



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2005-0023; FRL – 9968-27-OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Clean Water Act Section 404 State-Assumed Programs (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), “Clean Water Act Section 404 State-Assumed Programs” (EPA ICR No. 0220.13, OMB Control No. 2040-0168) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension, which is currently approved through November 30, 2017. Public comments on the ICR renewal were requested via the *Federal Register* (82 FR 30861) published on July 3, 2017, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Additional comments may be submitted on or before [insert date 30 days after publication in the Federal Register].

ADDRESSES: Submit your comments, referencing Docket ID Number EPA-HQ-OW-2005-0023, to (1) EPA online using www.regulations.gov (our preferred method), by email ow-docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460, and (2) OMB via email to oira_submission@omb.eop.gov. Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without

change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Kathy Hurl, Office of Wetlands, Oceans, and Watersheds, Wetlands Division (4502T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-566-1269; fax number: 202-566-1349; email address: hurl.kathy@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: Section 404(g) of the Clean Water Act (CWA) authorizes states and tribes to assume the section 404 permit program for discharges of dredged or fill material into certain Waters of the U.S. This ICR covers the collection of information EPA needs to perform its program approval and oversight responsibilities and the state/tribe needs to implement its program.

To request to assume the CWA section 404 permit program, states/tribes must demonstrate that they meet the statutory and regulatory requirements (40 CFR 233) for an approvable program. Specified information and documents must be submitted by the state/tribe to EPA to request assumption and must be sufficient to enable EPA to undertake a thorough analysis of the state/tribal program. Once the required information and documents are submitted and EPA has a complete assumption request package, the statutory time clock for EPA's

decision to either approve or disapprove the state/tribe's assumption request starts. The information contained in the assumption request submission is provided to the Army Corps of Engineers, U.S. Fish and Wildlife Service and U.S. National Marine Fisheries Service and to the public for review and comment.

States/tribes with assumed programs must be able to issue permits that assure compliance with all applicable statutory and regulatory requirements, including the 404(b)(1) Guidelines. Sufficient information must be provided in the application so that states/tribes and federal agencies reviewing the permit can evaluate, avoid, minimize and compensate for any anticipated impacts resulting from the proposed project. EPA's assumption regulations establish required elements that must be included in the state/tribe's permit application, so that sufficient information is available to make a thorough analysis of anticipated impacts. (40 CFR 233.30). These minimum information requirements generally reflect the information that must be submitted when applying for a section 404 permit from the Army Corps of Engineers.

EPA has an oversight role for assumed 404 permitting programs to ensure that state/tribal programs comply with applicable requirements and that state/tribal permit decisions adequately consider, avoid, minimize and compensate for anticipated impacts. States/tribes must evaluate their programs annually and submit the results in a report to EPA. EPA's assumption regulations establish minimum requirements for the annual report (40 CFR 233.52).

The information included in the state/tribe's assumption request and the information included in a permit application is made available for public review and comment. The information included in the annual report to EPA is made available to the public. EPA does not make any assurances of confidentiality for this information. (CWA section 404(h); CWA section 404(j); 40 CFR 230.10, 233.20, 233.21, 233.34, and 233.50; and 33 CFR 325)

Form Numbers: None.

Respondents/affected entities: States/tribes requesting assumption of the CWA section 404 permit program; states/tribes with approved assumed programs; and permit applicants in states/tribes with assumed programs.

Respondent's obligation to respond: Required to obtain or retain a benefit (40 CFR 233).

Estimated number of respondents: 2 states/tribes requesting program assumption; 11,900 permit applications; and 4 states/tribes that will submit an annual report.

Frequency of response: Once for states/tribes to request assumption; annually for states/tribes submitting the annual report; and once for permit applicants when requesting a permit.

Total estimated burden: 119,707 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: Costs to states for assumed Section 404 permit programs will vary widely by state and permit, however there are no capital or operation & maintenance costs.

Changes in the Estimates: There is an increase of 28,747 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase reflects an increase in hours spent reviewing each permit.

Courtney Kerwin, Director, Regulatory Support Division.
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