



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

AUG - 7 2019

OFFICE OF WATER

During the recent process of updating the regulations for section 401, the EPA was made aware that an existing Information Collection Request (ICR) was not in place for the agency's current certification regulations, promulgated at 40 CFR part 121. The EPA did not develop an ICR for the current regulations at the time they were promulgated because they pre-date the establishment of both the 1972 Clean Water Act and 1980 Paperwork Reduction Act (PRA).

The collection of information under the EPA's current certification regulations is needed prior to the expiration of the time period provided in 5 CFR 1320.12 and is essential to the EPA's mission. The EPA cannot reasonably comply with the normal clearance procedures because the Agency is currently in non-compliance with the PRA and requires an emergency ICR to address the non-compliance. Additionally, the use of the normal clearance procedures is likely to disrupt the collection of information for existing and future CWA section 401 certification requests that come in under the EPA's current certification regulation<sup>1</sup>. The EPA has used the best available information and taken all practicable steps to consider information gathered from interested parties during the pre-proposal period to minimize the burden of the collection of information.

The EPA is seeking OMB approval for a six-month emergency ICR, during which time the Agency intends to gather additional information needed to more fully and accurately describe the parameters of this collection. The EPA will issue a permanent ICR for the current regulations concurrently with the expiration of the six-month emergency period.

A handwritten signature in blue ink, appearing to read "AW", followed by a horizontal line.

Anna Wildeman  
Principal Deputy Assistant Administrator

Attachment

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<sup>1</sup> EPA is in the process of proposing to update its current certification regulations, which will include a proposal for a new ICR; however, until that process is complete, the current regulations will remain in place with the associated information collection requirements.