

Dated: February 25, 2003.

**John D. Tressler, Leader,**

*Regulatory Management Group, Office of the Chief Information Officer.*

**Office of Elementary and Secondary Education**

*Type of Review:* Extension of a currently approved collection.

*Title:* Migrant Education Program (MEP) Proposed Regulations, Sections 200.83, 200.84, and 200.88 (KA).

*Frequency:* Biennially, Other: One time.

*Affected Public:* Individuals or household. Reporting and Recordkeeping Hour

**Burden:**

Responses: 43.

Burden Hours: 19925.

*Abstract:* §200.83 of the regulations for Title I, Part C establish the minimum requirements an SEA must meet for development of a comprehensive needs assessment and plan for service delivery as required under Section 1306(b) of the Elementary and Secondary Education Act (ESEA), as amended (Pub. L. 107-110). §200.84 of the regulations establish the minimum requirements the SEA must meet to implement the program evaluation required under Section 1304(c)(2) of ESEA. §200.88 of the regulations clarify that, for the purposes of the MEP, only "supplemental" State or local funds that are used for programs specifically designed to meet the unique needs of migratory children can be excluded in terms of determining compliance with the "comparability" and "supplement, not supplant" provisions of the statute.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or directed to her e-mail address [Vivian.Reese@ed.gov](mailto:Vivian.Reese@ed.gov). Requests may also be faxed to 202-708-9346. *Please specify the complete title of the information collection when making your request.* Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address [Joe.Schubart@ed.gov](mailto:Joe.Schubart@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**Federal Student Aid**

*Type of Review:* Revision of a currently approved collection.

*Title:* Federal Perkins/NDSL Loan Assignment Form (JS).

*Frequency:* On Occasion.

*Affected Public:* Not-for-profit institutions (primary); Businesses or other for-profit (primary); Individuals or household.

*Reporting and Recordkeeping Hour*

**Burden:**

Responses: 21262;

Burden Hours: 8505.

*Abstract:* This form is used to collect pertinent data regarding student loans from institutions participating in the Federal Perkins Loan Program. The Perkins Assignment Form serves as the transmittal document in the assignment of such loans to the Federal government.

Written requests for information should be addressed to Vivian Reese, Department of

Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or directed to her e-mail address [Vivian.Reese@ed.gov](mailto:Vivian.Reese@ed.gov). Requests may also be faxed to 202-708-9346. *Please specify the complete title of the information collection when making your request.* Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address [Joe.Schubart@ed.gov](mailto:Joe.Schubart@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

**Office of Postsecondary Education**

*Type of Review:* Revision.

*Title:* The Evaluation of Exchange, Language, International and Area Studies (EELIAS), NRC, FLAS, IIPP, UISFUL, BIE, CIBE, AORC, Language Resource Centers (LRC), International Studies and Research (IRS), Fulbright-Hays Faculty Research Abroad (FRA), Fulbright-Hays Doctoral Dissertation Research Abroad (DDRA), Fulbright-Hays Seminars Abroad (SA), Fulbright-Hays Group Projects Abroad (GPA), and the Technology Innovation and Cooperation for Foreign Information Access (TICFIA) programs.

*Frequency:* Annually.

*Affected Public:* Not-for-profit institutions.

*Reporting and Recordkeeping Hour*

**Burden:**

Responses: 2,595;

Burden Hours: 30,770.

*Abstract:* LRC, IRS, FRA, DDRA, SA, GPA, and TICFIA are being added for clearance to the system that already contains seven other programs. Information collection assist International Education and Graduate Programs Services (IEGPS) in meeting program planning and evaluation requirements. Program officers require performance information to justify continuation funding, and grantees use this information for self evaluations and to request continuation funding from the Department of Education.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or to the e-mail address [vivian\\_reese@ed.gov](mailto:vivian_reese@ed.gov). Requests may also be faxed to 202-708-9346. *Please specify the complete title of the information collection when making your request.*

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address [Joe.Schubart@ed.gov](mailto:Joe.Schubart@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 03-4748 Filed 2-27-03; 8:45 am]

**BILLING CODE 4000-01-P**

**DEPARTMENT OF EDUCATION**

**Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools**

**AGENCY:** Department of Education.

**ACTION:** Notice of availability.

**SUMMARY:** As required by section 9524 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001 (NCLB), the Secretary of Education on February 7, 2003, issued guidance on constitutionally protected prayer in public elementary and secondary schools. The purpose of this guidance is to provide State educational agencies (SEAs), local educational agencies (LEAs), and the public with information on this important topic. The guidance also sets forth and explains the responsibilities of SEAs and LEAs with respect to this aspect of the NCLB. This guidance is set forth in the appendix to this notice.

**FOR FURTHER INFORMATION CONTACT:**

Jeanette Lim, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-2241.

Telephone: (202) 401-0113. Information on this guidance is available on the Internet through the Department of Education's Web site at: <http://www.ed.gov/inits/religionandschools/>.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** As a condition of receiving funds under the Elementary and Secondary Education Act, an LEA must certify in writing to its SEA that it has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools as set forth in this guidance.

The guidance clarifies the rights of students to pray in public schools. As stated in the guidance, " \* \* \* the First Amendment forbids religious activity that is sponsored by the government but protects religious activity that is initiated by private individuals" such as students. Therefore, "[a]mong other things, students may read their Bibles or other scriptures, say grace before meals, and pray or study religious materials with fellow students during recess, the lunch hour, or other noninstructional time to the same extent that they may engage in nonreligious activities." Public schools should not be hostile to the religious rights of their students and their families.

At the same time, school officials may not “compel students to participate in prayer or other religious activities.” Nor may teachers, school administrators, and other school employees, when acting in their official capacities as representatives of the State, encourage or discourage prayer or actively participate in those activities with students.

#### Electronic Access to this Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: [www.ed.gov/legislation/FedRegister](http://www.ed.gov/legislation/FedRegister).

To use PDF, you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: <http://www.access.gpo.gov/nara/index.html>.

(Authority: 20 U.S.C. 7904).

Dated: February 24, 2003.

**Rod Paige,**

*Secretary of Education.*

### Appendix—Guidance on Constitutionally Protected Prayer In Public Elementary and Secondary Schools—February 7, 2003

#### Introduction

Section 9524 of the Elementary and Secondary Education Act (“ESEA”) of 1965, as amended by the No Child Left Behind Act of 2001, requires the Secretary to issue guidance on constitutionally protected prayer in public elementary and secondary schools. In addition, section 9524 requires that, as a condition of receiving ESEA funds, a local educational agency (“LEA”) must certify in writing to its State educational agency (“SEA”) that it has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public schools as set forth in this guidance.

The purpose of this guidance is to provide SEAs, LEAs, and the public with information on the current state of the law concerning constitutionally protected prayer in the public schools, and thus to clarify the extent to which prayer in public schools is legally protected. This guidance also sets forth the responsibilities of SEAs and LEAs with respect to Section 9524 of the ESEA. As required by the Act, this guidance has been jointly approved by the Office of the General Counsel in the Department of Education and the Office of Legal Counsel in the Department of Justice as reflecting the current state of the

law. It will be made available on the Internet through the Department of Education’s Web site ([www.ed.gov](http://www.ed.gov)). The guidance will be updated on a biennial basis, beginning in September 2004, and provided to SEAs, LEAs, and the public.

#### The Section 9524 Certification Process

In order to receive funds under the ESEA, an LEA must certify in writing to its SEA that no policy of the LEA prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools as set forth in this guidance. An LEA must provide this certification to the SEA by October 1, 2002, and by October 1 of each subsequent year during which the LEA participates in an ESEA program. However, as a transitional matter, given the timing of this guidance, the initial certification must be provided by an LEA to the SEA by March 15, 2003.

The SEA should establish a process by which LEAs may provide the necessary certification. There is no specific Federal form that an LEA must use in providing this certification to its SEA. The certification may be provided as part of the application process for ESEA programs, or separately, and in whatever form the SEA finds most appropriate, as long as the certification is in writing and clearly states that the LEA has no policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools as set forth in this guidance.

By November 1 of each year, starting in 2002, the SEA must send to the Secretary a list of those LEAs that have not filed the required certification or against which complaints have been made to the SEA that the LEA is not in compliance with this guidance. However, as a transitional matter, given the timing of this guidance, the list otherwise due November 1, 2002, must be sent to the Secretary by April 15, 2003. This list should be sent to:

Office of Elementary and Secondary Education, *Attention:* Jeanette Lim, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

The SEA’s submission should describe what investigation or enforcement action the SEA has initiated with respect to each listed LEA and the status of the investigation or action. The SEA should not send the LEA certifications to the Secretary, but should maintain these records in accordance with its usual records retention policy.

#### Enforcement of Section 9524

LEAs are required to file the certification as a condition of receiving funds under the ESEA. If an LEA fails to file the required certification, or files it in bad faith, the SEA should ensure compliance in accordance with its regular enforcement procedures. The Secretary considers an LEA to have filed a certification in bad faith if the LEA files the certification even though it has a policy that prevents, or otherwise denies participation in, constitutionally protected prayer in public elementary and secondary schools as set forth in this guidance.

The General Education Provisions Act (“GEPA”) authorizes the Secretary to bring

enforcement actions against recipients of Federal education funds that are not in compliance with the law. Such measures may include withholding funds until the recipient comes into compliance. Section 9524 provides the Secretary with specific authority to issue and enforce orders with respect to an LEA that fails to provide the required certification to its SEA or files the certification in bad faith.

#### Overview of Governing Constitutional Principles

The relationship between religion and government in the United States is governed by the First Amendment to the Constitution, which both prevents the government from establishing religion and protects privately initiated religious expression and activities from government interference and discrimination.<sup>1</sup> The First Amendment thus establishes certain limits on the conduct of public school officials as it relates to religious activity, including prayer.

The legal rules that govern the issue of constitutionally protected prayer in the public schools are similar to those that govern religious expression generally. Thus, in discussing the operation of Section 9524 of the ESEA, this guidance sometimes speaks in terms of “religious expression.” There are a variety of issues relating to religion in the public schools, however, that this guidance is not intended to address.

The Supreme Court has repeatedly held that the First Amendment requires public school officials to be neutral in their treatment of religion, showing neither favoritism toward nor hostility against religious expression such as prayer.<sup>2</sup> Accordingly, the First Amendment forbids religious activity that is sponsored by the government but protects religious activity that is initiated by private individuals, and the line between government-sponsored and privately initiated religious expression is vital to a proper understanding of the First Amendment’s scope. As the Court has explained in several cases, “there is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect.”<sup>3</sup>

The Supreme Court’s decisions over the past forty years set forth principles that distinguish impermissible governmental religious speech from the constitutionally protected private religious speech of students. For example, teachers and other public school officials may not lead their classes in prayer, devotional readings from the Bible, or other religious activities.<sup>4</sup> Nor may school officials attempt to persuade or compel students to participate in prayer or other religious activities.<sup>5</sup> Such conduct is “attributable to the State” and thus violates the Establishment Clause.<sup>6</sup>

Similarly, public school officials may not themselves decide that prayer should be included in school-sponsored events. In *Lee v. Weisman*,<sup>7</sup> for example, the Supreme Court held that public school officials violated the Constitution in inviting a member of the clergy to deliver a prayer at a graduation ceremony. Nor may school officials grant

religious speakers preferential access to public audiences, or otherwise select public speakers on a basis that favors religious speech. In *Santa Fe Independent School District v. Doe*,<sup>8</sup> for example, the Court invalidated a school's football game speaker policy on the ground that it was designed by school officials to result in pregame prayer, thus favoring religious expression over secular expression.

Although the Constitution forbids public school officials from directing or favoring prayer, students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate,"<sup>9</sup> and the Supreme Court has made clear that "private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression."<sup>10</sup> Moreover, not all religious speech that takes place in the public schools or at school-sponsored events is governmental speech.<sup>11</sup> For example, "nothing in the Constitution \* \* \* prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday,"<sup>12</sup> and students may pray with fellow students during the school day on the same terms and conditions that they may engage in other conversation or speech. Likewise, local school authorities possess substantial discretion to impose rules of order and pedagogical restrictions on student activities,<sup>13</sup> but they may not structure or administer such rules to discriminate against student prayer or religious speech. For instance, where schools permit student expression on the basis of genuinely neutral criteria and students retain primary control over the content of their expression, the speech of students who choose to express themselves through religious means such as prayer is not attributable to the state and therefore may not be restricted because of its religious content.<sup>14</sup> Student remarks are not attributable to the state simply because they are delivered in a public setting or to a public audience.<sup>15</sup> As the Supreme Court has explained: "The proposition that schools do not endorse everything they fail to censor is not complicated,"<sup>16</sup> and the Constitution mandates neutrality rather than hostility toward privately initiated religious expression.<sup>17</sup>

### Applying the Governing Principles in Particular Contexts

#### *Prayer During Noninstructional Time*

Students may pray when not engaged in school activities or instruction, subject to the same rules designed to prevent material disruption of the educational program that are applied to other privately initiated expressive activities. Among other things, students may read their Bibles or other scriptures, say grace before meals, and pray or study religious materials with fellow students during recess, the lunch hour, or other non-instructional time to the same extent that they may engage in nonreligious activities. While school authorities may impose rules of order and pedagogical restrictions on student activities, they may not discriminate against student prayer or religious speech in applying such rules and restrictions.

#### *Organized Prayer Groups and Activities*

Students may organize prayer groups, religious clubs, and "see you at the pole" gatherings before school to the same extent that students are permitted to organize other non-curricular student activities groups. Such groups must be given the same access to school facilities for assembling as is given to other non-curricular groups, without discrimination because of the religious content of their expression. School authorities possess substantial discretion concerning whether to permit the use of school media for student advertising or announcements regarding non-curricular activities. However, where student groups that meet for nonreligious activities are permitted to advertise or announce their meetings—for example, by advertising in a student newspaper, making announcements on a student activities bulletin board or public address system, or handing out leaflets—school authorities may not discriminate against groups who meet to pray. School authorities may disclaim sponsorship of non-curricular groups and events, provided they administer such disclaimers in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

#### *Teachers, Administrators, and other School Employees*

When acting in their official capacities as representatives of the state, teachers, school administrators, and other school employees are prohibited by the Establishment Clause from encouraging or discouraging prayer, and from actively participating in such activity with students. Teachers may, however, take part in religious activities where the overall context makes clear that they are not participating in their official capacities. Before school or during lunch, for example, teachers may meet with other teachers for prayer or Bible study to the same extent that they may engage in other conversation or nonreligious activities. Similarly, teachers may participate in their personal capacities in privately sponsored baccalaureate ceremonies.

#### *Moments of Silence*

If a school has a "minute of silence" or other quiet periods during the school day, students are free to pray silently, or not to pray, during these periods of time. Teachers and other school employees may neither encourage nor discourage students from praying during such time periods.

#### *Accommodation of Prayer During Instructional Time*

It has long been established that schools have the discretion to dismiss students to off-premises religious instruction, provided that schools do not encourage or discourage participation in such instruction or penalize students for attending or not attending. Similarly, schools may excuse students from class to remove a significant burden on their religious exercise, where doing so would not impose material burdens on other students. For example, it would be lawful for schools to excuse Muslim students briefly from class to enable them to fulfill their religious obligations to pray during Ramadan.

Where school officials have a practice of excusing students from class on the basis of parents' requests for accommodation of nonreligious needs, religiously motivated requests for excusal may not be accorded less favorable treatment. In addition, in some circumstances, based on Federal or State constitutional law or pursuant to State statutes, schools may be required to make accommodations that relieve substantial burdens on students' religious exercise. School officials are therefore encouraged to consult with their attorneys regarding such obligations.

#### *Religious Expression and Prayer in Class Assignments*

Students may express their beliefs about religion in homework, artwork, and other written and oral assignments free from discrimination based on the religious content of their submissions. Such home and classroom work should be judged by ordinary academic standards of substance and relevance and against other legitimate pedagogical concerns identified by the school. Thus, if a teacher's assignment involves writing a poem, the work of a student who submits a poem in the form of a prayer (for example, a psalm) should be judged on the basis of academic standards (such as literary quality) and neither penalized nor rewarded on account of its religious content.

#### *Student Assemblies and Extracurricular Events*

Student speakers at student assemblies and extracurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious speech. Where student speakers are selected on the basis of genuinely neutral, evenhanded criteria and retain primary control over the content of their expression, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious) content. By contrast, where school officials determine or substantially control the content of what is expressed, such speech is attributable to the school and may not include prayer or other specifically religious (or anti-religious) content. To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker's and not the school's.

#### *Prayer at Graduation*

School officials may not mandate or organize prayer at graduation or select speakers for such events in a manner that favors religious speech such as prayer. Where students or other private graduation speakers are selected on the basis of genuinely neutral, evenhanded criteria and retain primary control over the content of their expression, however, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious) content. To avoid any mistaken perception that a school endorses student or other private speech that is not in fact attributable to the school, school officials

may make appropriate, neutral disclaimers to clarify that such speech (whether religious or nonreligious) is the speaker's and not the school's.

#### Baccalaureate Ceremonies

School officials may not mandate or organize religious ceremonies. However, if a school makes its facilities and related services available to other private groups, it must make its facilities and services available on the same terms to organizers of privately sponsored religious baccalaureate ceremonies. In addition, a school may disclaim official endorsement of events sponsored by private groups, provided it does so in a manner that neither favors nor disfavors groups that meet to engage in prayer or religious speech.

#### Footnotes

<sup>1</sup> The relevant portions of the First Amendment provide: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech \* \* \*" U.S. Const. amend. I. The Supreme Court has held that the Fourteenth Amendment makes these provisions applicable to all levels of government—federal, state, and local—and to all types of governmental policies and activities. See *Everson v. Board of Educ.*, 330 U.S. 1 (1947); *Cantwell v. Connecticut*, 310 U.S. 296 (1940).

<sup>2</sup> See, e.g., *Everson*, 330 U.S. at 18 (the First Amendment "requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State power is no more to be used so as to handicap religions than it is to favor them"); *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001).

<sup>3</sup> *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 302 (2000) (quoting *Board of Educ. v. Mergens*, 496 U.S. 226, 250 (1990) (plurality opinion)); *accord Rosenberger v. Rector of Univ. of Virginia*, 515 U.S. 819, 841 (1995).

<sup>4</sup> *Engel v. Vitale*, 370 U.S. 421 (1962) (invalidating state laws directing the use of prayer in public schools); *School Dist. of Abington Twp. v. Schempp*, 374 U.S. 203 (1963) (invalidating state laws and policies requiring public schools to begin the school day with Bible readings and prayer); *Mergens*, 496 U.S. at 252 (plurality opinion) (explaining that "a school may not itself lead or direct a religious club"). The Supreme Court has also held, however, that the study of the Bible or of religion, when presented objectively as part of a secular program of education (e.g., in history or literature classes), is consistent with the First Amendment. See *Schempp*, 374 U.S. at 225.

<sup>5</sup> See *Lee v. Weisman*, 505 U.S. 577, 599 (1992); see also *Wallace v. Jaffree*, 472 U.S. 38 (1985).

<sup>6</sup> See *Weisman*, 505 U.S. at 587.

<sup>7</sup> 505 U.S. 577 (1992).

<sup>8</sup> 530 U.S. 290 (2000).

<sup>9</sup> *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 506 (1969).

<sup>10</sup> *Capitol Square Review & Advisory Bd. v. Pinette*, 515 U.S. 753, 760 (1995).

<sup>11</sup> *Santa Fe*, 530 U.S. at 302 (explaining that "not every message" that is "authorized

by a government policy and take[s] place on government property at government-sponsored school-related events" is "the government's own").

<sup>12</sup> *Santa Fe*, 530 U.S. at 313.

<sup>13</sup> For example, the First Amendment permits public school officials to review student speeches for vulgarity, lewdness, or sexually explicit language. *Bethel Sch. Dist. v. Fraser*, 478 U.S. 675, 683–86 (1986). Without more, however, such review does not make student speech attributable to the state.

<sup>14</sup> *Rosenberger v. Rector of Univ. of Virginia*, 515 U.S. 819 (1995); *Board of Educ. v. Mergens*, 496 U.S. 226 (1990); *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001); *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384 (1993); *Widmar v. Vincent*, 454 U.S. 263 (1981); *Santa Fe*, 530 U.S. at 304 n.15. In addition, in circumstances where students are entitled to pray, public schools may not restrict or censor their prayers on the ground that they might be deemed "too religious" to others. The Establishment Clause prohibits state officials from making judgments about what constitutes an appropriate prayer, and from favoring or disfavoring certain types of prayers—be they "nonsectarian" and "nonproselytizing" or the opposite—over others. See *Engel v. Vitale*, 370 U.S. 421, 429–30 (1962) (explaining that "one of the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services," that "neither the power nor the prestige" of state officials may "be used to control, support or influence the kinds of prayer the American people can say," and that the state is "without power to prescribe by law any particular form of prayer"); *Weisman*, 505 U.S. at 594.

<sup>15</sup> *Santa Fe*, 530 U.S. at 302; *Mergens*, 496 U.S. at 248–50.

<sup>16</sup> *Mergens*, 496 U.S. at 250 (plurality opinion); *id.* at 260–61 (Kennedy, J., concurring in part and in judgment).

<sup>17</sup> *Rosenberger*, 515 U.S. at 845–46; *Mergens*, 496 U.S. at 248 (plurality opinion); *id.* at 260–61 (Kennedy, J., concurring in part and in judgment).

[FR Doc. 03–4693 Filed 2–27–03; 8:45 am]

BILLING CODE 4000–01–U

## ENVIRONMENTAL PROTECTION AGENCY

[OECA–2002–0015; FRL–7454–9]

### Agency Information Collection Activities: Submission of EPA ICR No. 1052.07, OMB No. 2060–0026, to OMB for Review and Approval; Comment Request

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

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C.

3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generating Units. This ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments must be submitted on or before March 31, 2003.

**ADDRESSES:** Follow the detailed instructions in the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Dan Chadwick, Compliance Assessment and Media Programs Division, Office of Compliance, Mail Code 2223A, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number (202) 564–7054; fax number (202) 564–0050; E-mail address [chadwick.dan@epa.gov](mailto:chadwick.dan@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On June 20, 2002 (67 *FR* 41981), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID No. OECA–2002–0015, 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 B102, 1301 Constitution Ave., NW., Washington, DC. 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 Enforcement and Compliance Docket and Information Center is (202) 566–1514. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice, and according to the following detailed instructions: (1) Submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to EPA Docket Center, Environmental