100	Addition of five Tribes
TOTAL	470,762	493,362	22,600	

16. PUBLICATION OF DATA

The EPA OW, OST is not currently aware of any publication of the data collected.

17. DISPLAY OF EXPIRATION DATE

The EPA OW, OST plans to display the expiration date for OMB approval of this ICR online.

18. CERTIFICATION STATEMENT

¹⁹ 470,762 hours reflects the current WQS ICR approved burden (before consolidation) of 480,242 – 1,170 hours (Great Lakes Antidegradation Demonstration burden for States, Tribes, and dischargers) – 8,310 hours (Great Lakes Regulatory Relief Requests burden for States, Tribes, and dischargers).

The EPA OW, OST is not aware of any exception to the topics of the certification statement under this information collection request. All provisions will comply with the Certification for Paperwork Reduction Act Submissions.