

Response to Comments Received
ICR #EPA-HQ-OECA-2014-0523

Comments Received – 1st FR Notice
(EPA-HQ-OECA-2014-0523-0001, Posted 8/21/2014)

Comment Submitted By:	Anonymous	ID: EPA-HQ-OECA-2014-0523-0004
Comment:	<p>The universe of applicable sources is not consistent throughout the ICR. Page 7 and 11 has "The new applicable universe of sources is: Title V Major Sources: SM-80 sources: sources included in an alternative CMS plan; and any source at which a HPV has been identified." However, on page 14 and 28 the definition of applicable universe includes an additional group of Sources, "any facility with a formal enforcement action". The 2014 FRV Policy and 2014 HPV policy agrees with the applicable universe of sources found on page 7. I recommend that the 2014 ICR be revised in that the applicable universe sources be consistent with what is found on page 7.</p>	
Response:	<p>Section 4(b) <i>Information Requested</i> of the second FR supporting statement identifies the universe of sources regulated by the Clean Air Act at which activities conducted by an agency charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution are to be reported to the EPA. This universe of sources is referred to as the federally-reportable universe. It does not include all sources regulated by the CAA, but it does include Title V major sources, all synthetic minor sources, all sources subject to a Part 61 NESHAP regulation, all sources that are included on a Compliance Monitoring Strategy plan, all sources with a HPV identified, and all sources subject to a formal enforcement action.</p> <p>The federally-reportable universe is broader than the universe of sources included in the CMS, FRV and HPV policies. The CMS policy generally focuses on Title V majors and 80% synthetic minor sources; the FRV focuses on Title V majors, 80% synthetic minors, sources on a CMS plan, and any source with an HPV; and the HPV policy generally applies to Title V majors only.</p> <p>The broader federally-reportable universe includes a greater percentage of sources covered by the CAA to allow EPA to, among other things, construct an inventory of regulated sources, support comprehensive CAA oversight activities, and ensure an effective regulatory framework.</p> <p>During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>	

Comment Submitted By:	Anonymous	ID: EPA-HQ-OECA-2014-0523-0005
Comment:	<p>On page 29 of the 2014 ICR, Item 20 is titled Minimum Reportable Actions. Two of the bullets are: Informal Enforcement Actions: Notice of Violations Formal Enforcement Actions: etc... The way this is phrased I conclude that all NOV's and Formal Enforcement Actions are to be entered even though the violation does not meet the criteria of an FRV or HPV. You need to clarify these two bullets.</p>	
Response:	<p>The list of Minimum Reportable Activities (Table 1 of the Supporting Statement) contains those activities that if they occur at a federally-reportable source should be reported to ICIS. The activities include compliance monitoring activities, enforcement actions and violation determinations. Any minimum reportable activity related to a federally-reportable source should be reported consistent with the ICR and related policies. Informal and formal enforcement actions, including Notices of Violation, are reportable independent of the FRV determination.</p> <p>If a source is only reportable because they are (or were) subject to a formal enforcement action, the source should be maintained in ICIS until the violations are resolved that the enforcement action addressed, and the enforcement action is concluded. While the source is federally-reportable, then subsequent minimum reportable activities that occur should be reported for the facility. Any informal enforcement action (e.g., NOV) that may have been issued prior to the source becoming federally-reportable (i.e., preceded the formal enforcement action) is not a minimum reportable activity.</p>	
Comment Submitted By:	Anonymous	ID: EPA-HQ-OECA-2014-0523-0006
Comment:	<p>The definition of "The Universe of facilities" in Table 2 of the 2014 ICR includes a group of sources follow under the phrase "and any facility with an HPV". This means, if no clarification is made, that any true minor source given an HPV by USEPA even for asbestos D&R will force the local Air Districts in California to have an Full Compliance Evaluation from the HPV issued date forward. This would be a big burden. You need to restrict or clarify this phrase because all SM's and true minor sources can drawn into the universe of reportable sources.</p>	
Response:	<p>It is not likely that EPA would identify a violation of an asbestos related regulation at a minor source as an HPV. The most recent HPV policy (issued 2014) generally applies to Title V major sources only. EPA does not expect a significant number of sources will become federally-reportable due to an HPV determination only. In addition, an FCE is not required at a source because it is federally-reportable. An FCE would only be expected the source is part of a CMS plan.</p>	
Comment Submitted By:	Ventura County (CA) Air Pollution Control District	ID: EPA-HQ-OECA-2014-0523-0007
Comment:	<p>We welcome EPA's stated intention to complete the modernization and integration of AFS with ICIS-Air. However, based on our understanding of the new ICIS-Air system and a number of statements contained in the ICR Supporting Statement, we do not agree with EPA's</p>	

	<p>assertion that the "overall burden of data collection" will be "less than what delegated agencies have experienced while using AFS."</p> <p>We believe that there is no basis for the claim that the overall burden of data collection will be less with ICIS-Air than delegated agencies have been experiencing with AFS. The reporting burden for delegated agencies, based on our experience, has been significantly under estimated. The burden estimate provided in support of EPA's position, is by EPA's own admission, an estimate created in support of the 2010 ICR request. EPA should not rely on an outdated burden estimate when making the claim that the future burden will be reduced for delegated agencies.</p> <p>Finally, I would also like to point out that the burden estimate in the ICR does not include the hundreds of hours District staff has spent over the past few years attending webinars, phone meetings, work group meetings and training during the development of ICIS-Air. Time spent on these efforts has diverted precious District resources from our primary goal of protecting the public health by improving air quality in Ventura County and meeting the National Ambient Air Quality Standards.</p>
<p>Response:</p>	<p>The second FR supporting statement does include additional analysis of the burden estimate. The EPA's preliminary claim that agencies will experience a burden reduction is based on the following:</p> <ul style="list-style-type: none"> • ICIS is a web-based system as opposed to a mainframe system; • both novice and experienced users will benefit from modern functionality like drop-down menus and type-ahead; • the FRV and HPV policies, which include provisions for reporting to ICIS, were modified to reduce the universe of sources to which the policies apply; • results from a limited burden assessment that compared data entry into AFS versus ICIS-Air; • a one-time estimate of the resources required to participate in the design and development of ICIS-Air; and • experience transitioning to ICIS from PCS, which was a mainframe database for reporting Clean Water Act NPDES data. <p>The limited burden assessment that EPA conducted is based on a time and motion study estimating the relative change in burden associated with directly entering data to ICIS-Air versus AFS. The study compared 47 different AFS direct data entry scenarios to the equivalent ICIS-Air direct data entry scenarios. Of the 47 scenarios, 12 are no longer warranted in ICIS-Air (e.g., changing compliance status), 22 took less time in ICIS-Air, 6 took the same amount of time, and 7 took more time in ICIS-Air than AFS. These preliminary findings are a strong indication that manual users will experience a discernable reduction in overall burden. EPA also interviewed agencies that have submitted data electronically to ICIS to compare the batch upload process they used for AFS to the EDT process they use for ICIS. In addition, EPA interviewed agencies to estimate the one-time burden imposed by the transition from AFS to ICIS-Air.</p> <p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>

<p>Comment:</p>	<p>We disagree with EPA's assertion in the ICR that "Delegated agencies generally collect the information as part of their customary business practice to manage their compliance and enforcement programs." Additionally, we vigorously disagree with EPA's assertion that "Delegated agencies with data management systems are already maintaining the required data elements."</p> <p>The District does use a number of enforcement related data to run our programs. However, we simply do not track or collect much of the same data that EPA would like to be entered into ICIS-Air. Also, we have not used AFS and will not use ICIS-Air to run any of our own compliance programs at the District. We have our own information system for that purpose. Much of the EPA-required data must be manually collected and entered in AFS. This is redundant, a duplication of effort and a burden on staff, again diverting precious District resources from our primary goal of improving air quality in Ventura County and meeting the National Ambient Air Quality Standards.</p>
<p>Response:</p>	<p>The CAA calls for state, local, federal and tribal governments to implement the Act in partnership to reduce pollution. But, EPA recognizes the primary role of the delegated agencies in the prevention and control of air pollution. The MDRs were designed to establish a common framework for reporting the basic elements of a CAA compliance and enforcement program. These elements are:</p> <ul style="list-style-type: none"> • Universe of regulated sources • Compliance monitoring activities conducted to ensure compliance with rules and regulations • Determinations that a source is meeting or not meeting the established rules and regulations • Enforcement actions designed to address when a source is not meeting rules and regulations, and deter future incidences of not meeting rules and regulations. <p>Some of the details within each element may differ, but EPA has tried to allow for some flexibility in how the data is reported. For example, EPA added the ability for agencies to report a state or local agency regulatory citation in lieu of the equivalent federal program. We developed a list of violation types based on input from states and state associations. In other instances, EPA is implementing data standards (e.g., Enforcement and Compliance Data Standard, July 30, 2008), which were developed in collaboration with state, tribal, and U. S. EPA representatives under the guidance of the Exchange Network Leadership Council and its predecessor organization, the Environmental Data Standards Council.</p>
<p>Comment:</p>	<p>At this point, ICIS-Air is still in development. From what we have seen of ICIS-Air, in the ICISdev website and the ICIStraining website, there are a number of system-required fields for some screens. Although these system-required fields are not necessarily MDRs, the fact that they are required by ICIS-Air in order to save a particular screen makes them de facto MDRs. We are concerned that once data elements are put into ICIS-Air, EPA will at some point require those data elements to be mandatory. Any additional data inputs will significantly impact the District. At a time when most state and local air agencies are struggling with shrinking budgets and added demands on their programs, it is difficult to find the resources to meet the demands imposed by EPA's additional data requirements. EPA should explain how each of the proposed non-mandatory data elements will be used to monitor a facility's compliance and benefit air quality.</p>

Response:	<p>There are data fields that are optional. But, there are no system required data fields that do not directly support reporting an MDR. We do anticipate advances in monitoring, reporting, and information sharing that will result in an evolution of the reporting requirements. Changes to the MDRs may include modifications to current MDRs, removal of MDRS and also the addition of MDRs. In either case, the EPA will initiate the proper controls for any changes. These controls include review and concurrence from our partner delegated agencies.</p>
Comment:	<p>In spite of the fact that the FRV Policy dated September 23, 2014, the HPV policy dated August 25, 2014, and the CMS Policy dated July 14, 2014, all state otherwise, the current ICR Supporting Statement continues to state that the MDR's include "<i>any facility with a formal enforcement action</i>" and that "facilities with formal enforcement should be tracked in ICIS-Air until the resolution of the violation, regardless of classification." The required data requested in this ICR Supporting Statement should be revised to be consistent with EPA's own, recent FRV, HPV and CMS policies.</p>
Response:	<p>Section 4(b) <i>Information Requested</i> of the second FR supporting statement identifies the universe of sources regulated by the CAA at which activities conducted by an agency charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution are to be reported to the EPA. This universe of sources is referred to as the federally-reportable universe. It does not include all sources regulated by the CAA, but it does include Title V major sources, all synthetic minor sources, all sources subject to a Part 61 NESHAP regulation, all sources that are included on a Compliance Monitoring Strategy plan, all sources with a HPV identified, and all sources subject to a formal enforcement action.</p> <p>The federally-reportable universe is broader than the universe of sources included in the CMS, FRV and HPV policies. The CMS policy generally focuses on Title V majors and 80% synthetic minor sources; the FRV policy focuses on Title V majors, 80% synthetic minors, sources on a CMS plan, and any source with an HPV; and the HPV policy generally applies to Title V majors only.</p> <p>The broader federally-reportable universe includes a greater percentage of sources covered by the CAA to allow EPA to, among other things, construct an inventory of regulated sources, support comprehensive CAA oversight activities, and ensure an effective regulatory framework.</p> <p>During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>
Comment:	<p>The proposed ICR does not account for the added burden from reporting enforcement activities at minor sources. EPA's 2010 burden estimate is based on reporting activities for major sources in the state/local areas.</p> <p>The increased burden for Ventura County would be at least 15 times EPA's estimate. This is based on the last five years of data that shows for every NOV (with penalties) issued to a</p>

	<p>major source; 14 NOV's (with penalties) were issued to minor sources. Increasing the burden by 15 times would increase the staff time required to input data into ICIS-Air. This would require the addition of more than 1.5 full-time staff. Adding to the burden is the fact that the minor sources in AFS were archived more than 15 years ago. None of the minor source facility data was migrated from AFS to ICIS-Air.</p> <p>Minor facilities would have to be added to ICIS-Air so violations could be reported. Once these facilities are in ICIS-Air there would be additional burden from keeping the facilities updated with inspections, source tests, and name changes, etc., without any corresponding air quality benefit. The District has limited resources and will not be able to report data into ICIS-Air on that level.</p>
Response:	For the next ICR burden assessment, EPA will include the entire federally-reportable universe, which includes some minor sources. But, the current FRV policy and this ICR exclude <u>violation reporting</u> for minor sources, unless they are part of a CMS plan or had an HPV identified.
Comment:	The current MDR's also include Informal Enforcement Actions such as Notices of Violation as Minimum Reportable Actions. EPA defines informal enforcement actions as actions where there is no associated penalty. It's difficult to imagine that EPA would impose the burden of reporting violations that don't have penalties. This needs to be clarified.
Response:	<p>The list of Minimum Reportable Activities (Table 1 of the Supporting Statement) contains those activities that if they occur at a federally-reportable source should be reported to ICIS. The activities include compliance monitoring activities, enforcement actions and violation determinations. Any minimum reportable activity related to a federally-reportable source should be reported consistent with the ICR and related policies. Informal and formal enforcement actions, including Notices of Violation, are reportable activities independent of the FRV determination.</p> <p>The FRV policy specifically excludes reporting violations found at minor sources, except where the source is part of a CMS plan or had an HPV identified.</p>
Comment:	EPA's State Review Framework (SRF) pulls individual air agency data from AFS and compares that data to benchmarks and mandatory timeframes. At times we have difficulty meeting EPA's timeframes. Additional data elements will make those timeframes more difficult to meet. EPA uses the SRF to gauge air agencies timeliness and accuracy in AFS reporting. As more data elements are added, there is more opportunity for an air agency to miss EPA's deadlines or to be determined as not meeting benchmarks.
Response:	The SRF accommodates scenarios where there is a legitimate reason for not meeting a benchmark. If there was a disproportionate change to the resources needed for reporting, it would be documented with recommendations provided. The change could be the result of the reporting requirements, a reduction in work-force, etc.
Comment:	The Ventura County Air Pollution Control District is committed to working with EPA to ensure that the implementation of ICIS-Air is successful and that the enforcement data entered into the system is as up to date and accurate as possible. We believe that submitting data for major sources and synthetic minors, as limited by the above mentioned FRV Policy, HPV Policy and CMS Policy, is appropriate and will provide meaningful data for EPA and transparency for the public.

Response:	<p>It is important to have a complete and accurate inventory of all regulated sources. This information is needed to implement a compliance and enforcement program that includes efforts such as targeting compliance activities; assessing impacts on sensitive communities; and evaluating compliance trends. Having an accurate, up-to-date source universe is also essential to good governance by allowing local communities and citizens to be aware of the regulated facilities within a geographical area of interest and to allow them the opportunity to conduct their own assessment of these facilities, if they choose. They may wish to obtain a better understanding of the degree and impact of emissions by facilities.</p> <p>Minor sources are part of any comprehensive inventory of regulated sources. These include area or small sources under CAA regulations. Even low emission releases from these individual sources can impact communities. In the aggregate, their emissions can have significant impacts on the health and environment of the communities in which they are located particularly where large numbers are located in heavily populated areas.</p>	
Comment Submitted By:	Indiana Department of Environmental Management	ID: EPA-HQ-OECA-2014-0523-0008
Comment:	<p>Since a central tenet of AFS modernization is to minimize requirements for new information as much as possible, EPA should not introduce any new requirements for submission to ICIS-Air during this ICR. States need to be able to evaluate the capabilities and burden of the new ICIS-Air system before any affective comments can be made about future reporting burdens. Additionally, States need to be able to evaluate the capabilities and burden associated with several EPA guidance documents that were revised in 2014: the July 2014 CMS, August 2014 HPV Policy, and the September 2014 FRV Policy.</p>	
Response:	<p>There are some changes in how the current MDRs were reported in AFS compared to how they will be reported into ICIS-Air. This is a result of the modernization of AFS from the mainframe to a web-based system. In order to fully capture some MDRs, ICIS-Air requires some additional information about the date being reported. For example, the description of the action type reported to AFS to indicate a stack test was completed included whether the test was observed or not, and who conducted the test. In ICIS this information is reported as separate data elements but on the same stack test activity record. Also, the forum for an enforcement action (e.g., Judicial) was inherent in the action type reported to AFS. In ICIS agencies must first identify the enforcement action forum. We do not believe these are new requirements but rather a new approach to reporting the same information.</p> <p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>	
Comment:	<p>The focus of the ICR and the MDRs should be limited to Major sources as defined in CAA 501(2), Synthetic Minor sources that emit or have the PTE at or above 80% of the Title V major source threshold (SM-80s), Part 61 NESHAP Minor sources (excluding 40 CFR 61.145 asbestos demolition and renovation activities), and other facilities identified within the CMS Evaluation Plan. EPA should not include reporting of any facility with a formal enforcement action as an MDR under this ICR.</p>	
Response:	<p>It is important to have a complete and accurate inventory of all regulated sources. This information is needed to implement a compliance and enforcement program that includes efforts such as targeting compliance activities; assessing impacts on sensitive communities;</p>	

	<p>and evaluating compliance trends. Having an accurate, up-to-date source universe is also essential to good governance by allowing local communities and citizens to be aware of the regulated facilities within a geographical area of interest and to allow them the opportunity to conduct their own assessment of these facilities, if they choose. They may wish to obtain a better understanding of the degree and impact of emissions by facilities.</p> <p>During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>
Comment:	<p>The CMS places an emphasis on the oversight of major sources and a limited subset of synthetic minor sources while providing state agencies with the flexibility to address local air pollution and compliance concerns. The MDRs should only represent the minimum amount of data EPA needs to manage the national air stationary source compliance monitoring and enforcement programs. EPA does little to provide guidance and oversight to the states of minor source compliance, status activities, and enforcement activities. Data elements for minor sources and any facility with a formal enforcement action are not critical to EPA prioritizing programs and conducting national evaluations. State agencies need to maintain the flexibility to address local air pollution and compliance concerns without the burden of having to report every compliance and enforcement action or activity about minor sources. Much of the minor source information is available in the state agency files and is available to EPA and the public without the burden of having to report every compliance or enforcement action or activity.</p>
Response:	<p>The MDRs identified in the ICR do represent the minimum amount of data EPA believes is needed to manage the national CAA compliance and enforcement program. The MDRs are tailored to the national program and represent a leveled approach for reporting.</p> <p>Minor sources are part of any comprehensive inventory of regulated sources. These include area or small sources under CAA regulations. Even low emission releases from these individual sources can impact communities. In the aggregate, their emissions can have significant impacts on the health and environment of the communities in which they are located particularly where large numbers are located in heavily populated areas.</p>
Comment:	<p>Synthetic Minor sources should be limited to those SM-80s. This is consistent with the July 2014 CMS. SM-80s should not be included as an MDR under this ICR since EPA spends very few resources on compliance and enforcement activities for these sources and spends little time reviewing States compliance and enforcement activities associated with these sources.</p>
Response:	<p>EPA relies heavily on delegated programs to enforce the CAA. It is generally accepted that one of EPA's roles is oversight regarding CAA compliance and enforcement. However, the EPA maintains parallel authority under the CAA regardless of delegation. Furthermore, it remains our responsibility to ensure the CAA is being consistently implemented while accounting for geographic variations of issues. We do include metrics that include minor sources in our oversight programs. For example, the State Review Framework (SRF) includes the entire federally-reportable universe as defined by this ICR in the CAA metrics.</p>

Comment:	Part 61 NESHAP Minor facilities should exclude 40 CFR 61.145 asbestos demolition and renovation activities. The sources are far too numerous, EPA spends very few resources on compliance and enforcement of these sources, and spends little time reviewing States compliance and enforcement activities associated with asbestos demolition and renovation activities. EPA should not include Part 61 NESHAP Minor facilities subject to 40 CFR 61.145 asbestos demolition and renovation activities as an MDR under this ICR.	
Response:	EPA will consider excluding sources only subject to Subpart M from reporting. If it is determined these sources can be excluded, EPA will issue a memo to effect this change.	
Comment:	The ICR and the MDRs should not include the reporting of any facility with a formal enforcement action. Formal enforcement action is routinely taken against individuals and businesses open burning, individuals with outdoor hydronic heaters, individuals, and business such as used car lots, and muffler shops engaged in automobile tampering, gasoline stations and gasoline tankers subject to Stage I and II gasoline vapor recovery requirements, and at small businesses such as dry cleaners subject to area source NESHAPs. EPA spends very few resources on enforcement of these individuals or minor sources and spends little time reviewing States enforcement activities associated with the activities of the relatively small sources. EPA should not include reporting of any facility with a formal enforcement action as an MDR under this ICR.	
Response:	During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.	
Comment:	The MDR for reporting data should remain within 60 days of the day of the event or at 6 times per year. It is our understanding that EPA would prefer data reported on a monthly basis and that some agencies do report each month. The 60 days will ensure that the data used by EPA is accurate and as timely as possible without placing additional burdens on the states. States need to be able to evaluate the capabilities and burden of the new ICIS-Air system before any affective comments can be made about future reporting burdens less than 60 days.	
Response:	It is stated in the ICR, Section 5(d) <i>Collection Schedule</i> , that activities should be reported within 60 days of the day of the event. The exception is for stack tests where agencies have 120 days from the conclusion of the stack test to report the test and results. EPA does not plan to reduce the number of days for timely reporting.	
Comment:	States should not have to report Green House Gas Air Program Code in AFS: The Mandatory GHG Reporting Rule of December 29, 2009. This is a Federal-only program at this time and should not result in an increase of any state agency burden.	
Response:	State and local agencies are not required to report any air program for which they are not approved or delegated. Therefore, they do not have to report applicability of the Mandatory Greenhouse Gas Reporting rule (40 CFR Part 98) nor any compliance or enforcement activities related to it.	
Comment Submitted By:	Arizona Department of Environmental Quality	ID: EPA-HQ-OECA-2014-0523-0009

<p>Comment:</p>	<p>In Section 4 of the supporting statement for the ICR (p.14), EPA identifies the reportable universe of facilities for ICIS-Air to include "...any facility with a formal enforcement action..." ADEQ finds that the inclusion of the statement "...any facility with a formal enforcement action..." in the ICR supporting statement seems to indicate that the EPA intends to collect information on all facilities with a formal enforcement action. However, revised EPA policy indicates that EPA will not expect states to report information for any facility with a formal enforcement action. Rather, recent policy indicates that information collection will closer align with a universe of Title V applicable major sources or those with a Compliance Monitoring Strategy Plan (likely those facilities with imminent potential to be Title V sources).</p> <p>For example, many states and local agencies worked closely with EPA's Office of Compliance on the recently issued version of the September 23, 2014, Memorandum titled "<i>Issuance of the Guidance on Federally Reportable Violations for Clean Air Act Stationary Sources</i>" (FRV Memo). The term "...any facility with a formal enforcement action..." was specifically removed from the FRV Memo in the September 23, 2014 version. ADEQ believes the ICR source universe should be edited to more closely align with the EPA's current reporting policies.</p> <p>Reporting data for <u>any</u> facility with a formal enforcement action is also unnecessary for EPA to perform its functions. This would request information on sources which the EPA does not typically regulate in its own jurisdiction, namely minor sources. If the EPA once more changes its policies (if the law even authorizes the EPA to sweepingly collect information from local agencies on non-Title V minor sources without a CMS agreement) states would have to somehow to parse out formal enforcement action sources from the rest of its minor sources.</p> <p>While it is the law itself that would give the EPA any authority to collect information, rather than the ICR, the formalization of the statement "any facility with a formal enforcement action" in the ICR and ensuing un-appealable ICR approval might lend un-earned deference to any possible change of policy at a later date. This could practically force and unreasonably burden states to submit extraneous data for sources.</p> <p>For many states, including Arizona, the resulting burden of reporting, tracking, explaining, and overall management of this data in ICIS-Air is significant, is not time well spent, and is not commensurate with any possible realized benefit. Therefore, ADEQ requests that EPA remove the statement "...any facility with a formal enforcement action..." from the ICR supporting documents. The resulting data from this language is not critical to EPA's oversight and the submission/management of the data to ICIS-Air creates an undue burden on states/local agencies.</p>
<p>Response:</p>	<p>Our policies should not be read to limit EPA authority. EPA retains parallel authority to enforce federal requirements even when EPA delegates program authority to a state, tribal, or local governments. EPA's authority remains that which is provided by section 113 of the Clean Air Act, which includes requirements and prohibitions that apply to smaller sources of emissions. It is the intent of this ICR to limit the reporting universe of sources regulated by the CAA taking into consideration the reporting burden imposed on state, tribal, and local delegated agencies.</p>

	<p>The federally-reportable universe is broader than the universe of sources included in the CMS, FRV and HPV policies. The CMS policy generally focuses on Title V majors and 80% synthetic minor sources; the FRV focuses on Title V majors, 80% synthetic minors, sources on a CMS plan, and any source with an HPV; and the HPV policy generally applies to Title V majors only.</p> <p>Minor sources are part of any comprehensive inventory of regulated sources. These include area or small sources under CAA regulations. Even low emission releases from these individual sources can impact communities. In the aggregate, their emissions can have significant impacts on the health and environment of the communities in which they are located particularly where large numbers are located in heavily populated areas.</p> <p>During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>
<p>Comment:</p>	<p>ADEQ’s understanding is that Table 2 naming synthetic minors as a part of the reportable universe (p.28) is only provided as reference for comparison’s sake, and that the applicable source universe for this ICR is located on page 14 of the Supporting Statement and includes “SM-80s,” but not all synthetic minors. It may be beneficial for the EPA to clarify this point.</p>
<p>Response:</p>	<p>The reportable universe of facilities found on page 14 of the first FR supporting statement is not accurate. Section 4(b) <i>Information Requested</i> of the second FR supporting statement identifies the federally-reportable universe, which is comprised of all:</p> <ul style="list-style-type: none"> • Title V major sources, • Synthetic minor sources, • Sources subject to a Part 61 NESHAP regulation, • Facilities included in a CMS plan, • Facilities subject to a formal enforcement action, and • Facilities with an HPV.
<p>Comment:</p>	<p>ADEQ is concerned that the recent policies enveloped in the ICR, including the High Priority Violation and FRV policies likely collect larger amounts of information even as they are clearer and easier to understand. This may make culling of information easier for the states in one sense, but to report as requested would demand more information of the states, in general. For example, while the FRV policy source universe was commendably narrowed, <u>all</u> of criteria in the new HPV policy apply to Title V major and <u>all</u> minor sources with a CMS plan (sources that would likely be a state’s synthetic minor-80s, unless otherwise agreed), where as in the old policy and even in the new policy’s draft phase discussions with states and local agencies, most of the criteria applied only to major sources. In effect, some of the sources pulled from the FRV policy are now enveloped in the new HPV policy. With simplification, the reporting scope seems to have expanded to collect more information.</p>
<p>Response:</p>	<p>While the revised HPV policy's universe of sources includes minor sources on a CMS plan, the application of this policy to those sources is somewhat limited by the HPV criteria. For example, Criteria 1, 2, and 4 would not otherwise apply to minor sources because these criteria apply only to major sources (e.g., Criteria 1 and 2 apply to major sources as defined</p>

	<p>by NSR; Criterion 4 only applies to sources subject to a Major Source NESHAP). Criterion 3, which addresses violations of the New Source Performance Standards, could apply to Title V non-major sources, but these standards often have applicability thresholds within the individual subparts that could exempt Title V non-major sources from HPV designation. While Criterion 5 could also apply to Title V non-major sources, this criterion includes only those violations of work practice standards, monitoring, recordkeeping and reporting that substantially interfere with an agency's ability to enforce, so Criterion 5 does not automatically apply to violations at a Title V non-major source. Lastly, Criterion 6 is the discretionary category, requiring no automatic HPV designation.</p> <p>EPA, however, is aware that the inclusion of Title V non-major sources with a CMS plan could have a disproportionate impact on implementation of the revised HPV policy. EPA will monitor implementation of the revised HPV policy and the data submitted pursuant to the policy, including data on CMS non-major sources, to determine if further revisions to the policy are warranted.</p>	
<p>Comment:</p>	<p>Additionally, EPA's recent emphasis on the enforcement policies and reporting appears to aggressively stress the importance of penalty actions. While penalty actions are important to the administration of the Act, they are not the pinnacle. In ADEQ's opinion, it would be better to focus more resources to helping sources comply, rather than intensify focus on having states report information on violations that have already occurred and affected the environment. This is especially true now considering the broad spectrum and number of rules issued in the last few years. While the information requested to conform to EPA's enforcement policies may be useful in some way, the large scale of it is likely not necessary for the EPA to perform its functions to protect human health and prevent harm to the environment.</p>	
<p>Response:</p>	<p>EPA recognizes that a successful compliance and enforcement program advances the use of compliance monitoring, compliance assistance, self-auditing, and enforcement in an integrated manner that maximizes efficiencies to both address and promote increased compliance. Depending upon the challenges that need to be met and the specific rule that is being implemented, delegated agencies should determine how best to direct their efforts and which tools would be most appropriate and effective in achieving environmental goals.</p>	
<p>Comment Submitted By:</p>	<p>Northeast States for Coordinated Air Use Management</p>	<p>ID: EPA-HQ-OECA-2014-0523-0010</p>
<p>Comment:</p>	<p>The purpose of the ICR is to seek comment on burden estimates for data reporting. This ICR, however, has been published during a time of transition from the previous Air Facility System (AFS) to the new ICIS-Air system. The new system is not yet fully available and only a few NESCAUM states have familiarity with it. Because states have not yet fully learned how to operate the new system, and as a consequence do not have any experience with using it, it is not possible to make informed comments on the burden estimate. In addition, because of this lack of operational experience, we are not able to gauge the reasonableness of EPA's broad assertions on the burden estimates for ICIS-Air and do not understand how EPA has been able to make informed estimates about the impacts on reporting burdens.</p> <p>NESCAUM believes that EPA should base its burden estimate on actual data and experience with the system rather than on expectations. Therefore we strongly recommend that EPA revisit the ICR and burden estimates at a later point when reporting agencies can provide</p>	

	<p>more informed estimates of reporting burdens. NESCAUM recognizes and appreciates the effort put forward by EPA to reach out to state agencies to initiate a dialogue. This dialogue must continue in light of our continuing concerns with the new system.</p> <p>In the ICR’s Supporting Statement, EPA fails to acknowledge the significant burden placed on reporting agencies who have participated in transition efforts to date, nor does it recognize the significant resources that will be required as states transition to the ICIS-Air system. In fact, many agencies have been unable to participate in transition efforts due to the resources required to fully participate. This has left many reporting agencies ill-prepared and unable to transition to the new system for the foreseeable future. EPA must develop a transition policy that includes clear guidance for reporting requirements and recognizes the need for robust resources, if all states are to fully participate in reporting to ICIS-Air.</p> <p>Given the paucity of data for reporting to the new system, it is not possible to provide EPA with informed comment on the estimated burden. NESCAUM, however, believes that complying with some or all of these requirements will be extremely challenging and costly. Our key comment is that EPA must revisit the ICR next year so that states have the opportunity to provide more fully informed comments. NESCAUM also offers specific comments below on the following items put forward in the ICR’s Supporting Statement.</p>
<p>Response:</p>	<p>In response to comments received on the first FR supporting statement, EPA did conduct a limited burden assessment for the second FR supporting statement. The EPA’s preliminary claim that agencies will experience a burden reduction is based on the following:</p> <ul style="list-style-type: none"> • ICIS is a web-based system as opposed to a mainframe system; • both novice and experienced users will benefit from modern functionality like drop-down menus and type-ahead; • the FRV and HPV policies, which include provisions for reporting to ICIS, were modified to reduce the universe of sources to which the policies apply; • results from a limited burden assessment that compared data entry into AFS versus ICIS-Air; • a one-time estimate of the resources required to participate in the design and development of ICIS-Air; and • experience transitioning to ICIS from PCS, which was a mainframe database for reporting Clean Water Act NPDES data. <p>The limited burden assessment that EPA conducted is based on a time and motion study estimating the relative change in burden associated with directly entering data to ICIS-Air versus AFS. The study compared 47 different AFS direct data entry scenarios to the equivalent ICIS-Air direct data entry scenarios. Of the 47 scenarios, 12 are no longer warranted in ICIS-Air (e.g., changing compliance status), 22 took less time in ICIS-Air, 6 took the same amount of time, and 7 took more time in ICIS-Air than AFS. These preliminary findings are a strong indication that manual users will experience a discernable reduction in overall burden. EPA also interviewed agencies that have submitted data electronically to ICIS to compare the batch upload process they used for AFS to the EDT process they use for ICIS. In addition, EPA interviewed agencies to estimate the one-time burden imposed by the transition from AFS to ICIS-Air.</p>

	<p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>
Comment:	<p>The universe of facilities detailed in the ICR Supporting Statement that agencies must report data for does not match the reporting universe for key EPA policies. These include the Compliance Monitoring Strategy (CMS), the Federal Reportable Violation (FRV) policy, and the High Priority Violation (HPV) policy. The number of facilities subject to reporting under this ICR is far larger than those covered by the above listed policies, which increases the reporting burden. NESCAUM recommends that EPA modify the reporting universe to follow recent policy changes and apply reporting requirements to sources subject to CMS, FRV and HPV policies.</p>
Response:	<p>Section 4(b) <i>Information Requested</i> of the second FR supporting statement identifies the universe of sources regulated by the CAA at which activities conducted by an agency charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution are to be reported to the EPA. This universe of sources is referred to as the federally-reportable universe. It does not include all sources regulated by the CAA, but it does include Title V major sources, all synthetic minor sources, all sources subject to a Part 61 NESHAP regulation, all sources that are included on a Compliance Monitoring Strategy plan, all sources with a High Priority Violation identified, and all sources subject to a formal enforcement action.</p> <p>The federally-reportable universe is broader than the universe of sources included in the CMS, FRV and HPV policies. The CMS policy generally focuses on Title V majors and 80% synthetic minor sources; the FRV policy focuses on Title V majors, 80% synthetic minors, sources on a CMS plan, and any source with an HPV; and the HPV policy generally applies to Title V majors only.</p> <p>The broader federally-reportable universe includes a greater percentage of sources covered by the CAA to allow EPA to, among other things, construct an inventory of regulated sources, support comprehensive CAA oversight activities, and ensure an effective regulatory framework.</p> <p>During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>
Comment:	<p>Many of the data elements referenced in the ICR Supporting Statement are not currently MDR elements. We recognize that EPA has moved from the old AFS system to the new ICIS-Air system, however, EPA has not provided a clear cross walk on how MDR will be done in the new system versus AFS, including how many additional keystrokes of data must be input to report in the new system. The table provided in the ICR Supporting Statement is not clear and nor is it accurate. For example, it states that agencies can enter NAICS or SIC code data but this is not correct; ICIS-Air can only accept NAICS codes. In order to accurately assess the burden impact, NESCAUM urges EPA to create a clear cross walk from</p>

	<p>the AFS MDR elements to the data elements required for ICIS-Air. If EPA implements NESCAUM’s recommendation to revisit the ICR next year, this information cross walk should be included.</p>
Response:	<p>There are some changes in how the current MDRs were reported in AFS compared to how they are reported into ICIS-Air. This is a result of the modernization of AFS from the mainframe to a web-based system. In order to fully capture some MDRs, ICIS-Air requires some additional information about the data being reported. For example, the description of the action type reported to AFS to indicate completion of a stack test included as a single entry whether the test was observed or not, and who conducted the test. In ICIS-Air this information is reported as separate data elements on the same stack test activity record. As another example, the forum for an enforcement action (e.g., Judicial) was inherent in the action type reported to AFS. In ICIS-Air agencies must explicitly identify the enforcement action forum. We do not believe these are fundamentally new requirements, but rather a new approach to reporting the same information.</p> <p>In July 2014, EPA did circulate a crosswalk that compared the data elements in AFS to the data element in ICIS-Air. Table 1 of the ICR supporting statement was modified between federal register notices to be more clear and descriptive in terms of the MDRs and how they will be reported to ICIS-Air.</p> <p>In Table 1 of the first FR supporting statement, the column labeled “Current – AFS” was intended to highlight the MDRs as they were reported to AFS. So, where it states “NAICS Code or SIC Code” in the crosswalk this indicates either of these were allowable in AFS. But, in ICIS-Air, each air facility must have a NAICS code, which is the MDR. This is indicated in the columns to the right labeled “Reporting via ICIS-Air.” Agencies may choose to report a SIC code in addition to the NAICS code.</p>
Comment:	<p>Throughout the ICR Supporting Statement, EPA appears to expand or revise definitions of current reporting requirements that would increase the reporting burden. On page 29 of the Supporting Statement, EPA details a requirement that agencies will report informal enforcement actions to EPA. This clearly contradicts reporting requirements laid out in the revised FRV policy. Furthermore, states do not track these actions, making reporting of this information into a federal system infeasible. EPA should eliminate any reference in the ICR Supporting Statement stating or implying that informal enforcement actions are reporting requirements.</p>
Response:	<p>Informal enforcement actions are defined as notice provided to a regulated source advising them of findings of violations (either alleged or final). Based on dialogue with the reporting state and local agencies, we have heard that most agencies provide some form of notice for all violations. Therefore, we disagree with the assessment that states do not track these actions.</p> <p>The FRV policy issued in 2014 states on page 9 that “The issuance of a notice of violation for the FRV reportable source universe is an MDR that is to be reported.” The FRV policy further states, “The FRV reportable source universe is a subset of the ICIS-Air reportable universe identified in the 2010 ‘Source Compliance and State Action Reporting Information Collection Request’ (ICR).” The 2014 FRV policy intended to only narrow the universe of sources for which violations are to be reported. It does not narrow the universe of sources for which informal enforcement actions are to be reported. This universe remains the federally-reportable universe defined by this ICR.</p>

Comment:	The creation of a case file is another area where EPA expands reporting requirements. In the Supporting Statement, EPA indicates it is eliminating reporting of compliance and attainment status, counting this as a burden reduction. EPA fails, however, to discuss that this information is being replaced with a new requirement to create a case file. The case file pages will require reporting of additional elements and more data than currently required under MDR. NESCAUM believes that the creation of case file reporting will result in a significant burden increase. EPA should acknowledge this burden increase and calculate the impact on reporting agencies.
Response:	Reporting a Case File does not require any additional elements than was required to report a violation in AFS. Any elements perceived as new (e.g., Lead Agency) are either defaulted or set by the system based on the person reporting the data or the type of record being reported. The fundamental data for a Case File are the source at which the violation(s) were discovered, the air programs (i.e., regulations) violated, the pollutants involved, the type of violation, and the dates associated with the agencies determination that a violation occurred. The expected burden reduction is from not having to change the “compliance status” back to “in compliance” after a violation is resolved. In ICIS-Air, reporting agencies will only have to touch the data one time. In AFS, there was the potential for having to touch the data three times.
Comment:	Another area where the Supporting Statement expands reporting burdens is highlighted on page 7, where EPA states, “the delegated agency is to report the violation type, <i>the applicable federal air program or implementing delegated agency regulation</i> , and pollutant” (italics added). The italicized item is a change from current requirements and will change the burden estimate. It will require significant resources to address as this is an item not currently tracked and gathered by reporting agencies. Furthermore, reporting of this element will mandate new functionality and reporting requirements that states have not agreed they can or will provide. EPA must clarify and revise its expectations for reporting agencies in a manner that will not require reporting of new elements.
Response:	The requirement for reporting compliance status to AFS required the reporting of the relevant air program (e.g., MACT) and applicable pollutant(s). This same data is being required for reporting to ICIS. The only difference is a pollutant was required for every violation in AFS, a pollutant is not required for all violation types in ICIS. For example, in ICIS if the violation is a recordkeeping violation that is not determined to be an HPV, no pollutant is required to be reported. The option to report an “ <i>implementing delegated agency regulation</i> ” was added to accommodate those reporting agencies that do not always know the applicable federal air program when reporting this data.
Comment:	<p>On page 10 of the Supporting Statement, EPA contends that the new ICIS-Air system will eliminate the need for double data entry. This is incorrect. In Section 3(a) of the Supporting Statement, EPA indicates that only a dozen delegated agencies out of more than 200 will use ICIS-Air as their primary data repository. This means that 94% of agencies that report data into EPA’s system also maintain and input data into their own system, which translates into a significant duplication of effort.</p> <p>EPA further contends that the use of EDT will make transfer of data easy and will not require any additional effort or resources from agencies to report data. This is also incorrect. Currently, many in the NESCAUM region use the Universal Interface (UI) to reduce the</p>

	<p>double data entry burden, and none of these states will be able to use EDT for the foreseeable future. New York, who has received a grant to implement EDT, may be able to use it within the next year. Five other NESCAUM states who maintain their own state data system have not yet begun to investigate the use of EDT due to the fast track process EPA has taken in implementing the ICIS-Air system. To date, EDT has not been implemented in any agency outside of a small pilot group. NESCAUM estimates that it will require reporting agencies significant financial resources while taking years if not decades before reporting agencies might see burden reductions. Therefore, it is imperative that EPA continue to work with states to address double data entry issues, and address the need for the time and money states require to revise their systems and develop protocols and nodes to use EDT mechanisms. Furthermore, EPA must revise its burden estimate for the states that maintain their own systems to include the costs of EDT implementation.</p>
<p>Response:</p>	<p>The statement, “ICIS-Air will eliminate the need for double data entry of federal Air data into AFS and ICIS” referenced reporting by the EPA. This statement was struck from the second published FR supporting statement. It was not intended to reflect state or local agency reporting. As of this writing, we have 99 agencies that will report to ICIS. EPA recognizes that the majority of agencies report and maintain source universe, compliance and enforcement data in a state or local agency managed database.</p> <p>The use of XML is recognized as an efficient means of electronically transferring data between systems. After initial set up, the number of times the data must be touched is minimized to nearly negligible as experienced by some agencies currently utilizing EDT. In addition, within these regulatory enforcement agencies the NPDES programs have been reporting to ICIS using the same data flow for many years. At the time of this writing 22 agencies have been submitting data to ICIS using EDT. We anticipate a total of 31 agencies will ultimately submit data to ICIS-Air electronically, including New Hampshire and New York. EPA is committed to working with all agencies that are currently submitting or plan to submit data electronically, and to find resources to minimize their burden. In fact, we recently secured additional contract support to assist state agencies with EDT and each state was informed of the availability of this additional assistance. We hold weekly calls with our EDT agencies. Based on the dialogue to date, we expect NH to begin electronically submitting data in August 2015, and New York in December 2015.</p> <p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>
<p>Comment:</p>	<p>EPA states that the transition to ICIS-Air will require some investment, but it believes reporting agencies will experience “a significant overall reduction in reporting burden” for both direct and batch users. EPA goes on to assert that state operational and maintenance costs will increase modestly due only to inflationary pressures. Statements such as these trivialize the huge resource burden that has and will continue to be placed on reporting agencies as the new ICIS-Air system is put in place. Direct entry users will need to invest resources up front to learn the system and the impact will continue as EPA expands reporting requirements. The impact on batch users will be far greater. Those states will need to invest significant dollars and staff time to revise their systems, yet the implementation of EDT mechanisms will not be viable for years to come, as discussed earlier. Below, NESCAUM highlights some of the areas of significant concern.</p>

	<ul style="list-style-type: none"> • Reporting time burden: On page 10 of the Supporting Statement, EPA indicates that it will take additional mouse clicks or key strokes to enter data but these items will not result in an increased reporting burden. NESCAUM acknowledges that the user interface may be more user-friendly but we do not agree that the user interface will streamline data entry. Based on EPA’s recent ICIS-Air training, NESCAUM states believe it will take more time than EPA recognizes. If EPA is to support this contention, it must conduct a study to analyze the time differential. EPA should conduct a study comparing the time it takes for a knowledgeable user to enter data into both the old AFS system and the new EPA system. • Action linking: We support EPA’s revisions to the HPV policy but do not support the Supporting Statements contention that revisions to this policy will result in a significant burden reduction for reporting agencies. In the NESCAUM region, HPV information is currently input by EPA regional offices, not state agencies, due to problems associated with action-linking data elements. This policy change will not result in a burden reduction to states but it may reduce overall number of HPVs but the reporting component may not be reduced. In fact, this policy and system change may actually result in a burden increase if regions now require states to report HPVs. Furthermore, there has been discussion of expanding action-linking of data elements for FRVs. NESCAUM strongly opposes an increase in action-linking elements. • Use of major source universe to calculate burden: In the Supporting Statement, EPA appears to evaluate burden based on analysis of major sources. NESCAUM does not feel this is an accurate analysis as the ICR applies to more than major sources, even if the universe of sources is limited to apply to CMS, FRV and HPV sources. Major sources typically only represent 30 to 40 percent of the facilities that agencies must input into ICIS-Air. If EPA uses the major source universe to calculate burden, it must use a multiplier of 3 or 4 to include non-major facilities in its calculations. <p>If EPA expects reporting agencies to comply with the proposed reporting requirements in the Supporting Statement, reporting agencies will need more resources from EPA than are currently being provided. EPA also needs to recognize that there will be no data in ICIS-Air from some states for several years.</p>
Response:	<p>At the time of this writing, 22 agencies are submitting data electronically to ICIS-Air via an electronic data transfer process. Therefore, EDT is currently viable.</p> <p>In response to comments, EPA did conduct a limited burden assessment for the second FR notice, and we are committed to conducting a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p> <p>This ICR does not reference action linking for FRVs nor does it account for agreements between EPA regional offices, and state and local agencies.</p> <p>The second FR supporting statement was updated to include the federally-reportable universe as it exists in ICIS (Appendix 1). This federally-reportable universe will be used when a more robust burden assessment is conducted for the next ICR.</p>

Comment:	<p>In the Supporting Statement, EPA claims that the new system will improve information quality and data accuracy yet provides no factual data to support this claim. The previous reporting system, AFS, made entry of incorrect information impossible, as improperly coded entries were rejected. Reporting agencies have yet to learn of quality assurance procedures that will ensure data quality in the new system. NESCAUM believes that data quality issues will continue and potentially expand due to differing interpretations of data entry requirements. Furthermore, reporting agencies cannot fully evaluate the information quality processes because EPA has failed to provide information on how data will flow from ICIS-Air to other data systems, such as the State Review Framework dashboards and the Enforcement and Compliance Online system ECHO.</p>	
Response:	<p>There are multiple facets of ICIS-Air that will contribute to improved data quality and accuracy. Some are provided here:</p> <ul style="list-style-type: none"> • All agencies will report using the same reference tables, which promotes consistent reporting. In AFS, each EPA region had its own action table which allowed for varied reporting. • ICIS has a more robust set of business rules that dictates such things as chronology of events and subparts where applicable. • Each user in ICIS will have a tailored profile that determines what they can add, edit and/or delete; and ICIS restricts users to only being able to edit data “owned” by their agency. This means users associated with a state agency cannot edit data that was entered by a local agency within their state. This gives greater control of their data to local agencies. In AFS, state users could edit local agency data. • EPA is also developing standard reports that will be available to all users that can be used to conduct data quality analyses. <p>Staff from the Office of Compliance’s Data Systems and Information Management Branch is currently working with their colleagues that manage the SRF to modify the SRF metrics where necessary. Data from ICIS-Air is currently available to the public via ECHO. Any data inaccuracies are identifiable through the ECHO Error Tracker. To date, we have not received any significant comments regarding how ICIS-Air data is being presented in ECHO.</p>	
Comment:	<p>The northeast states fully support public access to data relating to public health, including information on compliance of the regulated community consistent with the provisions of the Clean Air Act. We hope that EPA will endorse our recommendation to renew the ICR next year when comments can be informed by real world experience with the new data reporting system. We look forward to working with you and to continued discussions on the reporting requirements in issue.</p>	
Response:	<p>EPA is open to renewing the ICR in fewer than three years if warranted by changes to the underlying reporting requirements or findings of a more robust burden assessment.</p>	
Comment Submitted By:	County of San Diego (CA) Air Pollution Control District	ID: EPA-HQ-OECA-2014-0523-0011
Comment:	<p>As a preliminary matter, the ICR Supporting Statement itself reveals the lack of direct authority to require state and local agencies to collect, analyze, and report the data required under this and previous ICR's. To quote the Supporting Statement:</p> <p><i>"While there is no single statutory requirement for data entry and collection in the CAA, the provisions of Section 114(a)(1) of the CAA, 42 U.S.C. Section 7414(a)(1), provide the EPA</i></p>	

	<p><i>with broad authority to request reporting of information of the type sought by the Agency in this Information Collection Request (ICR).” [Emphasis added.]</i></p> <p>However, in reality there is no “broad authority” in the law to require state and local agencies to report compliance and enforcement data. EPA continues to cite legal authority which has no applicability to enforcement data reporting.</p> <p>EPA first relies on 42 United States Code § 7414(a)(1) which is entitled "<i>Recordkeeping, Inspections, Monitoring and Entry</i>", but is clearly intended to apply to <u>regulated emission sources</u> and not to state and local regulatory and enforcement agencies and their data. Section 7414(a)(1) states it applies to "<i>any person who owns or operates any emission source.</i>" [Emphasis added.] This section is solely aimed at the regulated community, which does not include a local or state regulatory agency.</p> <p>The next authorities cited are 40 CFR 51.324 and 51.327; these sections address State Implementation Plans (SIPs) which are of no relevance to enforcement data reporting. Furthermore, 40 CFR Part 51, Subparts 324 and 327 do not even speak of data, but only documents. Subpart Q is clearly about “emissions data” as 40 CFR Part 322 most clearly says "<i>The requirements for reporting emissions data under the plan are in subpart A of this part 51.</i>" Nowhere do any of the citations mention compliance, enforcement, or AFS data at all.</p> <p>EPA next cites 40 CFR 70.4 and 70.10 which address the workings of Title V federal operating permit program which is focused on the content of Title V permits. These sections are not applicable to compliance and enforcement data either. In addition, funding is not specifically authorized, directed, nor provided by EPA for AFS-related compliance enforcement work, either directly or from Title V in this citation. State and local agencies are actually prohibited from using 105 grant funds on anything related to Title V, which comprise the vast majority of High Priority Violation (HPV) and other major sources. As a result, there is little to no federal funding provided for this federal data reporting.</p> <p>Furthermore, as stated in this Disclaimer which appears in virtually all EPA policy and guidance documents these guidance and policy documents relied upon by EPA to justify its reporting requirements do not impose legally binding requirements on state, local or tribal agencies:</p> <p style="text-align: center;"><i>“DISCLAIMER</i></p> <p><i>The discussion in this document is intended solely as guidance. This document is not a regulation. It does not impose legally binding requirements on the United States Environmental Protection Agency (EPA), states, locals, tribes, or the regulated community. This policy does not confer legal rights or impose legal obligations upon any member of the public.”</i></p> <p>EPA thus lacks the legal authority for the ICR, or this renewal, and has failed to cite sufficient legal authorities to require agencies to gather and report federal data.</p>
Response:	<p>In response to comments received on the first FR supporting statement regarding the Agency’s authority to collect the information included in the ICR, EPA clarified in the second FR supporting statement that it identifies section 114 of the CAA as the primary authority for collecting the information in the ICR. Section 114 allows EPA to, among other things,</p>

require persons to provide information as EPA may reasonably require to carry out its obligations under the statute. EPA's section 114 authority extends beyond owners and operators of emissions sources to include any person subject to the requirements of the statute, including state and local air quality control agencies.

Moreover, EPA has not demonstrated an adequate need for the data requested in this renewal or previous ICR's. EPA claims that the data is needed to draw national comparisons among programs based on this data. However, national comparisons can be confusing and misleading because air programs and their administration differ so greatly among state and local agencies. National comparisons of areas with varying levels of attainment at the local level create an uneven playing field. Concepts of "national consistency" appear to be carried over from water and waste. Those programs have national consistency in that they regulate and enforce national standards. As discussed more fully below, at least in California, air quality regulations were developed independent of and prior to development of the federal air quality regulatory structure.

Additionally, the structure of the Clean Air Act produces great differences in regulatory thresholds among states and even among areas within states. For example, in some areas there is a 100 ton per year emissions threshold for a major source while others have a 10 ton per year threshold. In some cases the District requires a permit for sources emitting just 10 pounds per day of emissions. This makes some very small sources subject to Title V, Compliance Monitoring Strategy (CMS), Federal Reportable Violation (FRV), and possibly High Priority Violation (HPV) reporting. Many of these smaller sources do not even require a local permit in other regions of the country as they do in California. This disparate data creates a mischaracterization of local actions that misleads the public. The District cautions EPA against attempting to make national comparisons in a program that varies so much across the nation.

In reality, while EPA may want this data, the "need" they have cited to justify requiring this data reporting will be counterproductive to its stated goals. Additionally, the associated burden on local agencies to collect this data is high (much greater than EPA thinks it is), as will be discussed in more detail below. Many of the data requirements discussed in the ICR Supporting Statement are not currently maintained or tracked by many state and local agencies, contrary to EPA's assertions. Many of the data points EPA seeks such as subparts, air programs, various start and stop dates, and pollutants, etc., for ICIS-Air are of no relevance locally, particularly as they relate to inspections and violation case tracking. These data are not collected in the field or tracked in the District computer system. It takes considerable time to locate, collect, analyze, and translate the data into EPA terminology (if possible) and then report it.

This data is also of no local internal use to the agencies. AIRS, and its replacement, ICIS-AIR, serve no useful purpose for this and many other local agencies. As the District and others have said numerous times over the past several decades, this data is clearly a substantial unauthorized and unwarranted burden. Furthermore, AIRS and its replacement, ICIS-AIR, are of no use to the District in administering its local air program and should be eliminated as required under the Paperwork Reduction Act or, at a minimum, be understood and communicated by EPA as to its being optional and voluntary.

Comment:

	<p>EPA must realize that any data supplied is done so voluntarily. As such, this ICR process and the development of guidance and policy documents must be much more of a truly voluntary and collaborative process.</p>
<p>Response:</p>	<p>The Agency recognizes that regulatory applicability thresholds vary based on environmental conditions (e.g., nonattainment areas). But, it is for good reason these thresholds vary. Higher concentrations of criteria pollutants exist in these areas. The Agency would be remiss of its obligations if sources that may contribute to an area’s nonattainment status were wholly excluded from this ICR. But, in recognition of the variability of the regulated universe of sources, Agency policies do provide exceptions for these areas. The federally-reportable universe covered by the ICR includes a greater percentage of sources covered by the CAA than the CMS universe, which allows EPA to, among other things, construct an inventory of regulated sources, support comprehensive CAA oversight activities, and ensure an effective regulatory framework.</p> <p>Non-major sources are part of any comprehensive inventory of regulated sources. These include area or small sources under CAA regulations. Even low emission releases from these individual sources can impact communities. In the aggregate, their emissions can have significant impacts on the health and environment of the communities in which they are located particularly where large numbers are located in heavily populated areas.</p>
<p>Comment:</p>	<p>The California air program predates the creation of US EPA by decades. The authority to directly regulate air pollution in California did not initially come from US EPA, but rather from state law including the California Clean Air Act (“CCAA”) and local public health regulations. The Federal Clean Air Act and the air program in general have evolved into a complex balance of authority between the federal, state, and local governments. This evolution has created a more of a “dual sovereignty” rather than a “cooperative federalism” which EPA refers to in its literature. Little of our local authority to regulate air comes solely from EPA delegation. Much of the District’s local regulatory authority comes from California law and the District’s governing board. As a result of this history, the CCAA and local rules and regulations do not always have a direct federal corollary, and are often more stringent than the federal Clean Air Act and its implementing regulations found in the CFR. Thus, in California local agencies typically enforce the state and local regulations and permits, rather than federal law. This makes the data collection, reporting, and a national comparison more difficult, and even meaningless in most cases. The first paragraph of the supporting Statement says,</p> <p style="padding-left: 40px;"><i>“Many delegated agencies use, and in the future will use, ICIS-Air as their own data system....The EPA and many of the delegated agencies access the data currently in AFS to assist them in managing their air pollution control programs.”</i> [Emphasis added.]</p> <p>However, the District finds that EPA’s data is not at all useful to us in administering our local air program since our local data is not CAA centric as EPA assumes. Thus data collection and data entry into AIRS/ICIS-AIR is an additional burden with no benefit or use to the states and local agencies.</p> <p>Additionally, local air districts in California are not a subset or arm of CARB. There are 35 individual air districts in California that have primary authority over stationary sources of air</p>

	<p>pollution while CARB has primary authority over mobile sources and consumer products. This separation in authority and responsibility has served California well over the decades and has given the state one of, if not the most, robust and effective air pollution regulatory and enforcement programs in the nation. These unique features of the California air programs need to be reflected in the development of data requirements and policies. California air regulators, the leaders in air pollution control and enforcement, should be consulted more frequently regarding EPA’s programs, policies, guidelines and data system development.</p>
<p>Response:</p>	<p>The EPA recognizes that rules and regulations existed in California to control air emissions before the EPA and federal Clean Air Act, and appreciates that California jurisdictions (California's Metropolitan Los Angeles and San Francisco regions) were among the first to submit regional air pollution control plans to the EPA for sulfur oxides and particulate matter. Nonetheless, it was realized that the only practical way to control air pollution in the United States was through a national approach. EPA will always rely heavily on its partner agencies to maintain and improve the air quality of the United States, and we will continue to seek input from these partners for all significant policy revisions, as we did throughout design and development of ICIS-Air.</p> <p>With that, we do recognize that there is an evolution regarding the data we collect and the method in which we collect it. For example, we have learned that some agencies do not utilize administrative authority to address and resolve compliance issues at regulated sources. In response, over the course of developing ICIS-Air, we plan to explore means to better capture these other response actions. Also, the initial release of ICIS-Air included a method for reporting a state or local regulatory citation in lieu of reporting a federal air program to indicate a source’s applicable set of rules or regulations. We hope agencies utilize this option.</p> <p>Part of EPA’s charge is implementing and maintaining a nationally consistent CAA stationary source compliance and enforcement program. With that as a goal, we certainly recognize that differences exist based on environmental conditions, composition of the sources of emissions, and regulatory framework.</p>
<p>Comment:</p>	<p>For more than two decades the state and local agencies in Region 9, and others throughout the nation, have sought a reduction in the reporting burden, simplification, and modernization of the AFS and EPA’s policies. While EPA has moved to increase the complexity of AFS data as agencies transition to ICIS-AIR, the reporting burden has also increased as has the scope and reach of its policies, through the issuance of periodic ICR’s and a litany of guidance documents. The complexity and mixed messages contained in these related but separate and sometimes conflicting guidance documents are staggering.</p> <p>For example, page 6 of the Supporting Statement states the following: “... <i>The compliance monitoring types of Full Compliance Evaluations (FCEs), Partial Compliance Evaluations (PCEs), and Investigations are activities that must be reported at the facility level in ICIS-Air.</i>” In the same paragraph it says, “<i>The reporting of PCEs is not an MDR [minimum data requirement] for delegated agencies except when they are part of an alternative CMS plan and/or when they lead to discovery of an HPV.</i>” Even though EPA disclaims any legal authority in the CMS, this uses the commanding language “must” and then says it is not an MDR in the same paragraph. The District reports FCE’s not PCE’s and does not consider a source test or a Title V Annual Compliance Certification as inspections or PCEs as EPA</p>

	<p>incorrectly identifies them in ICIS-AIR. As stated above, EPA lacks the legal authority to mandate the reporting of this data.</p> <p>During work group conference calls our agency and others proposed a consolidation of these policies and guidance into one guidance document. That was done because those policy and guidance documents were developed in isolation by EPA, often at cross purposes. The proposed consolidation of policy documents may also minimize the burden of simply reviewing and commenting on the 48 page ICR supporting statement that incorporates four other policy documents (CMS, HPV, FRV, and Stack Test), three of which came out within several months of each other for a total of 110 pages, not counting cover letters. This burden is occurring at a time when there are numerous webinars, calls, and training on the new ICIS-Air which goes live near the time these comments are due.</p> <p>The guidance documents are summarized in the ICR Supporting Statement, indicating that EPA plans to attempt to enforce additional data requirements. This flies in the face of the intent of the Paperwork Reduction Act which is codified at 44 CFR 3501: <i>"The purposes of this subchapter are to--minimize the paperwork burden for individuals, small businesses, educational and nonprofit institutions, Federal contractors, State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government..."</i> [Emphasis added].</p> <p>The Paperwork Reduction Act's intent is clearly to minimize burden which this ICR and its renewal do not do.</p>
<p>Response:</p>	<p>The text in the first FR supporting statement was intended to highlight that some but not all PCEs are required to be reported. This language was struck from the second FR supporting statement.</p> <p>The current referenced policies were developed through committees that included representatives of state and local agencies, and state associations. If revisions to these policies are warranted, EPA will initiate the proper protocols for soliciting participation.</p> <p>Also, during the course of this ICR, as stated on page 36 of the second FR supporting statement, EPA plans to perform a more robust burden assessment.</p>
<p>Comment:</p>	<p>EPA's assertion that the reporting burden has shrunk because the reportable universe has shrunk since development of the FRV guidance is now eviscerated by the revised ICR policy. EPA claims this is a burden reduction, which it isn't at all; because there has been no shrinkage since the District (and many others) has never reported FRVs, only HPVs. We intend to continue to only report on HPVs. The amount of data points required has increased as well as how many screens one must go to in order to enter the data. This involves considerably more staff time in order to gather data not in already in our system, especially since many more screens must be accessed in that data entry process. During one of the calls with EPA about this topic the South Coast AQMD suggested the EPA conduct a time and motion study that should be done as part of the burden analysis. Although the idea was apparently ignored by EPA, it is an appropriate suggestion and valuable idea that must be considered because such a study would surely identify the truly burdensome reporting proposed by this program. (See the discussion on reporting burden below at V.)</p>

Response:	<p>For the second FR supporting statement, EPA conducted a limited burden assessment based on a time and motion study estimating the relative change in burden associated with directly entering data to ICIS-Air versus AFS. The study compared 47 different AFS direct data entry scenarios to the equivalent ICIS-Air direct data entry scenarios. Of the 47 scenarios, 12 are no longer warranted in ICIS-Air (e.g., changing compliance status), 22 took less time in ICIS-Air, 6 took the same amount of time, and 7 took more time in ICIS-Air than AFS. These preliminary findings are a strong indication that manual users will experience a discernable reduction in overall burden.</p>
Comment:	<p>Thank you for removing the “<i>any facility with a formal enforcement action</i>” language from the FRV policy. Please note that this language must also be removed from page 14 and other places in the Supporting Statement to ensure clarity and consistency in what is being required.</p>
Response:	<p>Any facility subject to a formal enforcement action is included in this ICR as part of the federally-reportable universe. This is clarified on pages 13 and 14 of the second FR supporting statement under 4(b) <i>Information Requested</i>. During the period covered by this ICR, EPA will initiate a dialogue with all interested stakeholders to review the federally-reportable universe with a goal of determining if it serves the intended purpose. This universe may be refined. If it is determined that the federally-reportable universe should change, we have the ability to renew this ICR in fewer than 3 years.</p> <p>It is important to have a complete and accurate inventory of all regulated sources. This information is needed to implement a compliance and enforcement program that includes efforts such as targeting compliance activities; assessing impacts on sensitive communities; and evaluating compliance trends. Having an accurate, up-to-date source universe is also essential to good governance by allowing local communities and citizens to be aware of the regulated facilities within a geographical area of interest and to allow them the opportunity to conduct their own assessment of these facilities, if they choose. They may wish to obtain a better understanding of the degree and impact of emissions by facilities.</p> <p>Minor sources are part of any comprehensive inventory of regulated sources. These include area or small sources under CAA regulations. Even low emission releases from these individual sources can impact communities. In the aggregate, their emissions can have significant impacts on the health and environment of the communities in which they are located particularly where large numbers are located in heavily populated areas.</p>
Comment:	<p>A Federal Reportable Violation (FRV) Reporting and Tracking [September 2014, Guidance on Federal Reportable Violation at Clean Air Act Stationary Sources]</p> <p>This guidance is completely unnecessary as there is no need to collect data on anything other than High Priority Violations (HPVs). This District and most others in California regulate much smaller emission sources than do much of the rest of the nation and including those is not only unwarranted, it would be unduly burdensome and costly. A number of California air districts currently do not identify, track, and report on FRVs and have no plans to so in the future.</p> <p>Therefore, the District would instead suggest that EPA develop an even more streamlined approach requiring only reporting of High-Priority Violations (HPVs). (See below) However,</p>

	we do acknowledge EPA’s attempt at minimizing the burden by limiting FRVs to those facilities covered by the CMS plan, although we think it is unnecessary to go beyond HPVs and there is no real need for an FRV policy.
Response	<p>As stated on page 5 of the second FR supporting statement, EPA believes “FRV reporting is important, as it supports the Agency in managing the national CAA compliance and enforcement program. The collected data supports: policy analysis and evaluation; decision-making in determining the significance of violations and enforcement priorities; targeting efforts; and meeting public expectations for accessible, detailed information.”</p> <p>The ICR is intended to be implemented consistent with the FRV policy. To specifically address the lower Title V major source thresholds in areas of nonattainment, the FRV policy establishes additional criteria that can be applied to determine the universe of sources at which FRVs are to be reported. This additional criteria was requested by CA locals.</p>
Comment:	<p>Compliance Monitoring Strategy [July, 14, 2014, “Clean Air Act Compliance Monitoring Strategy”]</p> <p>We thank EPA for limiting CMS to Title V and SM80 facilities, but we want assurances that this will not expand in the future. As previously stated there is no need for minor source data in ICIS-Air.</p>
Response:	As previously stated, EPA believes there is value and a need for data regarding non-major sources. Our policies may be revised periodically. If they are, we will seek input from interested stakeholders.
Comment:	EPA has indicated that the issuance of a Notice of Violation makes the entire case public at that point ICIS-Air has been programmed to assume the record is public after the NOV is issued. That is just not the case in all states, especially in California. We will continue to report violation cases as they are finally closed to prevent premature release of exempt information.
Response:	It is EPA’s practice that if a public document is linked to the Case File, the Case File would also be public. Per a 2006 OECA memo, “While there are many details within enforcement matters that are confidential and may not be shared with outside parties, public documents that can be shared with outside parties may include: Information requests to initiate investigations; Judicial complaints; Notices of violations; Administrative orders; Final settlement agreements; Motions and other documents filed with courts or filed in administrative proceedings; and Court decisions.” (2006, Nakayama Memo – Restrictions on Communicating with Outside Parties Regarding Enforcement Actions).
Comment:	Burden justifications in this and other ICRs have ignored and/or grossly understated the real actual costs to the local agencies, where EPA seems to have relied solely on a survey of a few select agencies with very limited numbers of data points. These EPA burden estimates are unreasonably low and entirely misleading. Any real burden analysis must be more inclusive and represent the actual real costs (not just data entry) for all agencies and not just a select few that were surveyed. EPA has also failed to take into account the multitude of webinars, conference calls, and variations of many documents presented for review and comment within the past five years. The workload associated with these activities would be in the many tens of thousands of hours nationwide. As stated above, the District does not routinely collect this data or use this data in the management of our local programs and, as such, the burden

	estimates must reflect the additional substantial time required for data collection, which they do not.
Response:	During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.
Comment:	<p>An example of part of the burden dismissed by EPA as “<i>customary business practices</i>” appears on pages 11 and 15 of the Supporting Statement. The following statements are erroneous and misleading, as they do not appear to be based in fact:</p> <p>(1) “<i>Delegated agencies generally collect the information as part of their customary business practice to <u>manage their compliance and enforcement programs.</u>” (Page 11) [Emphasis added]</i></p> <p>(2) “<i>Most of the burdens under Activity 1 are designated as Customary Business Practice, because <u>delegated agencies collect the information required by the EPA for their own program management purposes.</u>” (Page 15) [Emphasis added]</i></p> <p>Local air districts in California and many agencies in other parts of the nation do not use any of this EPA data in the management of state or local air quality programs. As local agencies, collecting this EPA data is not a “customary business practice” as stated above. For many of us, most of the EPA data is not in our databases and would be unduly burdensome to collect, analyze, and report to the EPA.</p>
Response:	EPA would argue that most agencies have tailored the data they store to meet EPA’s reporting requests. It is commonplace to find agencies track facility information, compliance evaluations/inspections, violation determinations and enforcement actions. Some of the details within each category may differ, but EPA has added features to accommodate program variations. For example, EPA added the ability for agencies to report a state or local agency regulatory citation in lieu of the equivalent federal program. We developed a list of violation types based on input from states and state associations. In other instances, EPA is implementing data standards (e.g., Enforcement and Compliance Data Standard, July 30, 2008), which were developed in collaboration with state, tribal, and U. S. EPA representatives under the Exchange Network Leadership Council and its predecessor organization, the Environmental Data Standards Council.
Comment:	Full compliance with this ICR (including the HPV, FRV, CMS, MDR, Business Rules and additional requirements discussed above) would require this District to add staff to gather and input data and then maintain the data. It would require the District to change its already efficient and effective inspection procedures to gather data that has no value at the local level and is of questionable value nationally. It would also require the District to potentially spend several million dollars to modify the County’s enterprise data system that is shared with a number of other County agencies. In fact, such changes may not even be possible with the existing system given the potential magnitude, complexity, and inevitable incompatibility and dysfunction of data management programs resulting from such changes. Quite simply, the District cannot afford to fulfill the provisions of the ICR, MDR's, Business Rules, and the referenced policies because it will place an undue burden on the District, permit holders and the public. This financial burden would either fall to industry in the form of increased permit fees, or to the public in the form of reduced stationary source inspections and enforcement of

	air quality regulations in order to shift personnel to data gathering, analysis and reporting, which is not our primary mission. This data reporting exercise does nothing to maintain or improve air quality. Full compliance with this ICR and EPA’s guidance is just not possible.	
Response:	EPA certainly understands the resources needed to maintain and update IT programs. We anticipate efficiencies in the use of modernized data system and electronic data flows, and we hope that this ICR does not redirect inspector resources but rather works in unison with inspector resources. We further believe that the data collected per this ICR and our compliance and enforcement policies facilitate targeted approaches to compliance monitoring.	
Comment:	The EPA itself needs to be more cooperative and transparent with local districts and states in formulating its policy, guidance, reporting and tracking requirements, data management, and data delivery systems. EPA must work far more collaboratively in the future to ensure that all affected parties have had a chance to fully participate in the development stage, in analyzing proposals, ensuring that the changes are really needed, testing proposed changes, and ensuring the changes would not create an undue burden or have negative impact at the state or local level. It is only through a fully collaborative process that an effective data collection, tracking and reporting system that benefits everyone will be realized.	
Response:	The Office of Compliance will evaluate its methods for soliciting input and participation on workgroups and efforts to modify and/or develop policies related to this ICR. We rely heavily on collaboration with our partner compliance monitoring and enforcement agencies, and we have benefitted greatly from enhanced collaboration.	
Comment Submitted By:	Montana Department of Environmental Quality	ID: EPA-HQ-OECA-2014-0523-0012
Comment:	<ul style="list-style-type: none"> • In Section 4 of the Supporting Statement for the ICR (p.14), EPA identifies the reportable universe of facilities for ICIS-Air to include “...any facility with a formal enforcement action...” • In Table 2 Summary of National Minimum Data Requirements (MDRs) for Clean Air Act Stationary Source Compliance (p.28), EPA identifies the reportable universe of facilities for ICIS-Air to include “...any facility with a formal enforcement action...” <p>DEQ finds that the inclusion of the statement “...any facility with a formal enforcement action...” in the ICR will force states to provide data that is unnecessary for EPA to perform its functions. The resulting obligation from the inclusion of this statement in the ICR leaves states needing to submit data for sources that EPA does not typically regulate in its own jurisdiction--minor sources. Furthermore, this statement leaves states with the decision of how to separate out minor source data that is part of a formal enforcement action from the rest of its minor source data. For many states, including Montana, the resulting burden of reporting, tracking, explaining, and overall managing this data in ICIS-Air is significant, is not time well spent, and is not commensurate with any benefit that would be realized.</p> <p>DEQ requests that EPA remove the statement “...any facility with a formal enforcement action...” from the ICR supporting documents. The resulting data required by states from this language, as currently written, is not critical to EPA’s oversight, and the submission/management of the data to ICIS-Air creates an undue burden on states/local agencies.</p>	

Response:	<p>Our policies should not be read to limit EPA authority. EPA retains parallel authority to enforce federal requirements even when EPA delegates program authority to a state, tribal, or local governments. EPA’s authority remains that which is provided by section 113 of the Clean Air Act, which includes requirements and prohibitions that apply to smaller sources of emissions. It is the intent of this ICR to limit the reporting universe of sources regulated by the CAA taking into consideration the reporting burden imposed on state, tribal, and local delegated agencies.</p> <p>The federally-reportable universe is broader than the universe of sources included in the CMS, FRV and HPV policies. The CMS policy generally focuses on Title V majors and 80% synthetic minor sources; the FRV focuses on Title V majors, 80% synthetic minors, sources on a CMS plan, and any source with an HPV; and the HPV policy generally applies to Title V majors only.</p> <p>Minor sources are part of any comprehensive inventory of regulated sources. These include area or small sources under CAA regulations. Even low emission releases from these individual sources can impact communities. In the aggregate, their emissions can have significant impacts on the health and environment of the communities in which they are located particularly where large numbers are located in heavily populated areas.</p> <p>During this ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>
Comment:	<p>In Section 4 of the Supporting Statement for the ICR (p.14), EPA identifies the reportable universe of facilities for ICIS-Air to include “...SM-80’s...” The reporting of SM-80s seems appropriate and is consistent with the <i>Clean Air Act Stationary Source Compliance Monitoring Strategy – July 2014</i>. However, in other areas of the ICR (such as the Table 2 Summary of National Minimum Data Requirements (MDRs) for Clean Air Act Stationary Source Compliance [p.28]), EPA identifies the reportable universe of facilities for ICIS-Air to include “...Synthetic Minor...” sources, which is a much more inclusive term. A distinction of SM-80 is not made in this part of the ICR.</p> <p>DEQ is requesting that EPA clarify, throughout the ICR supporting documents, that the reportable universe for synthetic minor sources only includes SM-80s. The inconsistent reference to both synthetic minor sources and SM-80 sources leaves states unsure of EPA’s intended requirements in the ICR. DEQ believes that making such a clarification is needed. DEQ also believes that EPA should clarify that the reportable universe truly is SM-80 sources. Requiring that only SM-80 sources (from the entire synthetic minor universe) will make the ICR consistent with current Compliance Monitoring Strategy (CMS) guidance and specific CMS plans between states/locals and EPA.</p>
Response:	<p>The second FR supporting statement was modified to clarify the federally-reportable universe covered by this ICR includes: Title V major sources, synthetic minor sources, sources subject to a Part 61 NESHAP regulation, facilities included on a CMS plan, facilities subject to a formal enforcement action, and facilities with an HPV. Providing such a list in the revised supporting statement was intended to clarify that all synthetic minors are federally-reportable,</p>

	and not just those synthetic minors that are permitted at 80% of a major source threshold (SM-80).	
Comment Submitted By:	Massachusetts Department of Environmental Protection	Submitted after initial 10/20/14 deadline
Comment:	Most importantly, the universe of facilities detailed in the ICR Supporting Statement that agencies must report data for does not match the reporting universe defined in the recently issued EPA policies. These include the Compliance Monitoring Strategy (CMS), the FRV policy, and the HPV policy. The number of facilities subject to reporting under this ICR is far larger than those covered by the above listed policies. We would recommend that EPA modify the reporting universe to follow recent policy changes and apply reporting requirements to sources subject to CMS, FRV and HPV policies.	
Response:	<p>Language was incorporated into the second FR supporting statement to emphasize the federally-reportable universe included in this ICR has not changed, and is broader than the universe of sources covered by the CMS, and revised FRV and HPV policies. It is EPA's intent to highlight the importance of a complete and accurate inventory of all regulated sources, including smaller sources.</p> <p>During this three year ICR coverage period, EPA will initiate a dialogue with interested stakeholders to review the composition of the federally-reportable universe. But, we will not at this time wholly exclude sources that are currently part of the universe. Collectively these sources, including minor sources, can have a significant impact on the environment and public health. If it is determined that the federally-reportable universe should change, we may consider renewing this ICR in fewer than three years.</p>	
Comment:	Similarly, the text of the ICR and table of Minimum Data Requirements (MDR) are not consistent. In several places, the text of the ICR contemplates the capability of ICIS-Air and what could be reported into that system but implies that it is either already currently entered in AFS or must be reported to ICIS-Air. The MDR table is more accurate and expresses what should be or must be entered. This creates some internal conflict and confusion that will not encourage consistent state to state reporting. We would encourage EPA to focus the ICR only on what "must be entered" as MDR in ICIS-AIR and leave out language that describes the full range of "optional" data that might be collected.	
Response:	The second FR supporting statement only includes the minimally reportable data. Any optional data references were removed. In addition, Table 1, <i>ICIS-Air: Reporting Minimum Data Requirements – Delegated Agencies</i> , was updated to provide a clearer explanation of each data element.	
Comment:	Finally, we understand that the ICR was written at a time when ICIS-Air was still in development and the HPV and FRV policies were not yet final. This has limited EPA's ability to make a full and complete analysis of the reporting burden. That said we feel it premature to claim that the change over to ICIS-Air along with implementation of the new policies will be a reduction in reporting burden. Because we have not yet fully learned how to operate the new system, and as a consequence do not have any experience with using it, it is not possible to quantify the impact on our workload and therefore general statements claiming either increases or reduction in the workload associated with reporting to EPA are not appropriate at this time.	

	<p>Another area where the burden estimate falls short is that it does not include an estimate of the workload states face in modifying state systems to accommodate the new data model for ICIS-Air (including some new data elements- specifically those for the case file). Many of us wish to smoothly transition from AFS to ICIS-Air with an EDT submittal system but the changes we need to make on the state side of the data will take months or maybe years to implement. In the interim, we will be doing manual data entry/ reporting at a considerably higher cost and work effort than EPA has estimated or discussed in the ICR.</p> <p>Therefore, the burden estimate in the ICR needs to be revised significantly and claims that there will be a reduction in the work effort as a result of the changes made to both policies and data systems need to be supported by hard numbers or eliminated. A revised workload estimate should be based on actual time spent in reporting to the new system compared to time previously spent reporting to AFS. The work load estimate should also include quality assurance activity as well as time spent extracting data from state systems plus time states are spending programming and configuring state data for Electronic Data Transfer (EDT).</p>
Response:	<p>In response to comments, EPA did conduct a limited burden assessment for the second FR supporting statement. The limited burden assessment that EPA conducted is based on a time and motion study estimating the relative change in burden associated with directly entering data to ICIS-Air versus AFS. The study compared 47 different AFS direct data entry scenarios to the equivalent ICIS-Air direct data entry scenarios. Of the 47 scenarios, 12 are no longer warranted in ICIS-Air (e.g., changing compliance status), 22 took less time in ICIS-Air, 6 took the same amount of time, and 7 took more time in ICIS-Air than AFS. These preliminary findings are a strong indication that manual users will experience a discernable reduction in overall burden. EPA also interviewed agencies that have submitted data electronically to ICIS to compare the batch upload process they used for AFS to the EDT process they use for ICIS. In addition, EPA interviewed agencies to estimate the one-time burden imposed by the transition from AFS to ICIS-Air.</p> <p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>

Comments Received – 2nd FR Notice
(EPA-HQ-OECA-2014-0523-0013, Posted 1/12/2015)

Comment Submitted By:	County of San Diego (CA) Air Pollution Control District	ID: EPA-HQ-OECA-2014-0523-0015
Comment:	EPA's legal authority to require the reporting of enforcement and compliance data does not exist... Attempting to use this ICR process to create a legal obligation on state and local agencies is both an attempt at illegal rule making and abuse of EPA's authority. As a result, absent a more specific grant of authority from Congress, EPA cannot just expand the reportable universe of data it would like to collect. Instead, EPA must work with state and local agencies to develop a more workable and efficient method to collect the data which those agencies currently collect as part of their ongoing program responsibilities.	
Response:	In response to comments received regarding the Agency's authority to collect the information included in the ICR, EPA identifies section 114 of the CAA as the primary authority for	

	collecting the information in the ICR. Section 114 allows EPA to, among other things, require persons to provide information as EPA may reasonably require to carry out its obligations under the statute. EPA's section 114 authority extends beyond owners and operators of emissions sources to include any person subject to the requirements of the statute, including state and local air quality control agencies.
Comment:	<p>Federal-Reportable Universe Is Not Described Consistently in the Final Supporting Statement; It was Limited in Scope by Nationwide Teleconferences, Webinars and Workgroups with EPA to only Title V and Synthetic Minor 80% Sources</p> <p>...</p> <p>Then EPA tries to distinguish between the federally-reportable universe and the CMS, FRV and HPV policies when it promised otherwise in repeated policy discussions and elsewhere in the Final Supporting Statement. The agreement reached in the litany of calls and webinars over the past five years was that the policies and the reportable universe would be limited to Title V and 80% Synthetic Minors which is similar to how it is in EPA's compliance and enforcement policies. The CMS, FRV and HPV policies discussed by EPA limit the scope of the federally-reportable universe for compliance and enforcement data. However, as noted by EPA, they cover distinct sets of sources.</p>
Response:	<p>The federally-reportable universe of sources covered by this ICR were not part of the workgroup discussions that resulted in revised FRV and HPV policies. The 2014 FRV policy intended to only narrow the universe of sources for which violations are to be reported. The HPV policy has always applied to a smaller sub-set of the federally-reportable universe. However, during the period covered by this ICR, EPA will initiate a dialogue with all interested stakeholders to review the federally-reportable universe with a goal of determining if it serves the intended purpose. If it is determined that the federally-reportable universe should change, we have the ability to renew this ICR in fewer than three years.</p>
Comment:	<p>This statement: "All sources included in the federally-reportable universe are to be reported" wasn't in the draft ICR Supporting Statement, but it appears on Page 17 of the Final ICR Supporting Statement. Agencies have never agreed to report minor source data. Reporting on any source based solely on an action type, including a formal enforcement action, is something we, and probably many other agencies, cannot agree to do. For most agencies in California nearly every Notice of Violation would become a formal enforcement action thus become reportable pursuant to EPA's revised policies. In San Diego County, for example, the District issues approximately 1,000 Notices of Violation per year which range in severity from administrative to serious emission violations. Under EPA's revised policy, all of these would be required to be reported. In our violation settlement process we send an offer letter with a penalty amount (EPA deems this a formal enforcement action) which would make even the most minor source violation subject to federal reporting.</p>
Response:	<p>Many comments were received on the first FR supporting statement that indicated the federally-reportable universe and expectations for reporting compliance monitoring and enforcement activities at these sources needed to be clarified. So, the federally-reportable universe was emphasized in the second FR supporting statement wherever its inclusion provided greater clarity. In addition, Table 1 of the second FR supporting statement was updated to further clarify the minimum data requirements.</p>

<p>Comment:</p>	<p>The ICR Burden Estimates Grossly Underestimate the True Reporting Burden to State and Local Agencies</p> <p>...</p> <p>Any real burden analysis must be more inclusive and represent the real costs (not just data entry time) for all agencies, not just a select few that are surveyed. EPA has also failed to take into account the multitude of webinars, conference calls, and variations of many documents that EPA sent out for review and comment within the past five years. This would be in the many thousands of hours nationwide. As stated before, the District does not routinely collect the data subject to this and other ICRs or use any of this data in the management of our local programs; as such, the burden estimates must reflect the additional and substantial time required for data collection. Accurate burden estimates can only come from the reporting agencies themselves, and must come from a broad cross-section of affected agencies. Additionally, the labor rates used do not reflect the actual job classification of the personnel gathering, analyzing and reporting the data. The three most vocal California local agencies (and probably others nationwide) employ people in substantially higher positions and at a cost two to three times the figures used in the burden estimate. Yet EPA claims the hourly figure also represents the costs of attending meetings and workshops as a one-time expense. The national calls will continue and result in an ongoing expense that we believe should be considered.</p>
<p>Response:</p>	<p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>
<p>Comment:</p>	<p>Clean Air Act Delegation Does Not Mean Each Local Program is Identical</p> <p>Local air quality agencies are delegated to enforce state air quality law as well as local rules, regulations, and programs that often exceed the stringency of the federal program and statutes. Little of our local authority to regulate air quality comes solely from EPA delegation. Much of the District's local regulatory authority comes from California law and the District's governing board. As a result of this history, the California Clean Air Act (CAA) and local rules and regulations do not always have a direct federal corollary, and are often more stringent than the federal Clean Air Act and its implementing regulations found in the CFR. Thus, in California, local agencies typically enforce the state and local regulations and permits, rather than federal law. This makes the data collection, reporting, and a national comparison more difficult. The limited data we do have often does not fit neatly into EPA's data requirements.</p>
<p>Response</p>	<p>We do recognize that there is an evolution regarding the data we collect and the method in which we collect it. For example, the initial release of ICIS-Air included a method for reporting a state or local regulatory citation in lieu of reporting a federal air program to indicate a source's applicable set of rules or regulations. We hope agencies utilize this option.</p> <p>Part of EPA's charge is implementing and maintaining a nationally consistent CAA stationary source compliance and enforcement program. With that as a goal, we certainly recognize that differences exist based on environmental conditions, composition of the sources of emissions, and regulatory framework.</p>

Comment:	<p>On Page3 of the Final ICR Supporting Statement EPA states the MDR data is critical to "manage the national CAA compliance and enforcement program to ensure effectiveness and consistency." EPA may conduct some oversight through auditing, etc., but it has no need to "manage" a delegated program. It is up to the delegated agency to determine how it implements its program in order to achieve its goals and mission. The goal of the CAA is to achieve air quality standards. Program effectiveness can be measured and is based on ambient air monitoring data not discrete compliance and enforcement data points. Counting how many enforcement actions were conducted by any agency, without considering the attainment status and emission thresholds of the different local areas, is simply not valid.</p>	
Response:	<p>This ICR and the data requested within it are not used to "manage" a delegated program. It is intended to highlight an effective and collaborative effort among EPA and delegated agencies to implement a national air quality compliance monitoring and enforcement program. The data included in this ICR does feed into the Agency's State Review Framework (SRF) program.</p>	
Comment:	<p>"Opportunities for <u>More</u> Data" (page 7, Supporting Statement)</p> <p>EPA should be reducing the amount of compliance and enforcement data reported to ICIS not considering an increase to it. As stated above, and in other ICR comments, EPA has not proven the relevance or real need for this data from state and local agencies. This constant data creep over the past twenty plus years is unacceptable. As we have said before, more data does not equal better data, nor does it imply better compliance with the CAA.</p>	
Response:	<p>The Agency has learned over time that some additional data would make the data that is reported more relevant and useful. For example, agencies report data regarding the receipt and review of Title V annual compliance certifications. But, agencies are not required to report the period covered by the certification. We often find two or more certifications received in a single fiscal year. Learning the period covered would certainly make the certification more relevant. Another area that agencies have identified for attention is the pollutant classification. Some have argued that a facility-level classification in lieu of a pollutant level classification would better fit how delegated agencies track sources. So, we included "Opportunities for New Data" in an effort to highlight some areas where change may be needed to reduce reporting, make the data more useful to not only delegated agencies and EPA but also the public, and better reflect how programs are implemented by delegated agencies. We intend to discuss these new areas during this ICR coverage period.</p>	
Comment Submitted By:	Northeast States for Coordinated Air Use Management	ID: EPA-HQ-OECA-2014-0523-0016
Comment:	<p>NESCAUM disagrees with EPA's assertion that under this ICR, nationally, reporting agencies will realize a reporting burden decrease of 2,971 hours. The reality is that many states will face a stark choice between being unable to meet the minimum data reporting requirements or significantly increasing the resources needed for data reporting. Within this ICR and the final Supporting Statement, EPA has failed to recognize and address the serious concerns raised in our October 2014 comments regarding burden impacts on reporting agencies.</p>	
Response:	<p>During this ICR coverage period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually. We will certainly reach out to a broad spectrum of agencies including those within EPA Regions 1 and 2.</p>	

Comment:	<p>The ICR Supporting Statement clearly articulates on page 9 that EPA intends to mandate reporting of data for sources not tracked under key policies, including the Compliance Monitoring Strategy (CMS), the Federal Reportable Violation (FRV) policy, and the High Priority Violation (HPV) policy. EPA’s estimate of burden for this expansion is inadequate and does not accurately characterize the impact of such a requirement on states whose programs incorporate large numbers of minor sources. EPA’s Supporting Statement provides incorrect data on the number of major, synthetic minor, and minor sources per state. Tables 1 and 2 compare EPA’s data with actual data from the states. There are differences with the number of major sources and EPA fails to distinguish between major sources and mega sources. The numbers for synthetic minors show wider variation. The largest discrepancy is with minor sources where EPA estimates are off by thousands or in some cases tens of thousands of sources. By understating the number of minor sources EPA has substantially underestimated the burden of maintaining facility records and reporting formal enforcement, both of which are proposed as minimum data reporting elements. It is impossible even with the injection of significant resources for data reporting from EPA to expand reporting requirements from tens of sources to thousands without significantly increasing the reporting burden. As a region, therefore, we will not support or report to ICIS-Air any data on any source other than majors, SM80s, CMS, or an EPA approved Alternative Compliance Monitoring Strategy (ACMS).</p>
Response:	<p>This comment highlights a need for comprehensive and timely data. Appendix 1 is based on the data as it was reported to EPA. A more accurate data set would result in a more accurate assessment. Inclusion of synthetic minors and minors in Appendix 1 indicates our desire to base the burden assessment on the complete federally-reportable universe. But, it is likely that the universe used for the assessment would reflect what is reported and not the potential reportable universe.</p>
Comment:	<p>Many of the data elements referenced in the ICR Supporting Statement are not currently MDR elements. We recognize that EPA has moved from the old AFS system to the new ICIS-Air system, however, EPA has assumed that the elimination of some small reporting elements while adding new data entry screens equates to a reduction in workload. Based on recent experience, this assumption is incorrect.</p>
Response:	<p>The EPA’s preliminary claim that agencies will experience a burden reduction is based on the following:</p> <ul style="list-style-type: none"> • ICIS is a web-based system as opposed to a mainframe system; • both novice and experienced users will benefit from modern functionality like drop down menus and type-ahead; • the FRV and HPV policies, which include provisions for reporting to ICIS, were modified to reduce the universe of sources to which the policies apply; • a limited burden assessment based on the relative change in burden when comparing data entry into AFS versus ICIS; • a one-time estimate of the resources required to participate in the design and development of ICIS-Air; and • experience transitioning from PCS, which was a mainframe database for reporting Clean Water Act NPDES data, to ICIS. <p>We do recognize that there are some additional steps required that support reporting the MDRs. But, we do not agree that “many of the data elements...are not currently MDR</p>

	<p>elements.” It is true that to report, for example, an enforcement action agencies must first identify whether they are reporting an administrative or judicial enforcement action. But, for manual data entry, this is done via a drop down menu that sets up the reporting for the enforcement action. For electronic data entry, this is done via an additional data tag. During this ICR period, EPA will conduct a more robust burden assessment that includes the entire federally-reportable universe and also accounts for the method of reporting the MDRs both electronically and manually.</p>
Comment:	<p>In its Supporting Statement EPA also fails to recognize that many of the new data elements they wish states to report are not currently part of state data tracking systems. Reporting these elements not only adds burden for additional time to enter data but adds a more significant workload on states to undertake costly and time consuming information technology (IT) projects, which EPA has failed to adequately characterize in its burden estimate.</p>
Response:	<p>This will be addressed in the next burden assessment.</p>
Comment:	<p>Throughout the ICR Supporting Statement, EPA appears to expand or revise definitions of current reporting requirements that would increase the reporting burden. On pages 13, 24 and 28 of the Supporting Statement, EPA details a requirement that agencies will report informal enforcement actions to EPA without providing clear guidance the universe of applicable sources. This clearly contradicts reporting requirements laid out in the revised FRV policy.</p>
Response:	<p>The list of Minimum Reportable Activities (Table 1 of the Supporting Statement) contains those activities that if they occur at a federally-reportable source should be reported to ICIS. The activities include compliance monitoring activities, enforcement actions and violation determinations. Any minimum reportable activity related to a federally-reportable source should be reported consistent with the ICR and related policies. Informal and formal enforcement actions, including NOVs, are reportable independent of the FRV determination.</p> <p>If a source is only reportable because they are (or were) subject to a formal enforcement action, the source should be maintained in ICIS until the violations are resolved that the enforcement action addressed, and the enforcement action is concluded. While the source is federally-reportable, then subsequent minimum reportable activities that occur should be reported for the facility. Any informal enforcement action (e.g., NOV) that may have been issued prior to the source becoming federally-reportable (i.e., preceded the formal enforcement action) is not a minimum reportable activity.</p> <p>The ICR does not contradict the FRV policy, which states, “The FRV reportable universe is a subset of the ICIS-Air reportable source universe,” and that, “The issuance of a notice of violation for the FRV reportable source universe is an MDR that is to be reported.” The minimum reportable activities applies to the federally-reportable universe included in the ICR, which is referred to as the ICIS-Air reportable source universe in the FRV policy.</p>
Comment:	<p>Compounding this issue is EPA’s requirement discussed on page 14 of the Supporting Statement, where EPA expands the reporting burden even further by requiring that formal enforcement actions for all facilities, including those sources not included in federal oversight activities must be reported.</p>
Response:	<p>The Agency requests that all formal enforcement actions for violations of a Clean Air Act rule or regulation be reported. If the formal enforcement action is issued or entered for violations of a non-federally enforceable rule or regulation, the Agency would not expect it to</p>

	be reported, nor would the source become federally-reportable solely because of it. The EPA’s oversight activities include the entire federally-reportable universe included in the ICR.
Comment:	EPA also failed to account for the increased burden related to reporting of applicable regulations. On page 5 of the Supporting Statement EPA states, “ <i>the delegated agency is to report the violation type, the applicable federal air program or the state or local regulation</i> ” (italics added). This change will affect the burden estimate since it requires significant resources to address information not currently tracked and gathered by reporting agencies. Furthermore, reporting of this element will mandate new functionality and reporting requirements that states have not agreed they can or will provide. Finally, given the significant variation in state regulations, we fail to see how reporting this data is relevant to federal oversight activities. EPA must recognize the burden added by requiring reporting of this data and either provide significant additional resources or eliminate this requirement.
Response:	In AFS violations were reported on an air program’s pollutant. The same data is requested by this ICR. The option to report a state or local regulation was added to accommodate those instances where a state or local agency staff person does not know the applicable federal air program.
Comment:	In Section 3(a) of the Supporting Statement, EPA indicates that only a dozen delegated agencies out of more than 200 will use ICIS-Air as their primary data repository. EPA also estimates that approximately one-third of the states will use EDT to transfer data. Using EPA’s own figures suggests that approximately 60 percent of the reporting agencies will be manually entering data into their own systems and EPA’s system, which translates to a significant duplication of effort. This impact is likely to increase, as many states find that they cannot use EDT to transfer all their information. A query of the NESCAUM members finds that only two states believe that they can use EDTs by the end of 2015. Five of the eight states believe it will be several years before they can use EDT and even then, will still need to manually enter data in the federal system due to limited resources and the inability to change state reporting systems.
Response:	There are 99 agencies that will report to ICIS-Air. The use of XML is recognized as an efficient means of electronically transferring data between systems. After initial set up, the number of times the data must be touched is minimized to nearly negligible as experienced by some agencies currently utilizing EDT. In addition, within these regulatory enforcement agencies the NPDES programs have been reporting to ICIS using the same data flow for many years. At the time of this writing 22 agencies have been submitting data to ICIS using EDT. We anticipate a total of 31 agencies will ultimately submit data to ICIS-Air electronically, including New Hampshire and New York. EPA is committed to working with all agencies that are currently submitting or plan to submit data electronically, and to find resources to minimize their burden. In fact, we recently secured additional contract support to assist state agencies with EDT and each state was informed of the availability of this additional assistance. We hold weekly calls with our EDT agencies to monitor their progress, and identify and coordinate any necessary assistance.
Comment:	The \$3,055,606 awarded in Exchange Network grants in FY „13 and „14, is woefully inadequate and EPA will need to vastly increase funding to reporting agencies to ensure they have the resources to use EDTs.

Response:	We have secured additional funds to help agencies develop their data flows to ICIS on an ad-hoc basis.
Comment:	EPA acknowledges that the transition to ICIS-Air will require some investment, but believes reporting agencies will experience “a significant overall reduction in reporting burden” for both direct and batch users. EPA goes on to assert that state operational and maintenance costs will increase modestly due only to inflationary pressures. Such statements trivialize the huge resource burden that has and will continue to be placed on reporting agencies as the new ICIS-Air system is put in place. In the Supporting Statement, EPA asked representatives from eight agencies to provide data on time spent participating in calls, this represents only a fraction of the effort that is and will be needed to transition to the new system. As stated in earlier comments, direct entry users will need to invest resources up front to learn the system and the impact will continue as EPA expands reporting requirements. The impact on batch users will be far greater. Those states will need to invest significant dollars and staff time to revise their systems, a figure EPA did not include in its burden estimate. Additionally, it will take years for states to implement EDT, so EPA estimates must include several years of transition costs, as well as double data entry costs.
Response:	The Agency in no way intended to or intends to make light of the commitment required to transition to a new database. We have done and will continue to do our best to capture the resources needed to address this burden. At the time of this writing, 22 agencies out of an expected 31 agencies were flowing data electronically to ICIS. We are very hopeful that within the next few months many more agencies will successfully submit data electronically to ICIS. We will continue to seek additional funds to help agencies develop their data flows to ICIS.