



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ- OA-2019-0370; FRL-9047-2]

### Proposed Information Collection Request; Comment Request; Final Rule at 40 CFR Part

### 8: Environmental Impact Assessment of Nongovernmental Activities in Antarctica

(Renewal)

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency is planning to submit an information collection request (ICR), “Final Rule at 40 CFR Part 8: Environmental Impact Assessment of Nongovernmental Activities in Antarctica” (EPA ICR No. 1808.09, OMB Control No. 2020-0007) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, the EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through May 31, 2020. 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 Friday, November 29, 2019.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OA-2019-0370 online using [www.regulations.gov](http://www.regulations.gov) (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

The 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 or other

information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Julie Roemele, NEPA Compliance Division, Office of Federal Activities, Mail Code 2203A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-564-5632; fax number: 202-564-0070; email address: roemele.julie@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](http://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>.

Pursuant to section 3506(c)(2)(A) of the PRA, the 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. The 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, the 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:* The EPA's regulations at 40 CFR Part 8, Environmental Impact Assessment of Nongovernmental Activities in Antarctica (Rule), were promulgated pursuant to the Antarctic Science, Tourism, and Conservation Act of 1996 (Act), 16 U.S.C. 2401 *et seq.*, as amended, 16 U.S.C. 2403a, which implements the Protocol on Environmental Protection (Protocol) to the Antarctic Treaty of 1959 (Treaty). The Rule provides for assessment of the environmental impacts of nongovernmental activities in Antarctica, including tourism, for which the United States is required to give advance notice under Paragraph 5 of Article VII of the Treaty, and for coordination of the review of information regarding environmental impact assessments received from other Parties under the Protocol. The requirements of the Rule apply to operators of nongovernmental expeditions organized or proceeding from the territory of the United States to Antarctica and include commercial and non-commercial expeditions. Expeditions may include ship-based tours; yacht, skiing or mountaineering expeditions; privately funded research expeditions; and other nongovernmental activities. The Rule does not apply to individual U.S. citizens or groups of citizens planning travel to Antarctica on an expedition for which they are not acting as an operator. (Operators, for example, typically acquire use of vessels or aircraft, hire expedition staff, plan itineraries, and undertake other organizational responsibilities.) The rule provides nongovernmental operators with the specific requirements they need to meet in order to comply with the requirements of Article 8 and Annex I to the Protocol. The provisions of the Rule are intended to ensure that potential environmental effects of nongovernmental activities undertaken in Antarctica are appropriately identified and considered by the operator during the planning process and that to the extent practicable appropriate environmental safeguards which would mitigate or prevent adverse impacts on the Antarctic environment are identified by the operator.

Environmental Documentation. Persons subject to the Rule must prepare environmental documentation to support the operator's determination regarding the level of environmental impact of the proposed expedition. Environmental documentation includes a Preliminary Environmental Review Memorandum (PERM), an Initial Environmental Evaluation (IEE), or a Comprehensive Environmental Evaluation (CEE). The environmental document is submitted to the Office of Federal Activities (OFA). If the operator determines that an expedition may have: (1) less than a minor or transitory impact, a PERM needs to be submitted no later than 180 days before the proposed departure to Antarctica; (2) no more than minor or transitory impacts, an IEE needs to be submitted no later than 90 days before the proposed departure; or (3) more than minor or transitory impacts, a CEE needs to be submitted. Operators who anticipate such activities are encouraged to consult with EPA as soon as possible regarding the date for submittal of the CEE. (Article 3(4), of Annex I of the Protocol requires that draft CEEs be distributed to all Parties and the Committee for Environmental Protection 120 days in advance of the next Antarctic Treaty Consultative Meeting at which the CEE may be addressed.)

The Protocol and the Rule also require an operator to employ procedures to assess and provide a regular and verifiable record of the actual impacts of an activity which proceeds on the basis of an IEE or CEE. The record developed through these measures needs to be designed to: (a) enable assessments to be made of the extent to which environmental impacts of nongovernmental expeditions are consistent with the Protocol; and (b) provide information useful for minimizing and mitigating those impacts and, where appropriate, on the need for suspension, cancellation, or modification of the activity. Moreover, an operator needs to monitor key environmental indicators for an activity proceeding based on a CEE. An operator may also need to carry out monitoring in order to assess and verify the impact of an activity for which an IEE would be prepared. For activities that require an IEE, an operator should be able to use

procedures currently being voluntarily utilized by operators to provide the required information. Should an activity require a CEE, the operator should consult with the EPA to: (a) identify the monitoring regime appropriate to that activity, and (b) determine whether and how the operator might utilize relevant monitoring data collected by the U.S. Antarctic Program. OFA would consult with the National Science Foundation and other interested Federal agencies regarding the monitoring regime.

In cases of emergency related to the safety of human life or of ships, aircraft, equipment and facilities of high value, or the protection of the environment which would require an activity to be undertaken without completion of the documentation procedures set out in the Rule, the operator would need to notify the Department of State within 15 days of any activities which would have otherwise required preparation of a CEE, and provide a full explanation of the activities carried out within 45 days of those activities. (During the time the Interim Final and Final Rules have been in effect, there were no emergencies requiring notification by U.S. operators. An Interim Final Rule was in effect from April 30, 1997, until replaced on December 6, 2001, by the Final Rule).

Environmental documents (e.g., PERM, IEE, CEE) are submitted to OFA. Environmental documents are reviewed by OFA, in consultation with the National Science Foundation and other interested Federal agencies and made available to other Parties and the public as required under the Protocol or otherwise requested. OFA notifies the public of document availability via the World Wide Web at: <https://www.epa.gov/international-cooperation/receipt-environmental-impact-assessments-eias-regarding-nongovernmental>.

The types of nongovernmental activities currently being carried out (e.g., ship-based tours, land-based tours, flights, and privately funded research expeditions) are typically unlikely to have impacts that are more than minor or transitory, thus an IEE is the typical level of environmental

documentation submitted. For the 1997-1998 through 2018-2019 austral summer seasons during the time the Rule has been in effect, all respondents submitted IEEs except for three PERMs.

Paperwork reduction provisions in the Rule that are used by the operators include: a) incorporation of material in the environmental document by referring to it in the IEE, b) inclusion of all proposed expeditions by one operator within one IEE; c) use of one IEE to address expeditions being carried out by more than one operator; and d) use of multi-year environmental documentation to address proposed expeditions for a period of up to five consecutive austral summer seasons.

Coordination of Review of Information Received from Other Parties to the Treaty. The Rule also provides for the coordination of review of information received from other Parties and the public availability of that information including: (1) a description of national procedures for considering the environmental impacts of proposed activities; (2) an annual list of any IEEs and any decisions taken in consequence thereof; (3) significant information obtained and any action taken in consequence thereof with regard to monitoring from IEEs to CEEs; and (4) information in a final CEE. This provision fulfills the United States' obligation to meet the requirements of Article 6 of Annex I to the Protocol. The Department of State is responsible for coordination of these reviews of drafts with interested Federal agencies, and for public availability of documents and information. This portion of the Rule does not impose paperwork requirements on any nongovernmental person subject to U.S. regulation.

*Form Numbers:* None.

*Respondents/affected entities:* Entities potentially affected by this action are all nongovernmental operators with activities in Antarctica, including tour operators, for which the United States is required to give advance notice under paragraph 5 of Article VII of the Antarctic Treaty of 1959;

this includes all nongovernmental expeditions to and within Antarctica organized in or proceeding from the territory of the United States.

*Respondent's obligation to respond:* Mandatory (40 CFR Part 8).

*Estimated number of respondents:* 25 (total)

*Frequency of response:* Annual

*Total estimated burden:* 1,544 hours (per year). Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* \$133,780 (per year), includes \$0 annualized capital or operation & maintenance costs.

*Changes in Estimates:* There is an increase of 330 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is the result of a change to the number of operators that the EPA anticipates will submit environmental documentation as well as the inclusion of a potential PERM, CEE and Emergency Report submitted by every three years.

Dated: September 24, 2019.

**Robert Tomiak,**

*Director,*

*Office of Federal Activities.*

Billing Code: 6560-50-U

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