Amendment to Regulatory Reinvention Pilot Projects (Project XL)

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AMENDMENT TO REGULATORY REINVENTION PILOT PROJECTS (PROJECT XL)

1.0 SHORT CHARACTERIZATION

This is an amendment to a currently approved ICR No. (1755.05) to cover changes in information collection associated with the XL pretreatment projects as part of Project XL.
In the June 23, 1998, Federal Register (63 FR 6113-6), EPA requested proposals for XL projects from Publically Owner Treatment Works (POTWs) based on environmental performance measures for the pretreatment program. In order to implement pretreatment projects resulting from that request, EPA is proposing a rule that would provide regulatory flexibility under the Clean Water Act (CWA). The rule proposes revisions to the national pretreatment regulations at 40 CFR 403 that would allow the selected POTWs to modify their local pretreatment programs. These POTWs will then need to submit revised pretreatment programs for approval and obtain modified permits to authorize the POTW to implement its pilot program instead of its current Approved POTW Pretreatment Program. In addition, the affected states may first need to revise their own regulations or statutes to authorize the pilot programs for pretreatment XL project sponsors before this rule can be implemented in their jurisdictions. As of September11, 2000, five POTWs have advanced to the final steps of the Project XL process. These POTWs include: the Narragansett Bay Commission (NBC), Louisville and Jefferson County Metropolitan Sewer District (MSD), Metropolitan Water Reclamation District of Greater Chicago (Chicago), City of Albuquerque (Albuquerque) and City of Denton (Denton).

It is anticipated that several program flexibilities will be requested in program modification applications, made available, but not specifically offered by the rule. Possible program flexibilities that offer the potential to affect 9 or more facilities are described below. None of Denton=s flexibilties have the potential to affect 9 or more facilities and therefore will not be described. The FPA for NBC lays out the following flexibilities: (1) reduced self-monitoring requirements for ten (10) categorical industrial users (CIUs) for tier 1 facilities, (2) reduced inspection frequency for ten (10) CIUs tier 1 facilities from once every year to once every two years and, (3) allow participating CIUs tier 1 facilities to not sample for pollutants not expected to be present. Under the FPA for MSD, the POTW is requesting flexibility to (1) use an alternative definition for significant industrial user (SIU), (2) allow participating CIUs to not sample for pollutants not expected to be present and (3) use an alternative definition of significant noncompliance (SNC). The Chicago FPA describes flexibility that includes (1) use of an alternative (in relation to the pretreatment streamlining proposal) definition for de minimis categorical industrial user (CIU) and (2) reduced self-monitoring and self-reporting requirements for participating CIUs and (3) use alternative monitoring methods. The Albuquerque FPA lays out flexibility to (1) use an alternative

definition of SIU, (2) use an alternative definition of SNC, (3) reduce permitting requirements for participating IUs, (4) use alternative monitoring methods and (5) reduce reporting requirements for participating IUs. The Denton FPA lays out flexibility to (1) reduce its monitoring of participating IUs and (2) reduce its inspection of participating IUs. In exchange for these flexibilities, each individual POTW would need to commit to produce certain proportional amounts of superior environment performance as laid out in the FPA and maintain all legal and preventative environmental health and safety standards. Complete project site-specific descriptions can be found on the web at: http://www.epa.gov/projectxl/.

Background on Project XL

Project XL, which stands for "eXcellence and Leadership," is a national pilot program that tests innovative ways of achieving better and more cost-effective public health and environmental protection. Through site-specific agreements with project sponsors, EPA is gathering data and project experience that will help the Agency redesign current approaches to public health and environmental protection.

The intent of Project XL is to allow the EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide superior environmental performance and other benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow the EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. EPA may modify rules, on a site- or state-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Under Project XL, sponsors -- private facilities, multiple facilities, industry sectors, Federal facilities, communities, and states -- can implement innovative strategies that produce superior environmental performance, provide flexibility, cost savings, paperwork reduction or other benefits to sponsors, and promote greater accountability to stakeholders.

In the case of the XL pretreatment Projects, and any other XL project, adoption of such alternative approaches or interpretations in the context of a given project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether or not they are viable in practice and successful for the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, it expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the

alternative approach or interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and/or interpretations, on a limited, site- or state-specific basis and in connection with a carefully selected pilot project, such as the XL pretreatment Projects, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as EPA acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing reevaluation of environmental programs, is reflected in a variety of statutory provisions, e.g., section 104 of CWA.

Overview of Rulemaking

The proposed rulemaking will modify 40 CFR Part 403 to allow Pretreatment Approval Authorities (EPA or State) to grant regulatory flexibility to selected Project XL POTWs with approved Final Project Agreements (FPAs). The regulatory flexibility would allow these specific POTWs to implement Pretreatment Programs that include legal authorities and requirements that are different than the administrative requirements in 40 Part CFR 403. The POTW would need to submit any such alternative requirements as a substantial program modification in accordance with the procedures outlined in 40 CFR 403.18. The approved modified program would need to be incorporated as an enforceable part of the POTW's NPDES permit. The Approval Authority would approve or disapprove the pilot program using the procedures in 40 CFR 403.18.

For example, the POTW would work through the Project XL process and either would or has already developed the necessary FPA with stakeholder participation (local interest groups, State representatives, EPA, any other interested parties). The POTW would use the FPA as the blueprint when developing a revision of the POTW's approved local pretreatment program. The POTW would submit the revised program to its Approval Authority (State or EPA region) requesting a substantial program modification using the procedures outlined in 40 CFR 403.18. The Approval Authority would review the program modification request to determine that it contains the provisions of the FPA and makes a determination to approve or deny the request. The proposal for modification is publicly noticed following the procedures in 40 CFR 403.11 and 40 CFR 403.18. After the close of the public comment period, the Approval Authority will consider and respond to public comments and revise the POTW's pretreatment program accordingly. Then the POTWs NPDES permit will be modified by adding the modified pretreatment program as an enforceable part of the permit. Descriptions for program modifications anticipated in the near future are described below.

Local Pilot Pretreatment Programs may not have to implement certain currently required pretreatment program elements if they are not necessary for the achievement of the POTW's environmental objectives. The resources saved from not implementing these program elements could

then be redirected to other means of achieving and measuring environmental performance.

EPA proposes that a Local Pilot Pretreatment Program would still need to include adequate legal authority to identify and control industrial users, and the authority to take appropriate and necessary enforcement actions. These authorities would then be supported by a set of procedures. The legal authority and procedures must be clearly explained in the POTW's proposal.

Specifically, the Local Pilot Pretreatment Programs would still be required to develop/maintain legal authority and ensure compliance with categorical pretreatment standards and local limits, including taking necessary enforcement actions. The POTW would be required, at a minimum, to identify industrial users that are subject to categorical standards, receive and review reports from the categorical users, and take enforcement action as appropriate based on the reports received. The Local Pilot Pretreatment Programs would also be required to develop and implement procedures to operate their programs such as permitting, inspection and monitoring, and technically-based local limits. However, the procedures would not necessarily have to include the prescriptive permitting or reporting requirements in 40 CFR 403.8(f) or 403.12 . The POTW may not necessarily be expected to permit a specific subset of industrial users designated by the federal regulations, but instead would have the latitude to decide which industrial users need permits. The POTW would be expected to monitor (sample and inspect) industrial users, but would be able to decide how often to monitor the users. These procedures would likely involve modifying existing program procedures rather than developing new procedures. Industrial users would continue to be subject to all currently applicable requirements; except that, as described above, a Local Pilot Pretreatment Program may alter the timing of certain reports and may consider certain industrial users that are subject to national categorical standards to no longer be SIUs.

Environmental Benefits

These XL projects are expected to achieve superior environmental performance beyond that which is achieved under the current CWA regulatory system by allowing local agencies the ability to identify environmental goals and allocate the necessary resources on a site specific local basis. Specifically, these projects are expected to produce additional benefits by (i) reducing pollutant loadings to the environment or some other environmental benefit beyond that currently achieved through the existing pretreatment program (including collecting environmental performance data and data related to environmental impacts in order to measure the environmental benefit), (ii) reduced or optimized costs related to implementation of the pretreatment program with the savings used to attain environmental benefits elsewhere in the watershed in any media, and (iii) providing EPA with information on how the pretreatment program might be better oriented towards the achievement of measures of environmental performance. These objectives are consistent with the principles of the National Performance Review.

EPA's intent is to allow Local Pilot Pretreatment Programs to be administered by those POTWs that best further those objectives. Each pilot program's method of achieving the environmental benefit should be transferable so that other programs may be able to implement the method and also achieve increased environmental benefits.

Economic Benefits

The XL pretreatment projects will encourage the sponsors and additional participating facilities to reduce their materials usage, energy and water consumption and overall effluent emissions. This may result in reduced energy, water and materials costs for the facilities without diminishing the level of environmental protection. Assuming the participating IUs in the sponsors' sewersheds discharge lower levels of pollutants to the POTWs, the POTWs may benefit from lower treatment costs. To the extent monitoring and reporting frequencies are reduced under this project, reduced expenditures may result. Self-audits and reductions in hazardous waste disposal may identify further environmental and economic benefits.

2.0 NEED FOR AND USE OF THE COLLECTION

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2.1.1 Need / Authority for the Collection

Section 402(b) of the Clean Water Act requires EPA to develop national pretreatment standards to control industrial discharges into sewage systems. The purpose of these standards is to prevent contaminant pass-through or interference with treatment plant operations that may result in either damage to the environment or a threat to public health. Several serious problems can occur when industrial wastes are discharged into sewage systems, notably:

- *Pass-through of toxic pollutants into receiving waters*. Industrial pollutants that pass through treatment systems into receiving waters can cause fish kills, increase the risk of cancer in humans, and render receiving waters unsuitable for drinking and/or recreation.

- *Interference with treatment plant operations*. Municipal wastewater treatment systems are designed to handle typical household wastes and biodegradable commercial and industrial wastes. Toxic industrial compounds that do not pass directly through the system may interfere with plant operations.

- *Contamination of sewage sludge*. Toxic compounds remaining in sewage sludge may render it incompatible for certain disposal methods, such as land application, placement on

a surface disposal site, or incineration.

- *Corrosion of pipes and equipment.* Industrial discharges with extremely high or low pH values can cause corrosion in the sewage collection system or the treatment plant, resulting in the need for repair or replacement of pipes and equipment.

- *Explosion of highly volatile wastes.* Industrial wastes may explode during treatment operations as a result of inadvertent mixing of highly volatile compounds, causing widespread damage to treatment facilities and posing a serious risk to plant operators.

- *Interaction of wastes to produce toxic gases.* Industrial discharges such as highly acidic wastes can interact with other wastes in the collection system, resulting in the release of toxic gases.

EPA has developed the national standards for the pretreatment program to accommodate circumstances common to all sewage systems, as well as those served by specific industries. These standards apply regardless of whether the source is subject to other Federal, State, or local pretreatment standards. First, the regulations establish general and specific discharge standards (40 CFR 403.5(a) and (b)) that apply to all IUs. The general prohibitions forbid the discharge of pollutants that may interfere or pass through the treatment works, thereby causing upset of treatment capability or addition of untreated or inadequately treated wastes. As stated in the previous Pretreatment ICR, the specific prohibitions forbid the discharge of pollutants that create a fire or explosion hazard, are highly corrosive, obstruct the treatment processes or system flow, cause interference or pass through, increase the temperature of wastewaters entering the plant to above 104°F, cause worker health or safety problems, or are trucked or hauled to the POTW (except as allowed by the POTW).

In addition to the national pretreatment standards, other standards have been developed for specific categories of industry. These standards, called categorical pretreatment standards, differ from national pretreatment standards because they specify quantities or concentrations of certain pollutants or pollutant properties that may be discharged to a POTW by IUs in specific industrial categories. [EPA develops these categorical standards to restrict the discharge of certain toxic pollutants that EPA has identified as posing the greatest threat to human health or the environment.] Facilities subject to categorical pretreatment standards must also comply with national pretreatment standards.

Lastly, EPA requires the Control Authority to develop and enforce limits according to local, site-specific situations to ensure that the general and specific prohibitions are met by IUs (40 CFR 403.5(c)). These local limits are Federally enforceable pretreatment standards, as defined in Section 307(d) of the Clean Water Act. If local limits are more stringent than categorical standards, the more stringent limit applies and is enforceable as a Federal standard.

EPA, together with the various Approval and Control Authorities, implements these standards through implementation of the National Pretreatment Program. The information collected under this

program is needed to:

- Authorize State and local programs,
- Monitor and enforce compliance with the national standards, and
- Determine applicability of the categorical standards.

2. 2 USE AND USERS OF THE DATA

The revised information collection requirements associated with the proposed rule will be utilized by POTWs to continue to monitor facilities' compliance with program requirements and to ensure that any changes will protect the treatment facilities and its workers from adverse affects. The POTWs would use the information to verify that the participating facilities are in compliance with all relevant requirements of their pretreatment programs.

In general, users of the information associated with proposed site-specific rule changes will continue to use the information to assess overall program management as discussed in more detail in the existing ICR (EPA ICR No. 0002.08).

The information collection requirements associated with the project goals outlined in the FPA will be used by EPA to determine if the participating facilities are meeting the goals of the projects and to determine whether the XL projects are successful. The success of the projects will help determine whether they should be extended to other areas of the country. Additionally, this information will be used by the public to track the progress of the projects.

3.0 NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3.1 Non-duplication

The information to be obtained under this ICR has not been collected by EPA or any other state or local agency.

3.2 Public Notice Required Prior to ICR Submission to OMB

The proposed rule will be published in the Federal Register prior to submitting the ICR to OMB for review. The proposed rule addresses Paperwork Reduction Act requirements.

3.3 Consultations

EPA has been working with stakeholders to learn how to direct the pretreatment program toward the achievement of environmental goals. In 1993, pursuant to a Cooperative Agreement with EPA, the Association of Metropolitan Sewage Agencies (AMSA) assembled a 16-member steering committee to explore environmental measures of performance of pretreatment programs. The committee consisted of federal and state approval authorities, local and state control authorities, industrial users, and environmental groups. This committee helped shape the original research and reviewed findings to identify appropriate measures of performance.

The Committee identified 18 measures for assessing the performance of a pretreatment program. Consistent with the committee's belief that an adequate program would need to be judged by environmental trends, compliance rates, and procedural or programmatic criteria, the measures were separated into the following three categories: Measures of Trends in Pollutant Loadings and Concentrations; Measures of Compliance with Requirements; and Procedural or Programmatic Measures.

EPA then funded a second multi-stakeholder peer review group assembled by AMSA to evaluate the extent to which POTWs were using or collecting data to support these measures. The evaluation consisted of site visits to five case study cities. During the site visits, the researchers collected data on the current status of performance measurement and investigated ways to redirect the pretreatment program using a broader array of environmental indicators. The final report (Case Studies in the Application of Performance for POTW Pretreatment Programs, May 1997), presented ``preliminary conclusions regarding the use of environmental indicators within the broader context of streamlining the pretreatment program to meet objectives of the Clean Water Act while better serving the needs of local communities and the nation as a whole."

One of the principal findings of the May 1997 report was a recommendation for ``Pilot Programs" to investigate performance measures. The report recommended pilot programs as a means to phase-in and promote reinvention efforts at low risk. Specifically, the Report suggested: “Under such a strategy, only those wastewater utilities that could demonstrate readiness to manage locally directed programs would be eligible for a pilot. Once eligible, the exact dimensions of each local program would be negotiated with the public and the appropriate Approval Authority. Administrative orders or enforcement discretion could be used during the pilot to allow local priorities to shape local programs in place of strict compliance with national program regulations under 40 CFR part 403. Accountability would be sustained through agreed upon measures of performance.”

The August 1996 WEF/AMSA Pretreatment Streamlining Workshop also recommended

creating a fundamentally more innovative and results-oriented pretreatment program that focussed on environmental endpoints. The Workshop's final report recommends a national pretreatment program consisting of three different tiers or options for local programs. One option would be a performance approach that would provide POTWs with flexibility in administering various aspects of their pretreatment programs in exchange for evaluating the accomplishments of the programs based on a series of designated performance-based measures that had been agreed upon by all stakeholders.

Finally, AMSA hosted a 1997 stakeholder meeting in Chicago where more than 20 members of key stakeholder groups, including POTWs, federal and state regulators, and industrial users, discussed all of these previous efforts and portions of this proposal. The attendees at the meeting did not reach consensus on a methodology for addressing environmental performance measures, but one recommendation was to pursue a change to the regulations that would allow pilot programs to test some alternate approaches.

In 1998, the EPA solicited proposals for local pretreatment program pilots under Project XL. After completing Final Project Agreements with the proposal sponsors and interested stakeholders, the Agency prepared the formal proposed rulemaking notice as a legal implementing mechanism for the projects that is addressed in this ICR.

The Final Project Agreements were published for notice and comment. The Agency plans to have additional discussions with interested parties during the comment period to help ensure that the Agency has the views of such parties and the best possible data upon which to base decision for the final rule.

3.4 Effects of Less Frequent Collection

The changes in information collection requirements resulting from the proposed rule will generally reduce burden information collection beyond the original minimum requirements. As long as project updates show that all other preexisting requirements and pollutant reduction goals are being met, the project sponsors will be able to enjoy the administrative benefits until the end of the projects. Without the flexibility and anticipated resulting program modifications described above, participating facilities are required to monitor and report on pollutant discharge at least twice per year and the POTWs do not have as much operational discretion. Also under the anticipated program modifications, several facilities will be able to certify that a pollutant is not expected to be present and will no longer be required to sample and analyze effluent for that particular pollutant.

Annual reporting on goals established in the FPAs, separate from the proposed rule, will

impose additional information collection requirements on the sponsors and participating facilities. Although annual reporting is required in order to participate in the XL pretreatment project, participation in the XL project itself is strictly voluntary. The annual reporting by the sponsors will provide invaluable data on the success of the XL projects which will be incorporated into the EPA's annual report on Project XL. In addition, this information will be used by the Administration in evaluating Project XL.

3.5 General Guidelines

All of the collection activities described within this ICR fall within OMB's General Guidelines.

3.6 Confidentiality

None of the information that will be collected is confidential in nature.

3.7 Sensitive Questions

No information of a sensitive nature will be required to be submitted by the respondents in the XL pretreatment projects.

4.0 THE RESPONDENTS AND THE INFORMATION REQUESTED

4.1 Respondents and SIC Codes

Respondents and their assigned Standard Industrial Classification (SIC) codes follows. Additionally, EPA estimates that once the proposed rule is finalized and all the FPAs signed, non-sponsor facilities will participate. Burden estimates reflect this.

Respondents include POTWs, certain classifications of IUs, and States submitting requests for program approval. IUs potentially affected by the regulation include the following categories of industries:

Affected Industry	SIC Code(s)*
Adhesive/sealant	2891
Air and Water Resource/Solid Waste Management	9511
Aluminum Forming	33
Asbestos Manufacturing	3292
Battery Manufacturing	369
Builder's Paper and Board Mills	267
Carbon Black Manufacturing	2895
Cement Manufacturing	327

Affected Industry	SIC Code(s)*
Coal Mining	12
Coil Coating	367
Copper Forming	3351
Dairy Products Processing	202
Electrical and Electronic Components	36
Electroplating	3471
Explosives Manufacturing	2892
Feedlots	0211
Ferroalloy Manufacturing	106
Fertilizer Manufacturing	147
Foundries	332, 3365, 3366
Fruits and Vegetables Processing Manufacturing	203
Glass Manufacturing	32
Grain Mills Manufacturing	204
Gum and Wood Chemicals	2861
Ink Formulating	2893
Inorganic Chemicals	281
Iron and Steel Manufacturing	332
Leather Tanning and Finishing	3111
Meat Processing	201
Metal Finishing	346, 3449, 347
Metal Molding and Casting	34
Non-Ferrous Metals Forming and Metal Powders	33
Ore Mining and Dressing	1081
Organic Chemicals, Plastics, and Synthetic Fibers	286
Paint and Ink Formulation	286, 289
Paving and Roofing (Tars and Asphalt)	295
Pesticides Formulating, Packaging, and Repackaging	287
Pesticides Manufacturing	287
Petroleum Refining	2911
Pharmaceuticals Manufacturing	2834
Phosphate Manufacturing	1475
Photographic Supplies	3861
Plastics and Synthetics	308
Porcelain Enameling	3479
Printing and Publishing	2731
Pulp, Paper, and Paperboard	26
Rubber Processing	30
Seafood Processing	2091
Soaps and Detergents Manufacturing	284
Steam Electric Power Generation	4911

Affected Industry	SIC Code(s)*
Textile Mills	22
Timber Products and Processing	24

* Note that in some cases industries are categorized by only two- or three-digit SICs.

Among the IUs that are respondents, some are considered to be significant industrial users (SIUs) based on certain criteria. SIUs are defined in 40 CFR 403.3(s) as the following types of facilities:

- All IUs subject to categorical pretreatment standards, and
- All IUs not subject to categorical pretreatment standards that:
  - discharge an average of 25,000 gallons per day or more of process wastewater,
  - contribute a process wastestream equal to or greater than 5 percent of the receiving treatment plant's average dry weather hydraulic or organic capacity, or
  - have a reasonable potential to adversely affect the POTW's operation or violate any pretreatment standard or requirement as determined by the Control Authority.

4.2 INFORMATION REQUESTED

A detailed summary of the respondent activities and frequency of collection is provided in Exhibit 4 in the current, authorized ICR (EPA ICR No. 0002.08). Most of the information requirements specified, particularly those associated with program development and program/categorical determination, are one time only requirements that have already been met by most States, POTWs, and industrial users.

As previously discussed in section 2.1.1, some of the proposed regulatory change addressed in this ICR would require a one-time submittal of additional information. In all cases these requirements are completely voluntary; there will be no new information requirements unilaterally imposed upon industrial users or POTWs if both parties do not agree to apply for and/or the proposed regulatory change.

The overall burden and types of impacts for the proposed regulatory change are shown in section 6.

5.0 THE INFORMATION COLLECTED: GOVERNMENT ACTIVITIES,

COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5.1 GOVERNMENT ACTIVITIES

As Oversight Authority, EPA Regional Offices oversee State pretreatment programs. This activity includes reviewing certain requests, such as the Pretreatment Categorical Determination Request and the Fundamentally Different Factors Request. Oversight Authorities also receive requests from States seeking approval for their pretreatment programs. Oversight Authorities must then review these requests for completeness.

EPA Regional Offices act as Approval Authority in States that do not have approved programs. As the Approval Authority, a Regional Office reviews POTW programs for adequacy, audits and inspects approved POTWs, enforces against POTWs for failure to implement regulations, enforces pretreatment standards against IUs not in compliance (where the POTW does not take action). An Approval Authority may also inspect IUs to assess compliance.

EPA Regional Offices also act as Control Authority in cases where neither the State nor the POTW has an approved program. As Control Authority, a Regional Office has primary responsibility for implementing the pretreatment program. The Regional Office acting as Control Authority would need to notify SIUs of their status and obligations, review applications for discharge permits, and determine which IUs need to take action to reduce the risk of spills or batch discharges. The Control Authority also ensures that IUs comply with discharge limitations and reporting requirements, inspects and/or reviews self-monitoring reports from IUs, enforces against non-complying IUs, and notifies the public of significant violators.

5.2 COLLECTION METHODOLOGY AND MANAGEMENT

Under this ICR, the sponsors may allow participating facilities to submit only one annual discharge monitoring report if certain conditions are met. There will be no increase in the type of information being collected from what is currently authorized under the National Pretreatment Program ICR (EPA ICR No. 0002.08). The only difference will be that the sponsors may allow facilities to reduce the number of times they are required to submit a monitoring report each year.

Additionally, under this ICR, participating facilities will be required to submit a certification if they partake in a program modification that allows them to discontinue sampling for pollutants not expected to be present. If the participating facility determines that a pollutant is not expected to be in its wastestream, the sposnors will require the participating facility to submit this certification each time its uses the option to not sample for pollutants not expected to be present. For example, if a participating facility chooses to sample for two pollutants that are not expected to be in their wastestream, the participating facility will be required to certify for each individual pollutant they choose not sample for. The certification(s) must be included as a comment to the periodic reports required by 40 CFR 403.12(e).

Also, under the ICR, participating sponsors must conduct annual reporting on progress being made in goals specified in the FPA and discussed above. The annual reporting will be submitted to EPA. The information from this reporting will be made publicly available through the internet and upon request. EPA will evaluate information from the annual reporting to determine the success of the XL pretreatment projects.

5.3 SMALL ENTITY FLEXIBILITY

The reporting requirements for program development affect only State and municipal governments. Requirements for both program implementation and program/categorical determination involve some small businesses. This information is not available from any other source, and is essential for implementation of the program. In most cases, the reporting burden for small businesses cannot be specifically reduced. However, the burden for small industries may be inherently smaller because their facilities are likely to be less complex. Also, such businesses are less likely to be classified as SIUs.

5.4 COLLECTION SCHEDULE

The majority of reporting requirements associated with this program are one-time only requirements. Therefore, frequency of data collection is relevant only to the following requirements:

- IU and SIU Self-Monitoring Reports,
- Annual POTW Reports, including updating the SIU List,
- Issuance of Discharge Permits for SIUs,
- Inspection and Sampling the Effluent of IUs and SIUs,
- Public Notification of Significant Noncompliance,
- Evaluation of the Need to Revise Local Limits,
- POTW Report on Prevention and Control Plan for Spills and Batch Discharges,
- SIU Notification,
- Excellence Award Program Information, and
- Removal Credit Self-Monitoring Reports.

6.0 ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6.1 Estimating Respondent Burden

This section represents EPA's estimates of the burden hours and cost to complete the information collection activities associated with this collection. Respondents for the pretreatment program include States, POTWs, and IUs. As previously discussed in section 4, the potential number of respondents to this information collection is greater than 10. The reduction in burden resulting from this rulemaking is summarized in Table 1 below.

6.2 Estimating Respondent Costs

Table 1 Annual Estimated Respondent Burden and Cost

Activity	No. of Respondents	Average Cost per Hour	Hours per Respondent Activity/Year	Total Cost/ Year
Reduction of Self-Monitoring Requirements	15	18.10 (+50% OH)	300	5430
Reduction of Monitoring	15	18.10 (+50% OH)	1087	19675
Reduction of Inspection	15	18.10 (+50% OH)	2190	39639
Not Sampling for Pollutants not Present	15	18.10 (+50% OH)	NA	
Reduction of Self-Reporting	15	18.10 (+50% OH)	600	10860
Reduction of Reporting	15	18.10 (+50% OH)	225	4073
Reduction of Permit Requirements	15	18.10 (+50% OH)	1095	19820
Alternative Monitoring Methods	15	18.10 (+50% OH)	NA	
Redefining SNC	15	18.10 (+50% OH)	NA	
Redefining SIU	15	18.10 (+50% OH)	NA	
Redefining de minimis CIU	15	18.10 (+50% OH)	NA	

6.3 Estimating Agency Cost and Burden

Table 2. Annual Estimated Agency Burden and Cost (per respondent)

6.4 Estimating the Respondent Universe and Total Burden Costs

EPA estimates that 100 facilities will be participating in these projects. EPA estimates that up to 100 more facilities may decide to participate in the project once the rule and final project agreements have been signed.

6.5 Bottom Line Hours and Cost Tables

Table 3 presents the annual burden hour and cost estimates for all grantees, assisted businesses, and project partners covered under this ICR.

Table 3. Bottom Line Burden and Costs to Grantees, Partners and Assisted Businesses

Number of Respondents	Burden Hours	Cost
15	5,497	99,497

Table 4. Bottom Line Burden and Costs to EPA

Burden Hours	Costs
N/A	N/A

6.6 Reasons for Change in Burden

The proposed rule provides regulatory flexibility to participating sponsors. The changes in information collection requirements as a consequence of program modifications made available by the rule would allow participating facilities to satisfy the monitoring and reporting requirements with a single yearly report and provide certification in lieu of not sampling for pollutants not present if certain conditions are met. The monitoring and reporting change results in a decrease in monitoring, reporting and recordkeeping burdens for participating facilities. The certification in lieu of not sampling for pollutants not present results in a slight increase in information collection requirements because participating facilities will be required to perform a one-time analysis to determine which, if any, pollutants are not expected to be present, and then certify that those are pollutants are not present each time they are required to submit a monitoring report. Additionally, as a condition to participating in the FPA, facilities must perform annual reporting to document progress on certain goals outlined in the FPA. This reporting will constitute a slight increase in information collection required by participating facilities. However, this information is essential so that EPA can evaluate the success of the project, ensure public accountability of results, and to determine whether or not projects of this type can be expanded across the country.

6.7 Burden Statement

Performing monitoring and reporting requirements yearly will reduce information collection burden by an estimated 87 hours per year per participating facility. Providing a certification in lieu of sampling for a pollutant not expected to be present will slightly increase information collection burden by an estimated 1 hour per participating facility per year. The estimated burden of doing annual reporting to document progress being made on certain FPA goals is an estimated 5 hours per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., N.W., Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Attention: Desk Officer for EPA. Include the EPA ICR number and OMB control number in any correspondence.