

replace the recommended numeric nutrient criteria of 2000 and 2001. These draft models and associated recommended criteria are provided in accordance with the provisions of Section 304(a) of the CWA for the EPA to revise ambient water quality criteria from time to time to reflect the latest scientific knowledge. CWA Section 304(a) national water quality criteria serve only as non-binding recommendations to states and authorized tribes in defining ambient water concentrations that will protect against adverse effects to aquatic life and human health. The ecological responses on which these draft models and criteria are based were selected by applying a risk assessment approach to explicitly link nutrient concentrations to the protection of designated uses.

The draft ambient water quality criteria recommendations for lakes and reservoirs are based on the available data from the EPA's National Lakes Assessment (NLA) survey. The NLA surveys are carried out under the EPA's National Aquatic Resource Survey program, which conducts water quality and biological surveys of the Nation's surface waters in partnerships with state and authorized tribal water quality monitoring programs (<https://www.epa.gov/national-aquatic-resource-surveys>). The NLA surveys were designed using random sampling of lakes and reservoirs across the United States, and as a result, the data generated represent the characteristics of the full population of United States lakes and reservoirs. The NLA surveys were implemented using standardized field sampling and analytical methods, with internal oversight and independent quality control surveillance yielding data of high quality and statistical rigor.

The stressor-response models used in generating the draft ambient water quality criteria recommendations are based on previously published EPA technical guidance (U.S. EPA 2010, *Using stressor-response relationships to derive numeric nutrient criteria*, Office of Water, U.S. Environmental Protection Agency, Washington, DC, EPA-820-S-10-001), as well as scientific peer-reviewed statistical and modeling techniques. Models provided in the draft recommended criteria document are based on national data, but states and authorized tribes may have additional data collected during routine monitoring. Incorporating these local data into the national models can refine and improve the precision of the estimates of the stressor-response relationships. In the appendices of the draft criteria document, the EPA describes case studies in which state

monitoring data have been combined with national data, yielding models that can be used to derive numeric nutrient criteria that account for both unique local conditions and national, large-scale trends.

#### **IV. What are CWA Section 304(a) recommended water quality criteria?**

CWA Section 304(a) water quality criteria are non-binding recommendations developed by the EPA under authority of Section 304(a) of the CWA based on the latest scientific information on the effect that pollutant concentrations have on aquatic species, recreation, and/or human health.

Section 304(a)(1) of the CWA directs the EPA to develop, publish, and, from time to time, revise criteria for water quality accurately reflecting the latest scientific knowledge. Water quality criteria developed under CWA Section 304(a) are based on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. CWA Section 304(a) recommended criteria do not reflect consideration of economic impacts or the technological feasibility of meeting pollutant concentrations in ambient water.

CWA Section 304(a) recommended criteria provide non-binding guidance to states and authorized tribes in adopting water quality standards that ultimately provide a basis for controlling discharges of pollutants. Under the CWA and its implementing regulations, states and authorized tribes are to adopt water quality criteria to protect designated uses (*e.g.*, aquatic life, recreational use). The EPA's water quality criteria recommendations are not regulations and do not constitute legally binding requirements. States and authorized tribes may adopt other scientifically defensible water quality criteria that differ from these recommendations. The CWA and its implementing regulations require that any new or revised water quality standards adopted by the states and authorized tribes be scientifically defensible and protective of the designated uses of the bodies of water. States and authorized tribes have the flexibility to do this by adopting criteria based on (1) the EPA's recommended criteria, (2) the EPA's criteria modified to reflect site-specific conditions, or (3) other scientifically defensible methods.

#### **V. Use of the Ambient Water Quality Criteria Recommendations for Lakes and Reservoirs by States and Authorized Tribes**

The EPA is publishing the draft ambient water quality criteria recommendations for lakes and reservoirs for consideration by states and authorized tribes as they develop numeric nutrient criteria to protect aquatic life, recreation, and drinking water sources from nutrient pollution. States and authorized tribes could consider using the recommendations, once final, as an alternative to or as a supplement of other water quality data and scientifically defensible approaches. States and authorized tribes may also modify the criteria to reflect site-specific conditions or establish criteria based on other scientifically defensible methods (40 CFR 131.11(b)). When finalized, these updated CWA Section 304(a) recommended nutrient criteria for lakes do not compel a state or authorized tribe to revise current EPA approved and adopted criteria, Total Maximum Daily Load nutrient load targets, or nitrogen or phosphorus numeric values established by other scientifically defensible methods. As part of their triennial review, if a state or authorized tribe uses its discretion to not adopt new or revised nutrient criteria based on these CWA Section 304(a) criteria models, then the state or authorized tribe shall provide an explanation when it submits the results of its triennial review (40 CFR 131.20(a)).

#### **VI. Solicitation of Scientific Views**

The EPA is soliciting public comment, including, but not limited to, additional scientific views, data, and information, regarding the science and technical approach used in the derivation of these draft ambient water quality criteria recommendations for lakes and reservoirs.

**David P. Ross,**

*Assistant Administrator, Office of Water.*

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#### **ENVIRONMENTAL PROTECTION AGENCY**

**[EPA-HQ-OGC-2020-0020; FRL-10009-37-OMS]**

#### **Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Confidentiality Rules (Renewal)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Confidentiality Rules (EPA ICR Number 1665.14, OMB Control Number 2020–0003) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through May 31, 2020. Public comments were previously requested via the **Federal Register** on January 23, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before June 22, 2020.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OGC–2020–0020, to (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method) or [hq.foia@epa.gov](mailto:hq.foia@epa.gov). EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Christopher T. Creech, National FOIA Office, Office of General Counsel, Environmental Protection Agency; telephone number: 202–564–4286; email address: [creech.christopher@epa.gov](mailto:creech.christopher@epa.gov).

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov). The telephone number for the Docket Center is 202–566–1744. For additional information

about EPA's public docket, visit <http://www.epa.gov/dockets>.

**Abstract:** The U.S. Environmental Protection Agency (EPA or Agency) established the requirements set forth in 40 CFR 2.201 *et seq.* "Confidentiality of Business Information" to establish rules to govern claims of confidential business information (CBI), *i.e.*, the rules governing the handling by the Agency of business information which is or may be entitled to confidential treatment, determining whether such information is entitled to confidential treatment for reasons of business confidentiality and responding to Freedom of Information Act (FOIA) requests pursuant to 5 U.S.C. 552 for this information.

**Form Numbers:** None.

**Respondents/affected entities:**

Respondents can potentially include any business that submitted to EPA information that may be claimed as CBI. Respondents can be entities in both the manufacturing (SIC codes 20–30) and non-manufacturing sectors (no SIC codes identified).

**Respondent's obligation to respond:** Voluntary and mandatory.

**Estimated number of respondents:** 198 (total).

**Frequency of response:** 1 response per respondent annually.

**Total estimated burden:** 752.4 hours (per year). Burden is defined at 5 CFR 1320.03(b).

**Total estimated cost:** \$169,290.00 (per year), includes \$0 annualized capital or operation & maintenance costs.

**Changes in the Estimates:** The revised requests for substantiation will decrease the estimated burden hours for each response, although it increases the total estimated respondent burden compared with the ICR currently approved by OMB. The decrease is 2 hours for each business response; the increase is based on an expected higher response rate under the new form, producing an increase from 488 hours to 752 hours total. This decrease of hours spent are due to the removal of a question that required a company to describe, with specificity, the "substantial competitive harm" that would occur as a direct result of disclosing the information.

EPA modified its substantiation questions because of the U.S. Supreme Court's decision in *Food Marketing Institute v. Argus Leader Media* (Argus), 139 S. Ct. 2356 (2019), which evaluated the definition of "confidential" as used in Exemption 4 of the FOIA. 5 U.S.C. 552(b)(4). In the Argus decision, the Court held that at least where "[1] commercial or financial information is both customarily and actually treated as private by its owner and [2] provided to

the government under an assurance of privacy, the information is 'confidential' within the meaning of Exemption 4." Argus, 139 S. Ct. at 2366. EPA has reduced burdens to business submitters by removing the requirement to explain with specificity whatever "substantial competitive harm" a submitter claims would ensue from release of each CBI claim. The evaluation of "substantial competitive harm" had required businesses to analyze and describe the potential impacts of release. EPA has replaced that question with modified questions that require a factual description of the submitter's handling and treatment of the CBI-claimed information, as well as a description of any assurances provided by EPA at the time of submission. This replacement will reduce the burden on companies since evaluation and analysis of "substantial competitive harm" is no longer required. Further, EPA reframed preexisting questions to solicit "yes" or "no" responses, which further reduces burdens on submitters. These modifications will result in greater clarity to business submitters and improved responses as the Agency completes its confidentiality determinations.

The Agency anticipates that this lower burden on each response will increase the response rate from 21% in the prior analysis to 66% in the present analysis. EPA has already experienced an increase in response rate because of the Supreme Court's decision and expects this change to continue under the new form. EPA also made other adjustments in its analysis including adjustments in the hourly costs for both the Agency and responding companies as well as removing a category of burden that was not relevant to EPA's information request.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2019–0356; FRL–10005–96–OMS]

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; School Integrated Pest Management Awards Program (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.