EPA Responses to Comments

Non-Substantive Changes to Grants Performance Information Collection Request Instruments

PUBLIC SUBMISSION

Docket: EPA-HQ-OFA-2026-2542
Public Comment on EPA Requested Non-Substantive Changes to Information Collect Requests for General Performance Reporting for Assistance Programs, Promoting Readiness and Enhancing Proficiency to Advance Reporting and Data, and National Estuary Program

Comment On: EPA-HQ-OFA-2026-2542-0001
Agency Information Collection Activities; Proposals, Submissions, and Approvals: General Performance Reporting for Assistance Programs, Promoting Readiness and Enhancing Proficiency to Advance Reporting and Data, and National Estuary Program

Document: EPA-HQ-OFA-2026-2542-DRAFT-0022
Anonymous public comment

Submitter Information

Name: Anonymous

General Comment

EPA's notice explicitly confirms that it is modifying questions across general and program-specific grant performance forms to enforce compliance with Executive Orders 14172, 14173, 14148, and 14239. For example,

modifying reporting instruments to reflect Executive Order 14173 (Ending Illegal Discrimination and Restoring Merit-Based Opportunity) and Executive Order 14239 (Achieving Efficiency Through State and Local Preparedness) alters the substantive evaluation criteria, operational metrics, and merit-based reporting obligations imposed on grantees.

Under 5 CFR § 1320.5(g) and long-standing OIRA guidance, non-substantive change requests are strictly restricted to minor administrative maintenance (e.g., correcting typos, updating contact addresses, or reformatting layouts) that does not alter data definitions, reporting concepts, or recipient obligations. Altering questions across general and program-specific grant performance forms to enforce compliance with broad policy Executive Orders (such as EO 14173 regarding merit-based opportunity and EO 14239 regarding local preparedness) fundamentally alters the substantive criteria and performance metrics required of grantees. Labeling these substantive policy changes "non-substantive" to issue a compressed 30-day notice improperly deprives the public and grant recipients of the statutory 60-day notice and comment period required under 44 U.S.C. § 3506(c)(2)(A).

RESPONSE: The changes involve minor language edits that do not introduce new concepts, measures, or new intended uses for the data beyond the original approval. Nor do the adjustments change the overall nature and type of performance reporting information being collected in the instrument. Changes also include correcting links and references that are obsolete and no longer exist.

Such non-substantive change would not normally require a public comment prior to submittal to OMB for approval. To ensure transparency with the public, EPA held a 30-day public comment period that was not required.

The notice states that "There is no change of hours in the total estimated respondent burden compared with the ICR currently approved by OMB." Modifying mandatory performance reporting criteria forces recipient organizations (including non-profits, small entities, and local agencies) to expend unbudgeted staff hours revising internal tracking software, updating reporting workflows, and training compliance officers. EPA's assumption of zero incremental burden hours or financial impact ($0) violates statutory burden accounting rules.

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on.

The Paperwork Reduction Act mandates that before an agency submits a proposed collection or substantive revision to OMB, it must provide a 60-day public comment period in the Federal Register (44 U.S.C. § 3506(c)(2)(A); 5 CFR § 1320.8(d)(1)). By falsely labeling substantive modifications as "non-substantive," EPA has impermissibly truncated the statutory comment window to 30 days, depriving grant recipients, state and local governments, non-profit organizations, and public interest stakeholders of their legal right to evaluate and comment on the agency's baseline assumptions, draft instruments, and practical utility.

RESPONSE: Non-substantive changes of this nature do not require public comment. EPA held a 30-day public comment period to ensure transparency with the public. Commenter mischaracterizes the proposed changes. While the label or name of an entry field has changed, the underlying information requested remains the same, and the answers provided are not expected to change.

Under the PRA, a notice soliciting public comment must provide sufficient quantitative detail and clarity to enable the public to evaluate the agency's burden estimates and collection utility. EPA aggregated three distinct ICRs into a single high-level summary notice without disclosing baseline hours, respondent figures, or explicit redlined question modifications, rendering meaningful public evaluation impossible. The notice contains zero numeric entries for respondent counts, annual burden hours, or labor costs across ICR Nos. 2802.01, 2804.01, or 1500.11, offering only the assertion of "no change of hours".

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on. The response burden, with calculation details, was provided in the original federal register notice which is still available to the public. Given that the same rationale for these non-substantive was being applied across the various instruments of the three ICRs, EPA used one federal register notice and a single docket for efficiency. For this 30-day public comment period on non-substantive changes, EPA provided redlined question modifications for every single instrument proposed for alteration, which served to provide sufficient detail and notice of the upcoming changes. In addition, for greater transparency and clarity, EPA provided in the public docket a summary table detailing which instruments were being changed, which ICR collection each belonged to, and what non-substantive changes were proposed for each instrument.

The EPA cannot circumvent statutory public participation requirements by re-labeling policy-driven grant performance changes as administrative "non-substantive" updates. To uphold the integrity of the Paperwork Reduction Act and ensure fair administrative notice for federal grant recipients, OMB must reject this submission and require EPA to re-issue these proposed changes as a full, substantive ICR revision with a 60-day public comment period.

RESPONSE: See responses above.

PUBLIC SUBMISSION

Docket: EPA-HQ-OFA-2026-2542
Public Comment on EPA Requested Non-Substantive Changes to Information Collect Requests for General Performance Reporting for Assistance Programs, Promoting Readiness and Enhancing Proficiency to Advance Reporting and Data, and National Estuary Program

Comment On: EPA-HQ-OFA-2026-2542-0001
Agency Information Collection Activities; Proposals, Submissions, and Approvals: General Performance Reporting for Assistance Programs, Promoting Readiness and Enhancing Proficiency to Advance Reporting and Data, and National Estuary Program

Document: EPA-HQ-OFA-2026-2542-DRAFT-0023
Anonymous public comment

Submitter Information

Name: Anonymous

General Comment

EPA asserts that altering specific questions across general and program-specific performance forms to comply with four new Executive Orders (E.O. 14172, E.O. 14173, E.O. 14148, E.O. 14239) is purely "non-substantive." However, modifying reporting fields to enforce compliance with sweeping presidential directives regarding DEI/merit-based definitions, federal naming conventions, and local preparedness metrics alters the substantive scope and qualitative nature of reporting required from awardees across three major ICRs simultaneously.

RESPONSE: The proposed alterations do not “alter the substantive scope and qualitative nature of reporting required”. The changes involve minor language changes that do not introduce new concepts or new intended uses for the data beyond the original approval and do not change the overall nature and type of performance reporting information being collected in the instrument. Changes also include correcting links and references that are obsolete and no longer exist.

Notice text states: "The changes being made to this ICR are non-substantive and ensure EPA grant programs' timely and efficient compliance with Executive Orders." Altering core performance metrics to align with broad presidential policy shifts constitutes a substantive modification of data collection instruments. EPA is utilizing the "non-substantive change" mechanism to bypass the mandatory 60-day public notice requirement under 44 U.S.C. § 3506(c)(2)(A), improperly reclassifying content modifications driven by four major Executive Orders across three ICRs as mere administrative tweaks.

RESPONSE: Non-substantive changes of this nature, which do not alter core performance metrics, do not require public comment. Revisions in language are intended to result in more accurate and complete responses. EPA held a 30-day public comment period to ensure transparency with the public.

Notice text states: "There is no change of hours in the total estimated respondent burden compared with the ICR currently approved by OMB." EPA failed to meet the mandatory certification standard requiring agencies to properly estimate the administrative burden on small entities (5 CFR § 1320.9(c)), incorrectly asserting that modifying reporting questions across non-profit and government recipients creates zero incremental burden.

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on.

Abstract notes that changes serve to "ensure that these documents comply with the Administration's directives..." rather than demonstrating an independent statutory or programmatic operational need for environmental protection outcomes. The notice provides no specific details or justification showing how altering performance tracking questions to align with political Executive Orders enhances the operational utility of grant monitoring under 2 CFR part 200, risking compliance friction without clear programmatic benefit.

RESPONSE: The proposed alterations do not alter the substantive scope of reporting required, nor the core performance metrics.

EPA asserts a zero-hour burden change based on the claim that altering reporting questions across three ICRs is "non-substantive." In practice, modifying performance tracking forms to comply with complex Executive Orders imposes an immediate administrative burden: thousands of state, local, and non-profit grant recipients must review the new questions, train staff, update software reporting workflows, and ensure legal alignment. Claiming 0

added burden hours or labor costs for substantive question revisions across billions of dollars in active grants violates 5 CFR § 1320.8 principles of realistic burden estimation.

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on. The proposed alterations do not alter the substantive scope of reporting required, nor the core performance metrics.

Although the ICRs are currently approved through January 31, 2028, active grantees may need to adjust their internal compliance frameworks, survey instruments, or progress-tracking systems to conform to the altered question structures. Risk to Small Non-Profits, while state agencies and large institutions have dedicated legal and administrative staff to process changes, small non-profit recipients may struggle to interpret and adapt to updated compliance requirements, despite EPA's assertion of zero burden change.

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on. Revisions in language are intended to result in more accurate and complete responses without increasing burden on grantees.

PUBLIC SUBMISSION

Docket: EPA-HQ-OFA-2026-2542
Public Comment on EPA Requested Non-Substantive Changes to Information Collect Requests for General Performance Reporting for Assistance Programs, Promoting Readiness and Enhancing Proficiency to Advance Reporting and Data, and National Estuary Program

Comment On: EPA-HQ-OFA-2026-2542-0001
Agency Information Collection Activities; Proposals, Submissions, and Approvals: General Performance Reporting for Assistance Programs, Promoting Readiness and Enhancing Proficiency to Advance Reporting and Data, and National Estuary Program

Document: EPA-HQ-OFA-2026-2542-DRAFT-0024
Anonymous public comment

Submitter Information

Name: Anonymous

General Comment

OMB's historic clearance precedents (codified across OIRA determinations) establish that "Non-Substantive Changes" (Form OMB 83-C) are strictly reserved for minor typos, font formatting, or cosmetic changes. Altering reporting questions to align with four broad Executive Orders introduces new qualitative compliance thresholds.

The EPA has stripped award recipients of their explicit statutory entitlement under 44 U.S.C. § 3506(c)(2)(A) to an initial 60-day notice and comment window. Depriving the public of this statutory phase before submitting to OIRA constitutes an arbitrary procedural defect under State Farm.

RESPONSE: The proposed alterations involve very minor language changes that do not introduce new concepts or new intended uses for the data beyond the original approval and do not change the overall nature and type of performance reporting information being collected in the instrument. Changes also include correcting links and references that are obsolete and no longer exist. Commenter conflates "non-substantive changes" with "de minimis changes". Minor typos, font formatting, or cosmetic changes are considered "de minimis" and OMB review is not required. Non-substantive changes, such as the ones proposed here, are non-substantive, do not require public comment, but do require OMB review.

The EPA asserts that modifying reporting fields across thousands of active grants yields a exact burden delta of 0 burden estimates and 0 cost. In federal grant practice, any alteration to mandatory reporting fields triggers immediate institutional costs:
- Legal & Compliance Audit: In-house counsel must review altered questions against grant terms.
- IT & ERP Re-Configuration: Systems engineers must redesign reporting portals and survey flows.
- Staff Re-Training: Field officers must be trained on updated compliance thresholds.
Asserting that thousands of non-profits, universities, and state agencies can execute these operational adjustments at zero cost violates the requirement for realistic burden estimation under 5 CFR § 1320.8(a)(4).

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on.

The EPA's financial assistance recipient pool includes small non-profits and rural community organizations. Large state governments have dedicated compliance lawyers to handle form changes; small non-profits do not. Under 5 CFR § 1320.9(c), the agency's CIO must certify that the collection reduces burden to the extent practicable for small entities. By assuming a zero-burden transition, the EPA completely failed to evaluate or mitigate the disproportionate compliance drag placed on small non-profit grantees.

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on. Revisions in language are intended to result in more accurate and complete responses without increasing burden on grantees.

Deploying substantive form revisions under the guise of an 83-C "non-substantive change" deprives the modified questions of valid OMB clearance under 44 U.S.C. § 3507(a). Pursuant to 44 U.S.C. § 3512(b), affected financial assistance awardees may assert the Public Protection Clause as a complete bar and defense against any EPA penalty, funding withhold, or default action resulting from a failure or refusal to submit data under the unapproved question fields.

RESPONSE: Non-substantive changes of this nature do not require public comment. EPA held a 30-day public comment period to ensure transparency with the public. The proposed alterations do not introduce new conditions of federal financial assistance.

The EPA's abstract acknowledges that these question changes enforce Executive Orders targeting non-discrimination, local preparedness, and federal naming standards. Under 2 CFR § 200.211 and the Uniform Guidance, performance reporting forms cannot be repurposed to introduce backdoor award conditions or unmandated compliance certifications that are not authorized by the underlying grant statutes passed by Congress. If answering the modified questions becomes a prerequisite for grant reimbursement, the EPA is exercising ultra vires authority by conditioning federal financial assistance on non-statutory executive policies.

RESPONSE: The proposed alterations do not introduce new conditions of federal financial assistance.

Under 44 U.S.C. § 3508, OIRA must evaluate whether an information collection possesses genuine "practical utility." Re-aligning active grant metrics mid-lifecycle to satisfy political Executive Orders introduces longitudinal data discontinuity. Breaking historical reporting trends across multi-year estuary and environmental programs degrades the objectivity, integrity, and utility of federal environmental data, violating OMB Information Quality Guidelines (67 FR 8452). Changing reporting questions purely to satisfy presidential political directives (rather than environmental tracking under the Clean Water Act or EPA organic statutes) creates data discontinuity. Altering historical data categories mid-stream breaks longitudinal performance tracking across multi-year grants, degrading the overall quality, objectivity, and utility of federal environmental reporting in violation of the IQA (44 U.S.C. § 3516 note).

RESPONSE: The proposed minor alterations do not change the instruments' "practical utility".

PRAYER FOR RELIEF

1. FORMAL DISAPPROVAL: Disapprove and Return EPA's non-substantive change request for ICR Nos. 2802.01, 2804.01, and 1500.11 pursuant to 5 CFR § 1320.11.

2. RECLASSIFICATION MANDATE: Order the EPA to reclassify the proposed revisions as a Substantive Revision, publish the full redlined text of all modified questions in the public docket, and initiate a full 60-day public notice period under 44 U.S.C. § 3506(c)(2)(A).

3. MANDATORY TERMS OF CLEARANCE (TOC): In the event of a conditional approval, impose strict Terms of Clearance:

- TOC 1 (Time Limitation): Restrict clearance duration to one (1) year.
- TOC 2 (Burden Re-Calculation): Direct EPA to conduct an empirical burden survey of active grantees applying fully loaded labor rates (1.40x BLS base rate) and non-zero legal/IT transition costs.
- TOC 3 (Public Protection Enforcement): Expressly affirm that no EPA financial assistance recipient shall be subject to default, funding hold, or award termination for failure to respond to unapproved or defectively cleared question fields.

RESPONSE: The estimated response burden, which includes the total time, effort, or financial resources expended to complete the information collection, is unchanged with these minor adjustments or moderately reduced due to fewer factors to report on. The proposed alterations do not alter the substantive scope of reporting required, nor the core performance metrics. Revisions in language are intended to result in more accurate and complete responses without increasing burden on grantees. The proposed alterations do not introduce new conditions of federal financial assistance. Non-substantive changes of this nature do not require public comment. EPA held a 30-day public comment period to ensure transparency with the public. Given that the same rationale for these non-substantive was being applied across the various instruments of the three ICRs, EPA used one federal register notice and a single docket for efficiency. For this 30-day public comment period on non-substantive changes, EPA

provided redlined question modifications for every single instrument proposed for alteration, which served to provide sufficient detail and notice of the upcoming changes. In addition, for greater transparency and clarity, EPA provided in the public docket a summary table detailing which instruments were being changed, which ICR collection each belonged to, and what non-substantive changes were proposed for each instrument. No relief is warranted.