

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*.

**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*, or by mail to EPA Docket Center, Environmental

