

SUPPORTING STATEMENT FOR PAPERWORK ACT SUBMISSION

U.S. ARMY CORPS OF ENGINEERS APPLICATION FOR A DEPARTMENT ARMY PERMIT OMB PRA 0710-0003 ENG Form 4345

a. **Justification.**

1. The Corps of Engineers is required by three federal laws, passed by Congress, to regulate construction related projects in US waters. This is accomplished through the review of applications for permits to do this work. Information required on Engineer form 4345 is necessary to evaluate applicants' requests for: (1) a Corps of Engineers permit for a dredging or construction related activity that would affect navigable waters of the United States under, Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), with specific implementing regulations at 33 CFR part 322; (2) a permit for the discharge of dredged or fill material into "waters of the United States," a broader geographic scope than navigable waters, under Section 404 of the Clean Water Act (33 USC 1344) with regulations at 33 CFR part 323; and (3) a permit for the transportation of dredged or fill material for the purpose of ocean, disposal under section 103 of the Marine Protection, Research and Sanctuaries Act (Ocean Dumping Act) (33 USC 1413) with regulations at 33 CFR part 324. A copy of the Corps of Engineers implementing Code of Federal Regulations is enclosed. (There are no Army Regulation (AR) documents for these regulations; it was determined by Army counsel many years ago that these were not appropriate for publishing as an AR since they are, for public use and only the CFR can apply. An AR document would be duplicative and legally would not have precedence over the CFR).
2. The information is used in the federal review of an application for a permit to do proposed work as described in paragraph 1. The review process is described in the Corps of Engineers regulations for the regulatory program, published as 33 CFR 320-330 in the Federal Register. The Departments of Interior, Commerce, Agriculture, and the Environmental Protection Agency, as well as other federal, state, and local agencies participate in this review. In addition, any interested parties including special interest groups or property owners affected by the proposal may provide comments; public notices posted on the internet and mailed to all the above in order to solicit their views. Applications may be submitted at any time to appropriate Corps district offices. The application is evaluated to consider such impacts as effects on the environment or other property owners to determine if a permit should be approved.
3. Plans are underway to make the application available to the public via the Internet. We are not able to accept automated application submissions at this time.
4. The information is not necessarily available elsewhere, however, it should be noted that the information required on the application form has normally already been developed by the applicant for state and local permits, for plans to be given to contractors or for the applicants own construction plans; the applicant could not build his project without first designing it,

making drawings, deciding on materials and the amounts to be used, etc. The Corps of Engineers merely requires that this information be transferred to its application form along with such basic information as names, addresses, and telephone numbers. In many cases the information on the form is identical to that submitted to states to obtain permits required in addition to the Corps federal permit.

5. There is no significant impact on small businesses or other entities. Small businesses, like other entities, are subject to the applicable laws and must apply for permits for their facilities if the proposed work falls under Corps of Engineers jurisdiction. Such projects would tend to be small with a shorter timeframe for evaluation so the overall regulatory burden in the evaluation on process would be less than it would be for a large company with a major project proposal.
6. Without the information on the form, there could be no evaluation of the impacts of a proposed project as required by law. Projects would be built unregulated, without required modifications or mitigation, resulting in significant damage to the environment and private property as well as creating hazards to public health and safety.
7. There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5(d)(2). None of the special circumstances, as outlined in the supporting statement instructions, apply to this information collection.
8. The Federal Register notice for this collection of information was published July 31, 2008, page 44709. In 1994, at the request of OMB, the Corps of Engineers conducted a special study to assess the burden hours on applicants.
There were no comments received on the 60-day notice.
9. There will be no payments or gifts provided to respondents.
10. The application contains a privacy act statement.
11. There are no sensitive questions as described in the guidance.
12. Number of respondents: 89,450
Responses per respondents: 1
Number of annual responses: 89,450
Average burden per response: 11 hours
Annual burden hour: 984,000
Annual cost to respondents: \$4,100,000
Total cost to respondents: \$4,100,000

The estimate of burden hours is 11 hours as the current average for an application. Based on a 1994 study mentioned in paragraph 8 that consulted with a sample of 52 prior applicants. The results of the study were discussed with the Office of Management and Budget and 10 hours was agreed upon as an appropriate figure; 11 hours takes into account the study finding and the 2008 addition to the data collected. The majority of applications that take 5 hours or

less and the minority that can take much longer. In some cases, this might be as much as 500 hours for a large project such as a major port facility. The previous 5 hour estimate is a representative figure for most applications but 11 is a more accurate as an average. The annual number of respondents is 89,450 in a typical year. This is based on actual numbers of applications submitted to Corps offices. All information should be readily available, except for possibly addresses or names of adjacent property owners or some other location information, which can usually be obtained with little difficulty. Other than the time to complete the application, there is no cost normally incurred by the applicant. There should be no data collection needed.

13. There are no start-up or O&M costs involved with this collection. Applicants, on occasion, may hire agents who are primarily utilized to provide plans and wetlands delineations for section permit applications. The Corps evaluates these plans and delineations determinations as part of its review process. The choice to spend funds on such expertise is entirely that of the applicant and is neither required nor normally needed. We would maintain that there is no cost on applicants since the Corps can provide this jurisdictional determination service and does not require professionally drawn plans. We have no control over whether an applicant hires a consultant to try to expedite his process.
14. The annualized cost to the federal government is approximately \$80 million. This assumes an average of 12 hours of initial application review by a Pay Band 2 level staff member plus 200 hours of processing and evaluation at the same pay band, considered to be the average grade of an application reviewer. The cost is based on an average \$30.50 per hour including benefits and related personnel costs. The total number of annual responses of 89,450 was reduced by 10% in the calculations to account for applications that are withdrawn or cancelled early in the initial application review. An estimated of average \$500 per application is expended per application in equipment costs.
15. This is a revision of a previously approved collection for which approval will expire on October 31, 2008.
16. None of the application information is published. Public notices are, however, printed and include basic information submitted in the application about proposed projects. These are posted on the internet and mailed to interested parties and government agencies for comment.
17. This collection of information will display the OMB approval number and expiration date.
18. This office seeks no exceptions to the certification statement identified in Item 19 of OMB form 83-I.
19. This collection of information does not employ statistical techniques.