

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

Part A. Justification.

1. NEED FOR THE INFORMATION COLLECTION

The Corps of Engineers (Corps) is required by three federal laws, passed by Congress, to regulate construction related projects in United States (U.S) waters, which is accomplished through the review of applications for permits to conduct this work. Information required on Engineer form 4345 is necessary to evaluate applicants' requests for a Corps permit for: (1) a dredging or construction related activity that would affect navigable waters of the U.S. under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403); (2) the discharge of dredged or fill material into "waters of the U.S," a broader geographic scope than navigable waters, under Section 404 of the Clean Water Act (33 USC 1344); 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). The Corps implementing Code of Federal Regulations is codified at 33 CFR 320 -332. 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. USE OF THE INFORMATION

Information is used by Corps Regulatory staff in the federal review of an application for a permit to conduct proposed work as described in paragraph 1. The review process is described in the Corps regulations for the regulatory program, published as 33 CFR 320-332 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, prepared from the information contained in Engineer form 4345, are posted on the internet/mailed to all the above in order to solicit their views. Applications may be submitted at any time to appropriate Corps district offices. The information is used to provide information needed for the evaluation of the applicant's proposed project to determine whether a permit is required, and if so, to proceed with the evaluation of a permit pursuant to the authorities listed above. The application is also used to assess the effects of the regulated work on the environment or other property owners, to determine if a permit should be approved or denied. In summary, the information is used to determine whether a permit is required, and if so, to proceed with the evaluation of a permit pursuant to the authorities listed above, as well as provide information needed for the evaluation of the applicant's proposed project.

3. USE OF INFORMATION TECHNOLOGY

Each new submittal for a Corps permit requires a new form, and the information is unique to the project being proposed. No duplication exists. Applicants may save common information (if using a fillable Portable Document Format (pdf)) and enter new project specific information for each subsequent application. The form is available electronically to the public via the Internet, and email. The information can be submitted to the Corps via a fillable pdf or could be handwritten, the mechanism is not prescribed, although the document needs to be legible. The application form can be submitted through email, although we are not able to accept automated application submissions at this time. Methods for an electronic submittal have been investigated, but additional security measure were needed prior to import into an Corps database behind the DoD firewall. Additional notification and submittal requirements for plans and other information which may accompany the form, made the e-submission burdensome. This avenue will not be pursued at this time, but may be in the future as newly developed technologies become available.

4. NON-DUPLICATION

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 their project without first designing it, making drawings, deciding on materials and the amounts to be used, etc. The Corps merely requires that this information be transferred to the 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 other federal, state and local agencies? to obtain permits required in addition to the Corps federal permit. Each new submittal for a Corps permit requires the completion of a new form, and the information is unique to the project being proposed. No duplication exists. Applicants may save common information (if using a fillable pdf) and enter new project specific information for each subsequent application.

5. BURDEN ON SMALL BUSINESS

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 jurisdiction. Such projects would tend to be small with a shorter timeframe for evaluation, and therefore, 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. LESS FREQUENT COLLECTION

Without the information contained in the form, the Corps could not evaluate the impacts of a proposed project, as required by law. The submittal of information is needed when an application for a DA permit is received by Corps offices to start the evaluation process. Our regulations specify certain information needed for a complete application for a standard permit (33 CFR 325.1(d)), which is contained on the application form. If the form is not used, it is unlikely that applicants will submit all of the information required by regulation for a complete application, which will delay the permit evaluation process with requests for additional information. In addition, substantial delays in the permit evaluation process could result in an increase in unregulated projects, which are built 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. PAPERWORK REDUCTION ACT GUIDELINES

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. The timing of a submittal is dictated by the needs of the applicant, not on a quarterly or other basis, and is not associated with a statistical survey.

8. CONSULATION AND PUBLIC COMMENTS

The ENG 4345 form has been in existence since the 1970s and will continue to be used to collect information necessary to evaluate permit requests. The use of this form has been decreasing as the number of incoming permit applications has decreased over the past few years. The current request to extend the comment period is in the Federal Register, Vol 78, No 118, dated 19 Jun 2013, page 36753. No comments were received during this comment period.

9. GIFTS OR PAYMENTS

There will be no payments or gifts provided to respondents.

10. CONFIDENTIALITY

The application contains a privacy act statement. Information provided becomes part of the administrative record and a statement is included in the privacy act statement on the application form, notifying the applicant that the information provided may be shared with the Department of Justice or other federal, state, and local government agencies, and the public and may be made available a part of a public notice as required by law.

11. SENSITIVE QUESTIONS

There are no sensitive questions as described in the guidance. The application form requests the contact information for the applicant, authorized agent, location of the proposed project, complete description of the

proposed work, and signature of the applicant and authorized agent.

12. RESPONDENT BURDEN AND LABOR COSTS

Number of respondents: 80,000

Responses per respondent: 1

Number of annual responses: 80,000

Average burden per response: 11 hours

Annual burden hour: 880,000 hours

Annual cost to respondents: \$4,100,000

Total cost to respondents: \$4,100,000

The annual number of respondents is 80,000 in a typical year. This is based on actual numbers of applications submitted to Corps offices. The estimate of 80,000 respondents is a high estimate, as not all Districts use this form. Some use a joint federal-state application form containing similar data, specific to a geographic area in accordance with 33 CFR 325.1 (c). Furthermore, 33 CFR 325.1(c) also notes certain activities have been authorized by general permits and do not require submission of an application form but may require a separate notification. The estimate of burden hours is 11 hours, used as the current average for an application. This is based on a 1994 study 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 for the mitigation rule (33 CFR 332). It is estimated that the majority of applications take 5 hours or less, and the minority 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 hours is more accurate as an average. 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 required to complete the application, there are no additional costs normally incurred by the applicant for those applicants that complete the forms themselves. A very rough estimate is provided for those applicants that may use a permit service company, based on historic data. The hourly costs for consultants can range from \$60 to \$200 an hour.

13. RESPONDENT COSTS OTHER THAN BURDEN HOUR COSTS

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 permit applications. The Corps evaluates these plans and delineations or 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 the permitting process. No additional costs are required to fill out the application form. If a Standard Permit (SP) is issued, a permit fee may be assessed (very small fees, \$10 private, \$100 commercial) and funds are provided to the treasury.

14. COST TO FEDERAL GOVERNMENT

The annualized cost to the federal government for the review of permit applications is approximately \$90 million. This assumes an estimate using hours of initial application review by a Regulatory staff member plus the workload task hour calculations to calculate hours of processing and evaluation at the same pay scale, considered to be the average grade of an application reviewer. The cost is based on an average \$32.09 per hour, plus costs for benefits and other considerations. The total number of annual responses of 80,000 was reduced by 12% in the calculations to account for applications that are withdrawn or cancelled early in the initial application review (percent determined using withdrawn/total applications received). To calculate these costs, the number of permits issued/verified were multiplied by the average hours to evaluate each type of permit, which was then multiplied by the labor rate. If automation and electronic submission of the application form is implemented, there would be additional costs to the government. This would be calculated prior to implementation.

15. REASON FOR CHANGE IN BURDEN

There are no program changes or adjustments associated with the request. This is an extension of a

previously approved collection for which approval expires on 31 Aug 2013. The total burden is decreased from previous estimates due to an economic decline and less permit applications being submitted.

16. PUBLICATION OF RESULTS

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. NON-DISPLAY OF OMB EXPIRATION DATE

This collection of information will display the OMB approval number and expiration date.

18. EXCEPTIONS TO "CERTIFICATION FOR PAPERWORK REDUCTION SUBMISSIONS"

This office seeks no exceptions to the certification statement identified in Item 19 of OMB form 83-I.

Part. B.

This collection of information does not employ statistical techniques.