



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ -OW-2003-0033; FRL – 10013-32-OW]

### **Proposed Information Collection Request; Comment Request; Modification of Secondary Treatment Requirements for Discharges into Marine Waters (Renewal)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), “Modification of Secondary Treatment Requirements for Discharges into Marine Waters (Renewal)” (EPA ICR No. 0138.12, Office of Management and Budget (OMB) Control No. 2040-0088) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comment on specific aspects of the proposed information collection as described below. This is a “proposed extension of the Information Collection Request (ICR), which is currently approved through April 30, 2021.” 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:** Comments must be submitted on or before [insert date 60 days after date of publication in the Federal Register].

#### **ADDRESSES:**

You may send comments, identified by Docket ID No. EPA-HQ-2003-0033, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).

Follow the online instructions for submitting comments.

- E-mail: OW-Docket@epa.gov. Include Docket ID No. EPA-HQ-2003-0033.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Office of Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

*Instructions:* All submissions received must include the Docket ID No. for this ICR. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the ICR process, see the “Public Participation” heading of the SUPPLEMENTARY INFORMATION section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> or email, as there may be a delay in processing mail. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Virginia Fox-Norse, Oceans, Wetlands and Communities Division, Office of Water, (4504T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-566-1266; fax number: 202-566-1147; email address: [fox-norse.virginia@epa.gov](mailto:fox-norse.virginia@epa.gov).

**SUPPLEMENTARY INFORMATION:**

***Public Participation***

### *A. Written Comments*

Submit your comments, identified by Docket ID No. EPA-HQ-2003-0033, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the ADDRESSES section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

EPA is temporarily suspending its Docket Center and Reading Room for public visitors, with limited exceptions, to reduce the risk of transmitting COVID-19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via <https://www.regulations.gov/> as there may be a delay in processing mail and faxes. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

Supporting documents which explain in detail the information that EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov). 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>.

Pursuant to section 3506(c)(2)(A) of the Paperwork Reduction Act, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another Federal Register notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:*

Regulations implementing section 301(h) of the Clean Water Act (CWA) are found at 40 CFR part 125, subpart G. The CWA section 301(h) program involves collecting information from two sources: 1) the municipal wastewater treatment facility, commonly called a publicly

owned treatment works (POTW), and 2) the state in which the POTW is located. Municipalities had the opportunity to apply for a waiver from secondary treatment requirements, but that opportunity closed in December of 1982. A POTW holding a current waiver or reapplying for a waiver provides application, monitoring, and toxic control program information. The state provides information on its determination whether the discharge under the proposed conditions of the waiver ensures the protection of water quality, biological habitats, and beneficial uses of receiving waters and whether the discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. The state also provides information to certify that the discharge will meet all applicable state laws and that the state accepts all permit conditions.

There are four situations where information will be required under the CWA section 301(h) program:

- (1) A POTW reapplying for a CWA section 301(h) waiver. As the permits with section 301(h) waivers reach their expiration dates, EPA must have updated information on the discharge to determine whether the CWA section 301(h) criteria are still being met and whether the CWA section 301(h) waiver should be reissued. Under 40 CFR 125.59(f), each CWA section 301(h) permittee is required to submit an application for a new section 301(h) modified permit within 180 days of the existing permit's expiration date. 40 CFR 125.59(c) lists the information required for a modified permit. The information that EPA needs to determine whether the POTW's reapplication meets the CWA section 301(h) criteria is outlined in the questionnaire attached to 40 CFR part 125, subpart G.
- (2) Monitoring and toxic control program information: Once a waiver has been granted, EPA must continue to assess whether the discharge is meeting CWA section 301(h) criteria, and that

the receiving water quality, biological habitats, and beneficial uses of the receiving waters are protected. To do this, EPA needs monitoring information furnished by the permittee. According to 40 CFR 125.68(d), any permit issued with a section 301(h) waiver must contain the monitoring requirements of 40 CFR 125.63(b), (c), and (d) for biomonitoring, water quality criteria and standards monitoring, and effluent monitoring, respectively. In addition, 40 CFR 125.68(d) requires reporting at the frequency specified in the monitoring program. In addition to monitoring information, EPA needs information on the toxics control program required by 40 CFR 125.66 to ensure that the permittee is effectively minimizing industrial and nonindustrial toxic pollutant and pesticide discharges into the treatment works.

(3) Application revision information: 40 CFR 125.59(d) allows a POTW to revise its application one time only, following a tentative decision by EPA to deny the waiver request. In its application revision, the POTW usually corrects deficiencies and changes proposed treatment levels as well as outfall and diffuser locations. The application revision is a voluntary submission for the applicant, and a letter of intent to revise the application must be submitted within 45 days of EPA's tentative decision (40 CFR 125.59(f)). EPA needs this information to evaluate revised applications to determine whether the modified discharge will ensure protection of water quality, biological habitats, and beneficial uses of receiving waters.

(4) State determination and state certification information: For revised or renewal applications for CWA section 301(h) waivers, EPA needs a state determination. The state determines whether all state laws (including water quality standards) are satisfied. This helps ensure that water quality, biological habitats, and beneficial uses of receiving waters are protected. Additionally, the state must determine if the applicant's discharge will result in additional treatment, pollution control, or any other requirement for any other point or nonpoint sources. This process allows the

state's views to be taken into account when EPA reviews the CWA section 301(h) application and develops permit conditions. For revised and renewed CWA section 301(h) waiver applications, EPA also needs the CWA section 401(a)(1) certification information to ensure that all state water quality laws are met by any permit it issues with a CWA section 301(h) modification, and the state accepts all the permit conditions. This information is the means by which the state can exercise its authority to concur with or deny a CWA section 301(h) decision made by the EPA regional office.

*Form Numbers:* "None."

*Respondents/affected entities:* Entities potentially affected by this action are those municipalities that currently have CWA section 301(h) waivers from secondary treatment or have applied for a renewal of a CWA section 301(h) waiver, and the states within which these municipalities are located.

*Respondent's obligation to respond:* Voluntary, required to obtain or retain a benefit.

*Estimated number of respondents:* 34 (total).

*Frequency of response:* From once every five years, to varies case-by-case, depending on the category of information.

*Total estimated burden:* 40,040 hours (per year). Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* \$1.1 million (per year), includes \$0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* A decrease of hours in the total estimated respondent burden is expected compared with the ICR currently approved by OMB. EPA expects the numbers will decrease due to changes in respondent universe, use of technology, etc.

John Goodin,

Director, Office of Wetlands, Oceans and Watersheds.

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