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Information Collection Request
for
Water Quality Standards Regulatory Revisions (Final Rule)

July 2015

EPA ICR Number 2449.02
OMB Control Number 2040-0286

U.S. Environmental Protection Agency
Office of Water
Office of Science and Technology
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CONTENTS

1. Identification of the Information Collection

This section describes the information collection.

1.1 Title of the Information Collection

The title of this Information Collection Request (ICR) is *Water Quality Standards Regulatory Revisions (Final Rule)*.

1.2 Short Characterization/Abstract

Water quality standards (WQS) are provisions of state,[1] authorized 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 protect public health or welfare, enhance the quality of water, and serve the purposes of the Clean Water Act (CWA or the 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 core of the WQS regulation, last updated in 1983, establishes the framework for states and authorized tribes to adopt standards, for the U.S. Environmental Protection Agency (EPA) to review and approve or disapprove them, and serves as the driver for implementation of regulatory controls. EPA's Water Quality Standards Regulatory Revisions – Final Rule updates the federal WQS regulation at 40 CFR Part 131.

This ICR provides estimates of burden and cost to states and authorized tribes to implement new collection requirements in the 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 0988.11, OMB Control Number 2040-0049). Due to the nature of this rule, EPA assumes that all administrative burden and cost associated with the new requirements in the rule are associated with information that would or could be collected as a result of this rule. Therefore, the burden and cost in this ICR is the same as the burden and cost EPA estimates in the Economic Analysis of the rule.

[1] "State" in the CWA and this document refers to the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

[2] "Authorized tribes" refers to those federally recognized Indian tribes with authority to administer a CWA WQS program.

2. Need for and Use of the Collection

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

2.1 Need and Authority for the Collection

The rule associated with this ICR improves the effectiveness of the WQS regulation that implements the CWA, helping to meet the CWA objective to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The rule provides a better-defined pathway for states and authorized tribes to address complex water quality challenges and protect high quality waters. It also promotes more transparent and engaged public participation. The final rule revises six program areas: (1) Administrator's determination that new or revised WQS are necessary, (2) designated uses, (3) triennial reviews, (4) antidegradation, (5) WQS variances, and (6) compliance schedule authorizing provisions. This information collection will ensure that EPA has the needed information to implement the provisions in today's rule and ensure EPA continues to meet its statutory responsibility under the CWA.

2.2 Practical Utility/Users of the Data

EPA will use the information collected in association with this rule to carry out its responsibility under the CWA. For example, section 303(c) of the CWA requires states and authorized tribes to adopt WQS and submit them to EPA for review and approval or disapproval. Today's rule includes a new regulatory section at § 131.14 requiring states and authorized tribes to submit information that would allow EPA to evaluate if a WQS variance (a change to WQS requiring review and approval or disapproval) is consistent with regulatory requirements.

Once approved, state and authorized tribal WQS become effective for CWA purposes. WQS serve as the basis for water quality-based effluent limitations in National Pollutant Discharge Elimination System (NPDES) permits for point source dischargers (including publicly-owned treatment works and industrial facilities) under sections 301(b)(1)(C) and 402 of the Act. In addition, under CWA section 303(d), states and authorized tribes must identify which waters are not meeting their WQS. For waters identified under section 303(d), WQS serve as the basis for establishing total maximum daily loads (TMDLs). WQS are also used as the basis to protect wetlands and other aquatic resources by providing for states and authorized tribes an opportunity to address the aquatic resource impacts of federally issued permits and licenses under section 401 of the Act. If the information collection activities associated with the rule are not performed, implementation of the WQS program will not result in the specific improvements intended. For example, EPA may not have sufficient information to ensure that WQS are protective enough to ensure NPDES permits and TMDLs meet the goals of the CWA.

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

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

3.1 Non-Duplication

The information collection requirements described in this ICR do not duplicate the information collection requirements described in other 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 0988.11, OMB Control Number 2040-0049).

3.2 Consultations

EPA made a substantial effort to involve the public in all phases of rule development. Between March 2009 and September 2010, EPA participated in more than ten discussions with states on antidegradation issues through Water Environment Federation's (WEF) Water Quality Standards Communication Forum [with representation by ten states and the Ohio River Valley Water Sanitation Commission (ORSANCO)]. EPA also participated in two face-to-face meetings that focused on antidegradation. Early feedback received during these meetings helped inform EPA's initial thinking on the proposed regulatory revisions. Additionally, EPA held a series of listening sessions in August 2010 for states, tribes, and the general public. During these listening sessions, EPA provided an overview of EPA's preliminary thinking on potential regulatory revisions, received feedback, and answered questions. Approximately 40 states, 81 tribes, and 665 members of the general public participated in the listening sessions. EPA also hosted a meeting on September 2010 under Executive Order 13132 (Federalism consultation) to discuss potential regulatory revisions and respond to questions. Thirteen intergovernmental participants representing state and local governments attended this meeting.

Between September 2013 and June 2014 following publication of the proposed rule, EPA consulted with representatives from states and intergovernmental associations at their request to hear their views on the proposed regulatory revisions, and how commenters' suggested revisions might impact implementation of their WQS programs. Some participants expressed concern that the proposed changes may impose a resource burden on state and local governments, as well as infringe on states' flexibility in the areas included in the proposed rule. Some participants urged EPA to ensure that states with satisfactory regulations in these areas are not unduly burdened by the regulatory revisions. EPA honored all requests for face-to-face discussions from all stakeholder groups.

3.3 Effects of Less Frequent Collection

The information collection schedule is pursuant to CWA section 303(c) requiring states and authorized tribes to review WQS once every three years and thus is not adjustable by EPA. A triennial review cycle ensures that state and tribal WQS are based on the latest scientific, technical, and other information. Less frequent review of state and tribal WQS could result in unprotected existing uses, designated uses that no longer reflect what is desired or attainable, lack of attention to emerging pollutants of concern, and water quality criteria that do not adequately protect designated uses.

3.4 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.

3.5 Confidentiality And Sensitive Questions

State and authorized tribal 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.

4.1 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 96 jurisdictions – 56 states (including the District of Columbia and territories), and the 40 authorized tribes that have EPA-approved WQS in place.[3] 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.

4.2 Information Requested

The rule may result in increased information collection in five subject areas: (1) rulemaking activities, (2) designated uses, (3) triennial reviews, (4) antidegradation, and (5) WQS variances.

4.2.1 Rulemaking Activities

The rule may potentially require states and authorized tribes to perform a WQS rulemaking for the purpose of modifying antidegradation policy, revising any adopted requirements governing the issuance of WQS variances, or adopting provisions authorizing the use of permit compliance schedules. Such provisions are subject to EPA review and approval and States and authorized tribes must submit such WQS provisions to EPA.

4.2.2 Designated Uses

The rule revises the WQS regulation to require states and authorized tribes to adopt the highest attainable use (HAU) whenever adopting new or revised WQS based on a required use attainability analysis (UAA). Additionally, the regulation requires states and authorized tribes to submit a "use and value demonstration" when removing non-101(a)(2) uses, but this requirement may be satisfied with a UAA. Consequently, the rule may require some states and authorized tribes to modify their designated use revision process to include identification and adoption of the HAU, thus increasing the information submitted to EPA.

4.2.3 Triennial Reviews

The rule revises the WQS regulation to clarify that states and authorized tribes must review applicable WQS adopted into state or tribal law pursuant to §§131.10 -131.15 and federally

[3] 48 Tribes have received EPA authorization to administer the water quality standards program under 40 CFR 131.8. EPA maintains a current list of such authorized tribes at http://water.epa.gov/scitech/swguidance/standards/wqslibrary/approvtable.cfm. However, for this ICR, EPA assumes that only 40 tribes will be adopting or revising standards every three years, since, to date, only 40 of the 48 authorized tribes have EPA-approved WQS.

promulgated WQS every three years. The rule requires an explanation for why the state or authorized tribe is not adopting new or revised criteria for parameters for which EPA published new or updated CWA section 304(a) criteria recommendations, thus increasing the information submitted to EPA.

4.2.4 Antidegradation

The rule revises the WQS regulation to require that states and authorized tribes not exclude water bodies from Tier 2 protection solely because water quality does not exceed levels necessary to support all of the uses specified in CWA section 101(a)(2). The rule also provides that before allowing a lowering of high water quality, states and authorized tribes must evaluate a range of non-degrading and less degrading practicable alternatives. Furthermore, the rule 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 when they will provide Tier 2 protection, and the factors considered in such decisions. Finally, the rule requires states' and authorized tribes' antidegradation implementation methods to be consistent with these requirements, and provide an opportunity for public involvement during the development and any subsequent revisions of antidegradation implementation methods. These requirements could potentially result in incremental information collection associated with the following activities:

- Performing/evaluating more Tier 2 antidegradation reviews because more water bodies may be receiving Tier 2 protection.
- Performing/evaluating more extensive Tier 2 antidegradation reviews because they now must evaluate a range of non-degrading and less degrading practicable alternatives.
- 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.
- Involving the public when developing or revising antidegradation implementation methods.

4.2.5 WQS Variances

The rule revises the WQS regulation to provide more specificity and clearer submission requirements on the development and use of WQS variances. Most of the revisions specify or clarify when and how WQS variances should be used, and thus are unlikely to result in significant incremental administrative burden and cost to states and authorized tribes. However, two revisions could potentially result in increased information collection:

- Specification of the documentation that states and authorized tribes must submit to EPA when requesting EPA review and approval of a WQS variance.

- Requirement that states and authorized tribes reevaluate WQS variances with a term longer than five years no less frequently than every five years and to submit the results of those reevaluations to EPA.

States and authorized tribes that do not currently meet these requirements may need to begin doing so, thus increasing the information submitted to EPA.

4.3 Respondent Activities

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

- Reviewing instructions, guidance, and regulations necessary for a state or authorized tribe to revise its WQS.
- Identifying issues and planning activities, including identifying WQS issues that need to be addressed, prioritizing based on EPA and state or authorized tribal priorities and policies, gathering and analyzing existing water quality data and waterbody use information as needed, and planning activities such as developing site-specific criteria modifications and UAAs.
- Initiating rulemaking activities, including new efforts or increased scope of other planned regulatory changes.
- Conducting UAAs or developing "use and value demonstrations" to support possible revisions to designated uses.
- Providing explanation for why the state or authorized tribe chooses not to adopt new or revised criteria for any parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations.
- Conducting additional Tier 2 antidegradation reviews.
- Performing alternatives analyses as part of Tier 2 antidegradation reviews.
- Providing an opportunity for public involvement when deciding which waters will receive Tier 2 antidegradation protection, including soliciting comments, documenting comments, and reviewing, deliberating, and responding to comments.
- Providing opportunities for public involvement when developing and revising antidegradation implementation methods, which may include public hearings, public meetings, public workshops, and internet-based methods of public engagement such as webinars and website postings.

- Submitting documentation for WQS variances including demonstrating the need for a WQS variance, describing the expected pollutant control activities that justify the WQS variance term, identifying any cost-effective and reasonable best management practices for nonpoint source controls, and the extent to which such practices were implemented and the water quality progress achieved during the WQS variance term.
- Reevaluating WQS variances, including searching for new or updated data and information during each WQS variance reevaluation as well as public participation.
- Preparing revised WQS package for submission, including determining changes to existing WQS, preparing and reviewing the revised WQS package, adopting the revised WQS according to states' or authorized tribes' internal administrative procedures and EPA's public participation requirements, conducting public hearings, and 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.

5.1 Agency Activities

The CWA and implementing regulation require states and authorized tribes to review and, as appropriate, revise WQS at least once every three years. States and authorized tribes must submit the results of such reviews to EPA, and submit revisions to WQS to EPA for review and approval or disapproval. EPA reviews the states' and authorized tribes' 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 or authorized tribe 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 and authorized tribes,
- Development of recommended water quality criteria,
- Assistance to states and authorized tribes in interpretation and implementation of regulations, policies and initiatives,
- 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:

- Assembling relevant information to conduct EPA review of submitted WQS.
- Reviewing WQS revisions for consistency with the CWA, with the WQS regulation, with downstream states' and authorized tribes' WQS, and with any standards for international waters.
- Preparing and sending a letter to the state or authorized tribe 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 or authorized tribe adopts WQS that meet the CWA requirements.

5.2 Collection Methods and Management

States and authorized tribes submit their revised WQS 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 and authorized tribes 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 http://water.epa.gov/scitech/swguidance/standards/wqslibrary/index.cfm. EPA posts promulgated WQS for states and tribes at http://water.epa.gov/scitech/swguidance/standards/wqsregs.cfm.

5.3 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.

The rule will have no direct impact on small businesses because the primary impact will be on state and authorized tribal governments. There may be a secondary impact on permitted facilities, including businesses, federal government entities, and local government with

publically owned treatment works. The Agency has instituted several efforts to minimize the impact on businesses as a whole, and specifically 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 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 agencies 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.

5.4 Collection Schedule

The CWA requires states and authorized tribes to review WQS at least once every three years and provide the results to EPA. In practice, some states and authorized tribes choose to review and revise portions of their WQS more frequently.

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.

6.1 Estimating Potential Incremental Burden and Cost

EPA estimates the incremental number of labor hours using historical information and data, and the historical knowledge and best professional judgment of EPA personnel with experience administering the WQS program. EPA estimates the cost of labor from data on state government hourly wage rates (data are not available for tribes). Table Burden, Cost, and Benefit of the Collection-1 shows the 2013 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 (33% 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 and authorized tribes use to administer their WQS programs.

Table Burden, Cost, and Benefit of the Collection-1: Summary of State Government Average Hourly Wage Rates (2013$)

Labor Category (OES Category)	Hourly Labor Rate	Hourly Benefits	Hourly Wage Rate
Environmental scientist (19-2041)	$29	$14	$43
Environmental engineer (17-2081)	$35	$17	$53
Economist (19-3011)	$31	$15	$46
Manager (11-9121)	$37	$18	$55
Average	**--**	**--**	**$49**

OES = Occupational employment statistics
Source: See the Economic Analysis for the rule.

The sections below summarize the analysis of incremental burden and cost for each subject area specified in the rule.

6.1.1 Administrator's Determinations.

EPA estimates the rule provisions related to Administrator's determinations will result in no incremental burden or cost.

6.1.2 Rulemaking Activities

EPA estimates the rule provisions related to WQS rulemaking activities could potentially result in incremental burden and cost as follows:

- Incremental burden for each state or authorized tribe to perform a WQS rulemaking ranges from 500 to 1,000 hours.
- Cost to each affected state or authorized tribe ranges from $24,500 ($49 per hour 500 hours) to $49,000 ($49 per hour 1,000 hours) on the basis of EPA's estimate of an average hourly wage rate of $49 per hour (see Table Burden, Cost, and Benefit of the Collection-1).
- Total one-time (nonrecurring) burden ranges from 48,000 hours (500 hours 96) to 96,000 hours (1,000 hours 96) on the basis of 96 potentially affected states and authorized tribes (50 states, the District of Columbia, 5 territories, and 40 authorized tribes with EPA-approved WQS).
- Total one-time (nonrecurring) cost ranges from $2,352,000 ($24,500 96) to $4,704,000 ($49,000 96).

To convert the one-time (nonrecurring) burden and cost to an annual burden and cost for the ICR period, EPA assumes that states and authorized tribes perform the rulemaking activities over a 3-year period. Thus, annual burden for each of the three years could range from 16,000 hours (48,000 hours ÷ 3 years) to 32,000 hours (96,000 hours ÷ 3 years), and annual cost for each of the three years could range from $784,000 ($2,352,000 ÷ 3 years) to $1,568,000 ($4,704,000 ÷ 3 years).

6.1.3 Designated Uses

EPA estimates the rule provisions related to designated uses could result in incremental burden and cost as follows:

- Incremental burden required to identify the HAU for each UAA ranges from 150 hours (500 hours 30%) to 300 hours (1,000 hours 30%) on the basis of EPA's estimate that developing a single UAA that does not identify the HAU requires approximately 500 to 1,000 hours and identifying the HAU requires approximately 30% additional effort.
- Per UAA cost associated with identifying the HAU of approximately $7,400 ($49 per hour 150 hours) to $14,700 ($49 per hour 300 hours).
- Total annual incremental burden ranging from 2,250 hours (150 hours 15 UAAs) to 4,500 hours (300 hours 15 UAAs), based on 15 states and authorized tribes not consistently identifying the HAU for an average of one UAA per year.

- Total annual incremental cost ranging from $111,000 ($7,400 × 15 UAAs) to $221,000 ($14,700 × 15 UAAs).

6.1.4 Triennial Review

EPA estimates the rule could potentially result in incremental burden and cost related to the requirement that states and authorized tribes submit to EPA an explanation for why the state or authorized tribe is not adopting new or revised criteria for parameters for which EPA published new or updated CWA section 304(a) criteria recommendations. To estimate the burden associated with this provision, EPA counted 371 new or revised CWA section 304(a) criteria recommendations since the enactment of the CWA in 1972. Over the 42-year period of the CWA (2014 – 1972 = 42), this represents approximately 9 new or updated recommendations per year, or 27 per 3-year triennial review period (371 CWA section 304(a) recommendations ÷ 42 years × 3 years per triennial review = 27 CWA section 304(a) criteria recommendations per triennial review). EPA assumes that all states and authorized tribes will chose to not adopt new or revised criteria for any parameters for which EPA has published new or updated CWA section 304(a) criteria recommendations for 50% of EPA's new or updated CWA section 304(a) criteria recommendations.

EPA estimates the rule provisions related to triennial reviews could result in incremental burden and cost as follows:

- Incremental burden related to the requirement that a state or authorized tribe submit an explanation for not adopting new or revised criteria for parameters for which EPA published new or updated CWA section 304(a) criteria recommendations ranges from 10 to 50 hours for each CWA section 304(a) criteria recommendation.
- Incremental burden for each state or authorized tribe ranges from 45 hours (10 hours × 9 recommendations per year × 50% not adopted) to 225 hours (50 hours × 9 recommendations per year × 50% not adopted) per year.
- Per entity cost ranging from approximately $2,200 ($49 per hour × 45 hours) to $11,000 ($49 per hour × 225 hours) per year.
- Total annual burden ranging from approximately 4,320 (45 hours × 96 states and authorized tribes) to 21,600 (225 hours × 96 states and authorized tribes) hours.
- Total cost ranging from approximately $211,000 ($2,200 × 96 states and authorized tribes) to $1,056,000 ($11,000 × 96 states and authorized tribes).

6.1.5 Antidegradation

The antidegradation provisions of the rule may result in burden and cost by requiring states and authorized tribes to involve the public when developing or revising antidegradation implementation methods, involve the public when deciding which waters to provide Tier 2

antidegradation protection using a water body-by-water body approach, to perform/evaluate antidegradation reviews that include alternatives analyses, and to perform/evaluate additional Tier 2 antidegradation reviews.

6.1.5.1 Public Involvement – Developing or Revising Implementation Methods

EPA estimates the rule provisions related to involving the public when developing or revising antidegradation implementation methods could result in incremental burden and cost as follows:

- Per entity burden ranges from 150 hours (500 hours × 30%) to 300 hours (1,000 hours × 30%) on the basis of EPA's estimate that providing an opportunity for public involvement, and documenting and keeping in the public record the factors considered when making those decisions, requires 30% of the effort needed for a single WQS rulemaking.
- Per entity annual cost ranging from $700 ($49 per hour × 150 hours per occurrence ÷ 10 years per occurrence) to $1,500 ($49 per hour × 300 hours per occurrence ÷ 10 years per occurrence) per year, based on an estimated average 10 year interval between updates to antidegradation implementation method.
- Total burden ranging, on average, from approximately 645 hours (150 hours × 43 potentially affected states and authorized tribes ÷ 10 years per occurrence) to 1,290 hours (300 hours per occurrence × 43 potentially affected states and authorized tribes ÷ 10 years per occurrence) per year.
- Total cost ranging from approximately $30,000 ($49 per hour × 645 hours) to $65,000 ($49 per hour × 1,290 hours) per year.

6.1.5.2 Public Involvement – Deciding Which Waters Will Receive Tier 2 Antidegradation Protection When Using a Water Body-By-Water Body Approach

EPA estimates the rule provisions related to involving the public in decisions about which water bodies states and authorized tribe decide to provide Tier 2 antidegradation protection could result in incremental burden and cost as follows:

- The burden for each affected state or authorized tribe ranges from 150 hours (500 hours × 30%) to 300 hours (1,000 hours × 30%) on the basis of EPA's estimate that the effort required to perform a single WQS rulemaking ranges from 500 hours to 1000 hours, and EPA estimate that providing the opportunity for public involvement and documenting and keeping in the public record the factors considered when making those decisions requires 30% of the effort needed for a single WQS rulemaking.
- Per entity one-time cost ranging from $7,400 ($49 per hour × 150 hours) to $14,700 ($49 per hour × 300 hours) for states and authorized tribes that use the water body-by-water body method.

- Total one-time burden ranges from 6,450 hours (150 hours per state or authorized tribe × 43 states and authorized tribes) to 12,900 hours (300 hours per state or authorized tribe × 43 states and authorized tribes).
- Total one-time cost ranges from $318,000 ($7,400 per state or authorized tribe × 43 states and authorized tribes) to $632,000 ($14,700 per state or authorized tribe × 43 states and authorized tribes).

To convert the one-time burden and cost to an annual basis for the period of the ICR, EPA assumes that states and authorized tribes perform the activities over a 3-year period. Thus, annual burden in each of the first three years could range from 2,150 hours (6,450 hours ÷ 3 years) to 4,300 hours (12,900 hours ÷ 3 years), and annual cost in each of the first three years could range from $106,000 ($318,000 ÷ 3 years) to $211,000 ($632,000 ÷ 3 years).

6.1.5.3 More Extensive Tier 2 Antidegradation Reviews

EPA estimates the rule could potentially result in incremental burden and cost related to the requirement that states and authorized tribes evaluate a range of non-degrading and less degrading practicable alternatives when performing/evaluating Tier 2 antidegradation reviews. Because Tier 2 antidegradation reviews are usually associated with NPDES permit issuance or re-issuance, EPA uses information on the number of antidegradation reviews in states and authorized tribes where such information is available to estimate the number of Tier 2 antidegradation reviews in all affected states and authorized tribes. EPA estimates the number of Tier 2 antidegradation reviews to be approximately 2% of the total number of NPDES permits in in the states of Missouri and Iowa. EPA counts 23,036 NPDES-permitted dischargers in states and authorized tribes that currently do not evaluate a range of non-degrading and minimally degrading alternatives for all Tier 2 antidegradation reviews. Thus EPA estimates a total of 461 antidegradation reviews per year (23,026 dischargers × 2%) in states and authorized tribes that currently do not evaluate a range of non-degrading and minimally degrading alternatives for all Tier 2 antidegradation reviews.

EPA estimates the rule provisions related to performing/evaluating alternative analyses that evaluate a range of non-degrading and minimally degrading alternatives could result in incremental burden and cost as follows:

- The incremental effort needed to identify and evaluate a range of non-degrading and minimally degrading alternatives for one Tier 2 antidegradation review requires approximately 30 hours (100 hours 30%) to 90 hours (300 hours 30%) on basis of EPA's estimate that performing/evaluating a single Tier 2 antidegradation review that does not include an alternatives analysis requires approximately 100 hours to 300 hours, and that including an alternatives analysis could increase the level of effort by approximately 30%.

- Per review cost ranges from $1,500 ($49 per hour 30 hours) to $4,400 ($49 per hour 90 hours).
- Total annual burden ranges from 13,830 hours (30 hours 461 reviews) to 41,490 hours (90 hours 461 reviews).
- Total annual cost ranges from $692,000 ($1,500 461 reviews) to $2,028,000 ($4,400 461 reviews).

Note that these are average estimates, and do not reflect potential differences in water quality and the geographical distribution of dischargers relative to Tier 2 waters.

6.1.5.4 More Antidegradation Reviews Because More Waters are Receiving Tier 2 Protection

EPA estimates there are a total of 25,780 individual NPDES-permitted dischargers within states and authorized tribes that currently use a water body-by-water body method to identify waters requiring Tier 2 protection that does not comply with the requirements of the rule. EPA estimates the number of potential additional Tier 2 reviews states and authorized tribes may need to perform/evaluate using the percent of the total number of NPDES-permitted dischargers from Missouri and Iowa (2%, a midpoint across the two states), that currently exclude waters from Tier 2 protection based on the impairment of one parameter. EPA assumes that only 50% of the additional reviews will occur, whereas for the other 50%, states and authorized tribes will not provide Tier 2 protection and simply provide public notice of their decision. Thus, EPA estimates that there will be 258 additional antidegradation reviews (25,780 dischargers × 2% × 50%).

EPA estimates the rule provisions related to performing/evaluating additional Tier 2 antidegradation reviews could result in incremental burden and cost as follows:

- Per review effort ranging from 130 hours [100 hours + (100 hours × 30%)] to 390 hours [(300 hours + (300 hours × 30%)], based on the estimate of labor hours to review antidegradation requests with and without alternative analyses (see Section 6.1.5.3).
- Per review cost ranging from $6,400 ($49 per hour × 130 hours) to $19,100 ($49 per hour × 390 hours).
- Total annual burden ranging from 33,540 hours (130 hours × 258 reviews) to 100,620 hours (390 hours × 258 reviews).
- Total annual cost ranging from $1,651,000 ($6,400 × 258 reviews) to $4,928,000 ($19,100 × 258 reviews), based on EPA’s estimate that 258 additional antidegradation requests may need to be reviewed because states and authorized tribes provide Tier 2 protection for waters with impairment of one parameter.

6.1.6 WQS Variances

The WQS variances provisions of the rule may result in burden and cost by requiring states and authorized tribes to submit additional materials to the EPA when requesting review and approval of a WQS variance, and to reevaluate a WQS variance longer than five years no less frequently than every five years and submit the results of the reevaluation to EPA.

6.1.6.1 Submission Requirements

EPA estimates the rule provisions related to submission requirements of WQS variance could result in incremental burden and cost as follows:

- EPA estimates the incremental burden associated with the additional submission requirements of the rule ranges from 31 hours (125 hours × 25%) to 75 hours (300 hours × 25%) on the basis of EPA's estimate that current development and documentation of a single WQS variance requires on average 125 to 300 labor hours, and including the additional information and documentation required in the rule would increase that effort by 25%.
- The incremental cost for each WQS variance ranges from $1,520 ($49 per hour 31 hours) to $3,680 ($49 per hour 75 hours).
- Total burden ranges from 29,760 hours per year (31 hours per request × 10 requests per year × 96 states and authorized tribes) to 72,000 hours per year (75 hours per request × 10 requests per year × 96 states and authorized tribes) on the basis of EPA's estimate that states and authorized tribes review on average 10 WQS variances each year, and that all 96 states and authorized tribes do not currently fulfill all of the submission requirements specified in the rule.
- Total annual cost range from $1,459,000 per year ($1,520 per request × 10 requests per year × 96 states and authorized tribes) to $3,533,000 per year ($3,680 per request × 10 requests per year × 96 states and authorized tribes).

6.1.6.2 Reevaluations

EPA estimates the rule provisions related to WQS variance reevaluation requirements could result in incremental burden and cost as follows:

- EPA estimates the incremental burden for each WQS variance reevaluation ranges from 23 hours (156 hours × 15%) to 56 hours (375 hours × 15%) on the basis of EPA's estimate of 156 hours to 375 hours to develop and document a single WQS variance and an additional 15% of this effort is needed for each WQS variance reevaluation.

- The cost per entity for WQS variance reevaluations ranges from $11,300 (23 hours per reevaluation × 10 reevaluations per year × $49 per hour) to $82,300 (56 hours per reevaluation × 30 reevaluations per year × $49 per hour) on the basis of EPA's estimate that all 96 states and authorized tribes adopt an average of 10 WQS variances each year with a term of 10 years and will reevaluate all WQS variances either every three years (27 per 10 years, rounded to 30) during the triennial review or every five years (10 per 10 years) during permit reissuance.
- Total annual incremental burden ranges from approximately 22,080 hours (23 hours per reevaluation × 10 WQS variances per year × 96 states and authorized tribes) to 161,280 hours (56 hours per WQS variance × 30 reevaluations per year × 96 states and authorized tribes).
- Total annual cost ranges from approximately $1,085,000 (22,080 hours per × $49 per hour) to $7,901,000 (161,280 × $49 per hour).

6.1.7 Summary of Burden and Cost

Summing the total incremental burden across all provisions, the total one-time (nonrecurring) burden associated with the rule ranges from 54,450 hours to 108,900 hours. Assuming that the total one-time burden and cost are incurred over an initial 3-year period, annual burden associated with one-time activities ranges from 18,150 (54,450 hours ÷ 3 years) to 36,300 (108,900 hours ÷ 3 years) hours. The total annual (recurring) burden ranges from 106,425 hours to 402,780 hours. Similarly, the total one-time incremental cost for all provisions are between $2.67 million and $5.34 million, which corresponds to annual cost associated with one time activities of between $0.89 million ($2.67 million ÷ 3 years) and $1.78 million ($5.34 million ÷ 3 years). Total annual incremental cost range from $5.24 million to $19.73 million. Table Burden, Cost, and Benefit of the Collection-2Error: Reference source not found provides a summary of the estimated national cost to all states and authorized tribes.

Table Burden, Cost, and Benefit of the Collection-2: Summary of Burden and Cost				
Provision	**One-time Activities[1]**		**Annual Activities**	
	Burden (hours/year)	**Cost (2013$ million/year)**	**Burden (hours/year)**	**Cost (2013$ million/year)**
Rulemakings	16,000 – 32,000	$0.78 - $1.57	--	--
Designated uses	--	--	2,250 - 4,500	$0.11 - $0.22
Triennial review	--	--	4,320 - 21,600	$0.21 - $1.06
Antidegradation	2,150 – 4,300	$0.11 - $0.21	48,015 - 143,400	$2.37 - $7.02
WQS Variances	--	--	51,840 - 233,280	$2.54 - $11.43
Total	**18,150 – 36,300**	**$0.89 - $1.78**	**106,425 - 402,780**	**$5.24 - $19.73**
'--' = not applicable 1. Total one-time burden and cost divided over the 3-year period (for Rulemaking, see Section 6.1.1; for Antidegradation, see Section 6.1.5).				

Error: Reference source not found provides a summary of the annual burden hours (based on dividing one-time activities equally over the three-year period to obtain an annual equivalent) and number of responses. EPA estimates a total annual burden of 124,575 – 439,080 hours, for 3,176 to 5,096 responses per year. Thus, the average burden per response ranges from 39.2 (124,575 hours ÷ 3,176 responses) to 86.2 (439,080 hours ÷ 5,096 responses) hours.

Table Burden, Cost, and Benefit of the Collection-3: Summary of Information Collection Request[1]		
Provision	**Burden (hours)**	**Number of Responses**
Rulemakings[2]	16,000 - 32,000	32
Designated uses	2,250 - 4,500	15
Triennial review	4,320 - 21,600	432
Antidegradation: implementation methods	645 - 1,290	43
Antidegradation: Tier 2 protection[2]	2,150 - 4,300	15
Antidegradation: alternatives analyses	13,830 - 41,490	461

Table Burden, Cost, and Benefit of the Collection-3: Summary of Information Collection Request[1]		
Provision	**Burden (hours)**	**Number of Responses**
Antidegradation: additional requests	33,540 - 100,620	258
WQS Variances: submission requirements	29,760 - 72,000	960
WQS Variances: reevaluations	22,080 - 161,280	960 - 2,880
Total	**124,575 - 439,080**	**3,176 - 5,096**
1. Annual for three years. 2. Number of responses for one-time activities divided by three years (for Rulemaking, see Section 6.1.1; for Antidegradation, see Section 6.1.5).		

Error: Reference source not found provides a summary of the uncertainties associated with the estimates.

Table 6-4: Uncertainties in the Analysis		
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 depend on a number of factors including state and authorized tribe sizes, level of economic activity involving dischargers to water, as well as existing regulatory framework and may be higher or lower than EPA's estimates. The estimates do not account for potential reductions in burden resulting from the increased clarity provided by the rule.
Number of states and authorized tribes affected by each provision is uncertain.	?	Actual number of states and authorized tribes that will incur cost could be higher or lower than EPA estimates.

Table 6-4: Uncertainties in the Analysis		
Key Assumption/Uncertainty	**Potential Impact on Estimated Burden and Cost**	**Comment**
Labor cost is based on state government wage rates.	?	The mix of labor categories (e.g., environmental scientist, engineer, etc.) may be different for individual states from the mix that EPA used to calculate a wage rate. Also, labor cost for authorized tribes and territories may differ from states.
States and authorized tribes are not currently documenting their reasons for not adopting new or revised criteria during the triennial review process for parameters for which EPA published new or updated CWA section 304(a) criteria recommendations.	+	The cost may be overestimated because the WQS regulation already requires states and authorized tribes to submit the results of their triennial review to EPA. If this submission includes explanation as to why new or revised criteria are not adopted for parameters for which EPA published new or updated CWA section 304(a) criteria recommendations, the cost could be lower.
States and authorized tribes do not currently involve the public in antidegradation determinations or in the development of their implementation methods.	+	The cost is overestimated for states and authorized tribes that already solicit public involvement in accordance with the WQS regulation revisions.

Table 6-4: Uncertainties in the Analysis		
Key Assumption/Uncertainty	**Potential Impact on Estimated Burden and Cost**	**Comment**
States or authorized tribes do not reevaluate WQS variances at regular intervals.	+	The cost is overestimated for states and authorized tribes that reevaluate WQS variance at least every 3 - 5 years.
All states and authorized tribes undertake a rulemaking effort in response to today's rule.	+	States and authorized tribes that already have policies and methods consistent with EPA's rule do not incur an incremental cost.
The number of Tier 2 antidegradation requests per year is based on information from two states (Iowa and Missouri).	?	The actual number of Tier 2 antidegradation requests per state or authorized tribe may be higher or lower than EPA's estimates.
WQS variances last for 10 years.	?	The number of reevaluations per WQS variance depends, in part, on the duration of the WQS variance. Shorter WQS variance periods result in fewer reevaluations and vice versa.
States and authorized tribes may be required to undertake activities related to the rule that EPA has not identified in this analysis.	–	To the extent that affected states and authorized tribes may be required to undertake additional activities that EPA has not identified in this analysis, the analysis may underestimate actual burden and cost.

Table 6-4: Uncertainties in the Analysis		
Key Assumption/Uncertainty	**Potential Impact on Estimated Burden and Cost**	**Comment**
Incremental cost to the Agency is equal to 20% of the cost to states and authorized tribes.	+	The burden on the Agency to review and approve WQS materials submitted by states and authorized tribes may be overestimated.
Key: "+" = Burden and cost potentially overestimated "-" = Burden and cost potentially underestimated "?" = Impact on burden and cost uncertain		

6.1.8 Incremental Agency Burden

In addition to the potential burden and cost to states and authorized tribes, the rule could result in incremental burden and cost to EPA associated with reviewing the WQS program information submitted by states and authorized tribes. 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 and authorized tribes. Thus, EPA estimates that one-time incremental cost to the Agency could range from $534,000 ($2,670,000× 20%) to $1,067,000 ($5,336,000 × 20%), and annual incremental cost could range from $1,048,000 ($5,239,000 × 20%) to $3,946,000 ($19,732,000 × 20%). Annual incremental cost associated with one-time activities could range from $178,000 (534,000 ÷ 3 years) to $356,000 ($1,067,000 ÷ 3 years).

EPA assumes that review of WQS program submissions would be performed by General Schedule (GS) 13, Step 5 federal employees (including EPA regional staff). In 2013, the average hourly wage rate for all federal employees at this grade and step was $47.13 per hour (U.S. Office of Personnel Management 2013).[4] 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 $75.41 ($47.13 per hour + (60% × ($47.13 per hour)). Full-time equivalent (FTE) employees work 2,080 hours per year (40 hours per week × 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 2,360 hours ($534,000÷ $75.41 per hour ÷ 3 years)

[4] The employees reviewing and approving WQS materials submitted by states and authorized tribes 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 2013.

to 4,717 hours ($1,067,000 ÷ $75.41 per hour ÷ 3 years). These one-time incremental burden estimates correspond to 1.1 FTEs (2,360 burden hours ÷ 2,080 hours worked per FTE per year) to 2.3 FTEs (4,717 burden hours ÷ 2,080 hours worked per FTE per year) each year for three years.

Estimated annual incremental burden to EPA ranges from 13,900 hours per year ($1,048,000÷ $75.41 per hour) to 52,320 hours per year ($3,946,000÷ $75.41 per hour). These annual incremental burden estimates correspond to 6.7 FTEs per year (13,900 burden hours ÷ 2,080 hours worked per FTE per year) to 25.2 FTEs per year (52,320 burden hours ÷ 2,080 hours worked per FTE per year).

Table Burden, Cost, and Benefit of the Collection-5 summarizes the potential incremental annual burden and cost to the Agency associated with the rule.

Table Burden, Cost, and Benefit of the Collection-5: Potential Incremental Burden and Cost to the Agency

One-time Activities[1]			Annual Activities		
Annual Cost (2013$ million per year)	Burden per year		Cost[1] (2013$ million per year)	Burden per year	
	Hours[2]	FTEs[3]		Hours[2]	FTEs[3]
$0.18 - $0.36	2,360 - 4,717	1.1 - 2.3	$1.05 - $3.95	13,900 – 52,320	6.7 – 25.2

FTE = full-time equivalent
1. Total one-time cost and burden divided equally over the three-year period.
2. Total annual cost to the Agency divided by hourly wage rate ($75.41 per hour).
3. Annual burden to the Agency divided by hours worked by FTE employees per year (2,080 hours per year).

6.2 Potential Incremental Benefits Associated with the Rule

The CWA establishes the national objective to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters," and to achieve "wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and for recreation in and on the water." The requirements of the CWA implementing regulations provide a strong foundation for water quality-based controls, including water quality assessments, impaired waters lists, and total maximum daily loads (TMDLs) under CWA section 303(d), as well as for WQBELs in NPDES discharge permits.

As with the development and operation of any program, a number of policy and technical issues have recurred over the past 31 years in individual standards reviews, stakeholder comments, and

litigation. Clarifying, updating and revising the WQS regulation to ensure greater public transparency, better stakeholder information, and more effective implementation may address and more efficiently resolve these issues. All states and authorized tribes that implement a WQS program benefit to some degree from the clarifications and revisions to the WQS regulation.

The rule also improves the CWA's effectiveness of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters. One market benefit is water supply and use, including drinking water treatment and household water use, agricultural water use, reservoir dredging, and industrial water use. Other market benefits consist of commercial fishing and public and private property ownership. Nonmarket benefits include human health improvements, recreational benefits, and nonuse benefits.

6.3 Reasons for Change in Burden

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

6.4 Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to range from 39.2 to 86.2 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.