

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).

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## 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

Protection Agency, Mailcode: 2201T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) Mail your comments to OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, see EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to <http://www.epa.gov/edocket>.

*Title:* NSPS Subpart D, Standards of Performance for Fossil-Fuel-Fired Steam Generating Units, OMB Control Number 2060-0026, EPA ICR Number 1052.07. This is a request to renew an existing approved collection that is scheduled to expire on February 28, 2003. Under the OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB.

*Abstract:* Owners or operators of steam generating units subject to Subpart D must make one-time-only notifications of construction/reconstruction, anticipated and actual startup, initial performance test, physical or operational changes, and demonstration of a continuous monitoring system. They must also submit reports on initial performance test results, monitoring system performance, and excess emissions. Records must be maintained of startups, shutdowns, malfunctions, and periods when the continuous monitoring system is inoperative.

The required notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard, and serve as a record of the operating conditions under which

compliance was achieved. The monitoring and excess emissions reports (which are semiannual) are used for problem identification, as a check on source operation and maintenance, and for compliance determinations. The information collected from record keeping and reporting requirements are used for targeting inspections, and for other uses in compliance and enforcement programs.

Responses to this information collection are deemed to be mandatory, per section 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, chapter 1, part 2, subpart B—Confidentiality of Business Information (see 40 CFR part 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979).

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. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

*Burden Statement:* The annual public reporting and recordkeeping burden for this collection of information is estimated to average 46.6 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* Owners or operators of fossil-fuel-fired steam generating units subject to Subpart D.

*Estimated Number of Respondents:* 660.

*Frequency of Response:* Semiannual.

*Estimated Total Annual Hour Burden:* 61,545 hours.

*Estimated Total Capital and Operations & Maintenance (O & M) Annual Cost:* \$9,900,000, which includes \$0 annualized capital/startup costs and \$9,900,000 annual O & M costs.

*Changes in Estimates:* There is a decrease of hours in the total estimated burden currently identified in the OMB inventory of Approved ICR Burdens. This decrease is due to a correction in the frequency of reporting from quarterly to semiannual.

Dated: February 10, 2003.

**Oscar Morales,**

*Director, Collection Strategies Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

[OW-2002-0042; FRL-7454-8]

### Agency Information Collection Activities; Proposed Collection; Comment Request (OMB Control No. 2040-0027, EPA ICR No. 0827.06)

**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:

*Construction Grants Program.* The ICR describes the nature of the information collection and its estimated burden and cost.

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

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

**FOR FURTHER INFORMATION CONTACT:** Gajindar Singh, Office of Wastewater Management, Mail Code 4204M, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564-0634, fax number: (202) 501-2396, e-mail: [singh.gajindar@epa.gov](mailto:singh.gajindar@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 August 12, 2002, EPA sought comments on this renewal ICR (67 FR 52480) pursuant to 5 CFR 1320.8(d). EPA received no comments.