



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2013-0610; FRL – 10025-15-OMS]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: EPA published a notice in the *Federal Register* of May 27, 2021, requesting comment on a proposed Information Collection Request renewal (EPA ICR Number 0220.14, OMB Control Number 2040-0168) being submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. That notice contained errors which need to be corrected.

DATES: Comments must be received on or before [\[insert date 30 days after publication in the *Federal Register*\]](#). EPA is extending the comment period to provide the public with a full 30 days to review and comment on the docket and this revised notice. Comments already received in response to the original, May 27, 2021 will be considered but may also be supplemented with additional submissions if necessary.

FOR FURTHER INFORMATION CONTACT: Kathy Hurl,

Oceans, Wetlands and Communities Division, Environmental Protection Agency, 1200 Pennsylvania Ave. N.W. (4504T), Washington, DC 20460; telephone number: 202-564-5700; email address: 404g-rulemaking@epa.gov.

SUPPLEMENTARY INFORMATION:

Correction

In the *Federal Register* of May 27, 2021 in notice FR Doc. 2021-11276, beginning on page 28596, make the following corrections:

1. On page 25896, third column, in the “**For Further Information Contact:**” section, the

contact person listed was incorrect. Please contact Kathy Hurlid using the contact information in the “**For Further Information Contact:**” section of this document.

2. On page 28596, third column, and continuing on the first column of page 28597, in the “**Supplementary Information:**” section, correct the five full paragraphs of the “*Abstract*” section, to read as follow:

Abstract: Section 404(g) of the Federal Water Pollution Control Act (FWPCA/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 United States. This ICR covers the collection of information that EPA needs to perform its program approval and oversight responsibilities and that the state or tribe needs to implement its program.

Request to assume CWA section 404 permit program. States and tribes must demonstrate that they meet the statutory and regulatory requirements at 40 CFR part 233 for an approvable program. Specified information and documents must be submitted by the state or tribe to EPA to request assumption and must be sufficient to enable EPA to conduct an analysis of the state or tribal program. The information contained in the assumption request submission is provided to the other involved federal agencies and to the general public for review and comment.

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

230.10, 233.20, 233.21, 233.34, and 233.50; 33 CFR 325)).

Annual report and program information. EPA has an oversight role for assumed section 404 permit programs to ensure that state or tribal programs comply with applicable requirements. States and tribes must evaluate their programs annually and submit the results in a report to EPA. EPA's assumption regulations at 40 CFR 233.52 establish minimum requirements for the annual report.

The information included in the state or 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."

3. On page 28597, in the first and second columns, the paragraphs with the italicized headings: "*Estimated number of respondents:*", "*Total estimated burden:*", "*Total estimated cost:*", and "*Changes in estimates:*" are corrected to read as follows:

Estimated number of respondents: Two states to request program assumption; 11,278 permit applicants; and five state annual reports."

Total estimated burden: 218,880 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, the total estimated costs for five programs is \$7,183,445 and costs to permittees in state-assumed programs is \$1,900,236. There are \$0 capital or operation and maintenance costs.

Changes in estimates: There is an increase of 89,920 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. There are several reasons for this increase: (1) On December 17, 2020, Florida assumed the program; (2) a small increase in the estimate of hours required to assume a program based on information provided by Michigan and New Jersey, the two states that were approved by EPA to administer a state dredge and fill program at the time of the 60 day notice; (3) EPA's new interpretation regarding its obligation to

conduct consultation under the Endangered Species Act and the National Historic Properties Act when considering requests from States and Tribes to assume the program; (4) the burden to state permittees has been included; and (5) a small increase in the estimated hours for permit review by Michigan and New Jersey, for compiling the annual report. EPA has reduced its estimate for the number of permits per state based on data provided by Michigan and New Jersey.”

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021-13426 Filed: 6/23/2021 8:45 am; Publication Date: 6/24/2021]