

**INFORMATION COLLECTION REQUEST
SUPPORTING STATEMENT**

FOR

State Review Framework

August 24, 2010

U.S. Environmental Protection Agency
Office of Compliance

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Part B

This part is not applicable because no statistical methods were used in collecting this information.

Part A

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection

ICR: State Review Framework (EPA ICR Number 2185.04)

OMB Control Number: N/A

“State Review Framework”

1(b) Short Characterization/Abstract

The State Review Framework (“Framework”) is an oversight tool designed to assess state performance in enforcement and compliance assurance. The Framework’s goal is to evaluate state performance by examining existing data to provide a consistent level of oversight and develop a uniform mechanism by which EPA Regions, working collaboratively with their states, can ensure that state environmental agencies are consistently implementing the national compliance and enforcement program in order to meet agreed-upon goals and standards. Furthermore, the Framework is designed to foster dialogue on enforcement and compliance performance between the states that will enhance relationships and increase feedback, which will in turn lead to consistent program management and improved environmental results.

Specifically, the Framework is a structured process that provides critical information on a state’s (or Region’s, for states with EPA-implemented programs) core enforcement and compliance assurance performance by employing existing data available in EPA’s existing national databases and presented in management reports for each state. No new data collection is required for the national databases. Data from national databases is complimented by data obtained through file reviews of a state environmental agency’s compliance and enforcement files. No new data is required in these files; however, they are reviewed to ensure proper and adequate documentation.

The Framework process asks regions, states and local governments to examine the existing data described above in three core programs: Clean Air Act (“CAA”), Stationary Sources; Clean Water Act (“CWA”), National Pollutant Discharge Elimination System (“NPDES”); and Resource Conservation and Recovery Act (“RCRA”), Subtitle C. The Framework process looks at thirteen (13) elements. The EPA evaluates the twelve (12) primary elements, and a thirteenth optional element, using data and file review metrics that require no new reporting burden. The utility of the Framework’s metrics and the Implementation Guide are a direct result of the collaboration between states, Regions, Headquarters, and environmental leaders. These stakeholders provided extensive input and comments which helped to shape the Framework. OECA completed evaluations of pilot and full implementation stages of the review process, which included input from the pilot states. The results of these evaluations have been used to improve the Framework and further ensure that it is narrowly crafted and only collects information that satisfies the Agency’s needs.

The thirteen (13) elements mentioned above are: (1) Degree to which data in national system reflect regulated universes, state activities, and compliance monitoring findings; (2) Degree to

which data reported into the national system is accurately entered and maintained (example, correct codes used, dates are correct, etc.). (3) Degree to which required data was entered into the national database in a timely manner; (4) Degree to which all enforcement/compliance commitments in relevant agreements (i.e., PPAs, PPGs, categorical grants, CMS plans, authorization agreements, etc.) are met and any products or projects are completed; (5) Degree to which state completed the universe of planned inspections/compliance evaluations (addressing core requirements and federal, state and regional priorities); (6) Degree to which inspection or compliance evaluation reports properly document observations, are completed in a timely manner, and include accurate description of observations; (7) Degree to which compliance determinations are accurately made and promptly reported in the national database based upon compliance monitoring report observations and other compliance monitoring information (e.g., facility-reported information); (8) Degree to which the state accurately identifies significant noncompliance/high priority violations and enters information into the national system in a timely manner; (9) Degree to which state enforcement actions include required corrective action (i.e., injunctive relief or other complying actions) that will return facilities to compliance in a specific time frame; (10) Degree to which a state takes timely and appropriate enforcement actions in accordance with policy relating to specific media; (11) Degree to which state documents in its files that initial penalty calculation includes both gravity and economic benefit calculations, appropriately using the BEN model or other method that produces results consistent with national policy; (12) Degree to which differences between initial and final penalty are documented in the file along with a demonstration in the file that the final penalty was collected; and (13) (Optional) Other program activities (e.g., using outcome data, compliance assistance, self-disclosure programs, innovative approaches, etc.). In the interest of accuracy and efficiency, the Framework also includes a five-step protocol for managing the process: (1) pre-review; (2) offsite review; (3) onsite review; (4) drafting of the report; and (5) composing the final report and follow-up. After reviewing the level of performance based on the metrics developed under the 12 required performance elements, and other information collected in the review process, EPA will determine if a state or Region meets minimum performance levels.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

The purpose of this collection is to assess state performance in core enforcement and compliance assurance programs. The goals are to provide a consistent level of oversight and develop a uniform mechanism by which EPA Regions, working collaboratively with their states, can ensure that state environmental agencies are meeting agreed-upon goals. It is important to note that all data requested by this collection is currently in EPA's or the state's databases and enforcement and compliance files. No additional monitoring or sampling will be required by this ICR.

While the data that the Agency will collect is pre-existing, the Agency is permitted to review the states' Clean Air Act, Stationary Source program, the Solid Waste Disposal Act, Subtitle C program, and the Clean Water Act, National Pollutant Discharge Elimination System permit

program to ensure minimum performance levels are met. The Agency's oversight authority for the aforementioned programs are:

(1) Clean Air Act, Stationary Source program:

Section 114 allows collection of information from states. Specifically, the collection of the requested information is authorized by 40 CFR 70.4(j)(1), which states that "[a]ny information obtained or used in the administration of a State program shall be available to EPA upon request without restriction and in a form specified by the Administrator, including computer-readable files to the extent practicable," and 40 CFR 70.10(c)(1)(iii), which addresses EPA oversight of State and local agencies' compliance and enforcement efforts for major sources under Title V operating permit programs.

(2) Solid Waste Disposal Act, Subtitle C program:

The Act refers to activities at companies that generate hazardous waste. At §3007, the Agency is permitted to have access to and request records regarding hazardous waste generating activities. Additionally, 40 CFR 271.17(a) authorizes EPA, upon request without restriction, access to "[a]ny information obtained or used in the administration of a State program."

(3) Clean Water Act, NPDES program:

The Act refers to activities involving the discharge of materials into waters of the United States. At §308, the Agency is permitted to review records to determine compliance with effluent limitations or treatment performance standards. Further, the NPDES state program regulations provide that "[a]ny information obtained or used in the administration of a State program shall be available to EPA upon request without restriction." 40 CFR 123.41. Also, 40 CFR 123.43 requires states to provide EPA with information on NPDES program implementation.

The information collected through this ICR will aid the Agency in achieving EPA's Strategic Plan goal to increase compliance and environmental stewardship. This goal was developed in response to the 1993 Government Performance and Results Act and is described in EPA's 2006 - 2011 Strategic Plan, Goal 5, "Compliance and Environmental Stewardship."

2(b) Practical Utility/Users of the Data

EPA will use the data obtained from the collection to determine if a state or Region meets minimum performance levels. Such a determination is necessary to recognize states that are performing well and to provide assistance to states that are not meeting minimum performance levels.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

The information to be obtained under this ICR has not been collected by EPA or any other federal agency.

3(b) Public Notice Required Prior to ICR Submission

On April 14, 2010, EPA published a pre-ICR Federal Register Notice announcing its intent to request to renew an existing approved ICR for the State Review Framework to OMB. Attachment A includes a copy of this Federal Register Notice. EPA received no comments to the Federal Register Notice.

3(c) Consultations

EPA consulted with several key state and media associations in the course of developing the State Review Framework. The leadership and membership of these organizations were instrumental in helping OECA develop the initial concept for the State Review Framework, in working to develop the main components and metrics, completing pilot projects and providing input into its evaluation. These associations are:

ECOS
ASIWPCA
ASTSWMO
STAPPA/ALAPCO

The main contacts with these organizations are:

Environmental Council of States (ECOS)

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3(d) Effects of Less Frequent Data Collection

Each respondent will report only one time every four years.

3(e) General Guidelines

This information collection is consistent with OMB guidelines contained in 5 CFR 1320.5(d)(2).

3(f) Confidentiality

Any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, chapter 1, part 2, subpart B - Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

3(g) Sensitive Questions

The collection in this ICR does not contain any sensitive questions.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and SIC Codes

Respondents potentially affected by this action are 10 EPA Regional Offices, 50 States, 4 Territories, and 40 Local Agencies. Based on our experience, we believe the true number of respondents for this ICR will primarily be 10 EPA Regional Offices, fifty (50) states and 4 (four) territories. There are no SIC codes for the Respondents.

4(b) Information Requested

(i) Data items, including recordkeeping requirements

The State Review Framework requests information on the contribution of state enforcement activities to federally delegated programs. There are no recordkeeping requirements associated with this collection.

The collection process will compile information on the state's enforcement and compliance activities, including inspection coverage, enforcement timeliness and appropriateness, penalty calculations and fines collected, and data quality, accuracy and completeness.

(ii) Respondent Activities

Respondent will engage in the following activities during the Framework process:

1. Pre-Review and Offsite Review

Review elements and metrics

Train/brief state staff & managers on review substance and process.

Collect files, policies, data sets, reports, and review and correct the national data.

2. Onsite Review

Participate in kick-off meeting.

Assist/facilitate EPA review of files and data sets

Participate in discussion of program with EPA

3. Report Drafting

Review and comment on draft report

4. Coordination of Parts 1, 2 & 3

Coordination of review with the state agency

Coordination of the review within EPA

5. THE INFORMATION COLLECTED: AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

5(a) Agency Activities

Agency activities associated with the State Review Framework consist of the following:

- (1) Review elements and metrics
- (2) Train/brief state staff & managers on review substance and process
- (3) Collect files, policies, data sets, reports, and review and correct the national data.
- (4) Participate in kick-off meeting.
- (5) Assist/facilitate EPA review of files and data sets
- (6) Participate in discussion of program with EPA
- (7) Review and comment on draft report
- (8) Coordination of review with the state agency
- (9) Coordination of the review within EPA

5(b) Collection Methodology and Management

The Agency will provide respondents with guidelines and training for conducting the review that will ensure a consistent approach to the reviews. Over the course of the review process the Agency will work with the states and provide assistance as necessary. All of the state reports will be submitted electronically. National data used to assess state performance already resides in various EPA databases. These data are covered by other Information Collection Requests or regulatory language. Additional data will come from the review of state inspection and enforcement files, which is the data that are to be collected based on this request.

5(c) Small Entity Flexibility

Small entities will not be affected as the collection will only be completed by EPA Regions, States and territories.

5(d) Collection Schedule

Each Respondent will complete the four-step protocol for managing the process one time every four years: (1) pre-review and offsite review, including a review and correction of the data of the national data; (3) onsite review; (4) drafting of the report; and (5) composing the final report and follow-up. In the initial year, twenty (20) states are scheduled to complete the review process. In the second year another twenty (20) states are scheduled with the remaining ten states completing the review process in year three.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Burden and Costs

The estimated total hour burden for response is 612 hours per respondent. This burden hour estimate translates to a cost of \$21,852.38 per entity that voluntarily completes the survey resulting in the total of \$1,180,028.52. There is no recurring respondent burden associated with this ICR. No capital or operations and maintenance costs are incurred by respondents under this ICR.

The labor costs in the following table are based on the following average labor rates:

Legal: \$38.89 (State Government Lawyer)
 Managerial: \$36.98 (State Managers)
 Technical: \$35.82 (Math and Science)
 Clerical: \$15.49 (Office and Administrative Support)

These rates are from the United States Department of Labor’s, Bureau of Labor Statistics, “May 2008 National Occupational Employment and Wage Estimates,”

http://www.bls.gov/oes/2008/may/naics4_999200.htm

<http://www.bls.gov/oes/current/oes150000.htm>

<http://www.bls.gov/OES/current/oes430000.htm>.

Table 1. Respondents’ Burden and Costs

Information Collection Activity	Legal \$38.89/ hour	Man. \$36.98/ hour	Tech. \$35.82/ hour	Cler. \$15.49/ hour	Cap./ Start- up cost	Oper. and Maint. (O&M cost)
1. Pre-Review and Offsite Review						
Review elements and metrics and prepare data discrepancy response	6.5	56.17	96.92	0	\$0.0	\$0.0
Train/brief state staff & managers on review substance and process.	2	23.42	31.17	0	\$0.0	\$0.0
Collect files, policies, data sets, reports etc.	1.67	20.83	46.58	19.83	\$0.0	\$0.0
2. Onsite Review						
Participate in kick-off meeting.	2.83	20.17	9.33	0	\$0.0	\$0.0
Assist/facilitate EPA review of files and data sets	.67	33.75	57.58	0	\$0.0	\$0.0
Participate in discussion of program with EPA	2	22.33	23.67	0	\$0.0	\$0.0
3. Report Drafting						

Information Collection Activity	Legal \$38.89/ hour	Man. \$36.98/ hour	Tech. \$35.82/ hour	Cler. \$15.49/ hour	Cap./ Start- up cost	Oper. and Maint. (O&M cost)
Review and comment on draft report	1.5	45.33	35.33	0	\$0.0	\$0.0
4. Coordination of Parts 1, 2 & 3						
Coordination of review with the state agency	0	12	18.33	0	\$0.0	\$0.0
Coordination of the review within EPA	0	8.23	13.83	0	\$0.0	\$0.0
TOTAL HOURS/Respondent	17.17 (\$38.89)	242.2 (\$36.98)	332.8 (\$35.82)	19.83 (\$15.49)		
LABOR COST/Respondent	\$667.75	\$8,956.56	\$11,920.90	\$307.17		
No. of Respondents: 54	Total hours: 612/Respondent x 54 Respondents = 33,048 over 3 years or 11,016 annually		Total Cost: \$21,852.38/Respondent x 54 respondents = \$1,180,028.52 over 3 years or \$393,342.84 annually			

6(b) Estimating Agency Burden

EPA Regions I through X will participate in the State Review Framework process and the following table details the hour and cost burden per region. These rates are from the Office of Personnel Management (OPM) "2010 General Schedule" which excludes locality rates of pay.

The cost for the Regional table (Table 2) is based on the average hourly labor rate as follows:

Legal	\$45.99	(GS-14, Step 5)
Managerial	\$38.92	(GS-13, Step 5)
Technical	\$28.88	(GS-12, Step 1)
Clerical	\$15.63	(GS-6, Step 3)

The cost for the Headquarters table (Table 3) is based on the average hourly labor rate as follows:

Legal	\$57.13	(GS-14, Step 5)
Managerial	\$48.35	(GS-13, Step 5)
Technical	\$35.88	(GS-12, Step 1)

Clerical \$19.41 (GS-6, Step 3)

These rates are from the Office of Personnel Management (OPM) “2010 General Schedule” and includes the locality payment for the Washington D.C. area.

Table 2. Agency Burden and Cost (per Region)

Information Collection Activity	Legal \$45.99/ hour	Man. \$38.92/ hour	Tech. \$28.88 /hour	Cler. \$15.63/ hour	Capit al/ Start- up cost	Oper. and Maint. (O&M cost)
1. Pre-Review and Offsite Review						
Review elements and metrics and prepare data discrepancy response	0	6.25	32.25	0	0	0
Train/brief state staff & managers on review substance and process.	0	11	20.25	0	0	0
Collect files, policies, data sets, reports etc.	0	4	19.25	0	0	0
2. Onsite Review						
Participate in kick-off meeting.	.75	3	9	0	0	0
Assist/facilitate on-site review of files and data sets	0	29.5	127.5	0	0	0
Participate in discussion of program with state	0	3	12	0	0	0
3. Report Drafting						
Review and comment on draft report	0	21.5	81	0	0	0
4. Coordination of Parts 1, 2 & 3						
Coordination of review with the state agency	0	2.89	11	0	0	0
Coordination of the review within EPA	0	2.33	17	0	0	0
Total Agency hours	0.75	73.47	329.25	0	0.0	0.0
Total Agency costs	34.49	\$2,859.45	\$9,508.74	\$0	0.0	0.0
TOTAL REGIONAL AGENCY HOURS: 403.47 (x 10 Regions = 4034.7) TOTAL REGIONAL AGENCY COST: \$12,402.68 x 10 Regions = \$124,026.80)						

Table 3. Agency Burden and Cost (Headquarters)

Information Collection Activity	Legal \$57.13/ hour	Man. \$48.35/ hour	Tech. \$35.88 /hour	Cler. \$19.41/ hour	Capital/ Start-up cost	Oper. and Maint. (O&M cost)
1. Pre-Review and Offsite Review						
Train/brief state and region staff & managers on review substance and process.	0	3	3	0	0	0
Collect files, policies, data sets, reports etc.	0	0	2	5	0	0
2. Onsite Review						
Participate in kick-off meeting.	1	1	1	0	0	0
Participate in discussion of the program with the Regions	5	5	10	0	0	0
3. Report Drafting						
Review and comment on draft report	5	5	15	0	0	0
4. Coordination of Parts 1, 2 & 3						
Coordination of the review within EPA	0	2	2	0	0	0
TOTAL	11	16	33	5	0	0
TOTAL COST	\$628.43	\$773.60	\$1184.04	\$97.05	0.0	0.0
TOTALS Hours: 65 Labor Cost: \$2,683.12						

6(c) Bottom Line Burden Hours and Cost Tables

Table 4. Total Estimated Respondent Burden and Cost Summary (over 3 years)

	No. of Respondents	No. of Activities	Total hours	Total Labor Costs	Total Capital and Start-up costs	Total Annual O&M costs
Respondent	54	9	33,048	\$1,180,028.52	\$0.0	\$0.0

Table 5. Total Estimated Agency Burden and Cost Summary

	No.of Activities	Total hours	Total Labor Costs	Total Capital and Start-up costs	Total Annual O&M costs
Regions	9	4,034.7 (for all ten regions)	\$124,026.80 (for all ten regions)	\$0.0	\$0.0
Headquarters	6	65	\$2,683.12	\$0.0	\$0.0

6(d) Reasons for Changes in Burden

There has been no increase in the hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. There has been an increase in the cost in the total estimated respondent burden based on rates from the Office of Personnel Management (OPM) “2010 General Schedule.”

6(e) Burden Statement

The average annual respondent burden for each state is 612 hours. This estimate includes time for (1) reviewing and correcting the national data and the metrics; (2) training and briefing state staff & managers on review substance and process; (3) collecting files, policies, data sets, reports etc.; (4) participating in kick-off meetings; (5) assisting/facilitating EPA review of files and data sets; (6) participating in discussion of program with EPA; (7) reviewing and commenting on draft report; (8) coordinating of review with the state agency; and (9) coordinating of the review within EPA. There is no record keeping burden for this collection as the State Review Framework does not include record keeping requirements. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number. The OMB Control Numbers for EPA’s regulations are listed at 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this ICR under Docket ID Number EPA-OECA-2010-0291, which is available for public viewing at the

Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, N.W., Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the OECA Docket is (202) 566-1752. An electronic version of the public docket is available at <http://www.regulations.gov>. Use <http://www.regulations.gov> to submit or view public comments, to access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select “search,” then key in the Docket ID Number identified above. You can also send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-OECA-2010-0291 in any correspondence.

Part B of the Supporting Statement

This part is not applicable because no statistical methods were used in collecting this information.