

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7949-9; Docket ID Number: OAR-2005-0120]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks (Renewal); EPA ICR Number 1285.06, OMB Control Number 2060-0132****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. This ICR is scheduled to expire on July 31, 2005. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. The ICR describes the nature of the information collection and its estimated burden and cost.

**DATES:** Additional comments may be submitted on or before September 8, 2005.

**ADDRESSES:** Submit your comments, referencing docket ID number OAR-2005-0120 to (1) EPA online using EDOCKET (our preferred method), by e-mail to [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), or by mail to: Environmental Protection Agency, EPA Docket Center (EPA/DC), Air and Radiation Docket and Information Center, Mail Code 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nydia Y. Reyes-Morales, Mail Code 6403J, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 343-9264; fax number: (202) 343-2804; e-mail address: [reyes-morales.nydia@epa.gov](mailto:reyes-morales.nydia@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 May 31, 2005, (70 FR 30943), 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 Number OAR-2005-0120, which is available for public viewing at the Air and Radiation

Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, 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 Air and Radiation Docket and Information Center is (202) 566-1742. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. Use EDOCKET to obtain a copy of the draft collection of information, 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 appropriate docket ID number as identified below.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. 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 and without change, unless the comment contains copyrighted material, confidential business information (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, and will not be available for public viewing in EDOCKET. For further information about the electronic 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:** Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Light-Duty Trucks (40 CFR part 86, subpart L) (Renewal).

**Abstract:** Section 206(g) of the Clean Air Act, as amended, contains nonconformance penalty provisions (NCP) that allow manufacturers to introduce into commerce heavy-duty engines or vehicles (including light-duty trucks) which fail to conform with certain emission standards upon payment of a monetary penalty.

Manufacturers who elect to use NCPs are required to test production engines and vehicles to determine the extent of their nonconformity and conduct a Production Compliance Audit (PCA). The collection activities of the nonconformance penalty program include periodic reports and other information (including the results of emission testing conducted during the PCA). CCD will use this information to ensure that manufacturers are complying with the regulations and that appropriate nonconformance penalties are being paid. Responses to this collection are voluntary.

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 in 40 CFR are listed in 40 CFR part 9 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 196 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 be able 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:** Automobile Manufacturers; Light Truck and Utility Vehicle Manufacturers; Heavy Duty Truck Manufacturers; Gasoline Engine and Engine Parts Manufacturers; Motor Vehicle Body Manufacturers; Construction Machinery Manufacturers; Industrial Truck, Tractor, Trailer, and Stacker Machinery Manufacturers; Military Armored Vehicle, Tank, and Tank Component Manufacturers; Other Engine Equipment Manufacturers; Other Motor Vehicle Electrical and Electronic Equipment Manufacturers.

**Estimated Number of Respondents:** 2.  
**Frequency of Response:** Annually and Quarterly.

**Estimated Total Annual Hour Burden:** 1,178.

*Estimated Total Annual Cost:* \$94,998, which includes \$0 annualized capital/startup costs, \$18,180 annual O&M costs, and \$76,818 annual labor costs.

*Changes in the Estimates:* There is no change in the total estimated burden hours currently identified in the OMB Inventory of Approved ICR Burdens.

Dated: July 28, 2005.

**Oscar Morales,**

*Director, Collection Strategies Division.*

[FR Doc. 05-15745 Filed 8-8-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7949-6]

### Proposed Consent Decree, Clean Air Act Citizen Suit

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

**ACTION:** Notice of Proposed Consent Decree; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed consent decree, to address a lawsuit filed by Sierra Club and United States Public Interest Research Group (collectively, "Plaintiffs"): *Sierra Club, et al. v. Johnson*, No. 1:04CV00094 (RBW) (D.D.C.) to compel EPA to issue further regulations containing requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The proposed consent decree would establish a deadline of February 28, 2006 for EPA to sign a notice of proposed rulemaking containing requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels as the Administrator determines are appropriate pursuant to section 202(l)(2) of the Act, or, in the alternative, propose that no such requirements are necessary. No later than February 9, 2007, EPA shall sign a final rule taking final action on such proposal.

**DATES:** Written comments on the proposed consent decree must be received by September 8, 2005.

**ADDRESSES:** Submit your comments, identified by docket ID number OGC-2005-0010, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by

hand delivery or courier to EPA Docket Center, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

#### FOR FURTHER INFORMATION CONTACT:

Steven Silverman, Air and Radiation Law Office (2366A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-5523.

#### SUPPLEMENTARY INFORMATION:

##### I. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish a schedule for EPA to take action pursuant to section 202(l)(2) of the Clean Air Act. That provision requires EPA to issue regulations controlling emissions of toxic air pollutants from motor vehicles and motor vehicle fuels. EPA is to establish standards for motor vehicles and motor vehicle fuels reflecting the greatest degree of emission reduction of hazardous air pollutants achievable through application of technology which will be available, taking into consideration, among other things, costs of the technology, noise, energy and safety factors, and lead time.

EPA issued an initial set of standards implementing this provision, and as part of those regulations, indicated that the agency would propose further requirements considered appropriate by July 1, 2003, and would take final action on such a proposal by July 1, 2004. 40 CFR 80.1045 ("What additional rulemaking will EPA conduct?"). EPA did not propose rules or take final action by these dates.

Plaintiffs filed suit pursuant to section 304(a)(2) of the Act (42 U.S.C. 7604(a)(2)) claiming that this regulation established a mandatory duty to act by the dates specified in the regulation. EPA moved to dismiss, arguing that the rule did not create a mandatory duty, and if it did, it was not a duty arising under the relevant chapter of the Act, as required by section 304(a)(2). The District Court rejected both arguments, holding that the rule created a mandatory duty and that it arose from the Clean Air Act. *Sierra Club v. Leavitt*, 355 F. Supp. 2d 544, 557 (D.D.C. 2005).

Rather than litigate deadlines for EPA to take the actions specified in section 80.1045, the parties have negotiated a

draft consent decree. Under the terms of the proposed decree, no later than February 28, 2006, EPA shall sign a proposed rule containing requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels as the Administrator determines are appropriate pursuant to section 202(l)(2) of the Act, or, in the alternative, propose that no such requirements are necessary. No later than February 9, 2007, EPA shall sign a final rule taking final action on that proposal.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

##### II. Additional Information About Commenting on the Proposed Consent Decree

###### A. How Can I Get a Copy of the Consent Decree?

EPA has established an official public docket for this action under Docket ID No. OGC-2005-0010 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, 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 Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search,"