

in the ERO's and the Commission's reliability oversight.

35. Further, section 201(b)(2) adds additional weight to the argument, which we find persuasive, that Congress intended to include federal entities under the Commission's jurisdiction. Such section, as amended by the Energy Policy Act of 2005, states under the heading "Declaration of Policy; Application of Part":

Notwithstanding section 201(f), the provisions of sections \* \* \* 215 \* \* \* shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this Act with respect to such provisions.

Prior to the Energy Policy Act of 2005, few provisions of Part II of the FPA applied to governmental and other non-public utility entities. Previously, section 201(b)(2) referred only to entities subject to FPA sections 210, 211, and 212. The Energy Policy Act of 2005 added new provisions that use broad terms such as "all users, owners and operators," and these provisions apply to governmental as well as private entities. In turn, EPA Act 2005 amended section 201(b)(2) to make clear that the Commission's jurisdiction over otherwise exempt public utilities under certain substantive provisions of the FPA, including the reliability provision, is only for the narrow purposes of implementing and enforcing those provisions. When Congress amended 201(b)(2), it also specifically added the phrase "[n]otwithstanding section 201(f)," at the beginning of the provision to make clear that entities (including governmental entities) otherwise exempted from Commission regulation by virtue of section 201(f) are indeed subject to limited Commission regulation for purposes of certain FPA provisions. Had Congress not intended section 215 to apply to governmental and other exempt public utility entities, there would have been no reason to add the reference to section 215 in section 201(b)(2).

36. Finally, as NERC points out,<sup>30</sup> the legislative history of FPA section 215 supports the conclusion that Congress intended FPA section 215 to require that all users, owners, and operators of the Bulk-Power System, including federal entities, comply with Commission-approved Reliability Standards. FPA section 215 can be traced to the Thomas amendment and Senator Thomas, the author of that amendment stated that mandatory reliability rules will apply to

all users of the transmission grid. There are no loopholes. No one is exempt."<sup>31</sup>

37. Further, the legislative history makes clear that, among other things, the reliability provision was added to the FPA to prevent cascading blackouts. The debate during consideration of the Conference Report on the proposed bill states that mandatory, enforceable reliability rules began in response to the 1996 blackouts in the Pacific Northwest and gained more urgency with the Northeast blackout of 2003.<sup>32</sup> Exclusion of federal entities from the reliability provision would run counter to this legislative purpose as it would create significant gaps in an otherwise comprehensive program to apply mandatory Reliability Standards to better assure the reliability of the Bulk-Power System. As ReliabilityFirst attests, excluding federal entities from the requirements of the Reliability Standards raises serious potential consequences for the reliability of the Bulk-Power System. Thus, it stands to reason that Congress intended that all users, owners, and operators of the Bulk-Power System, including federal entities, be required to comply with the Reliability Standards. It would be contrary to Congressional intent and likely ineffective to return to a voluntary system based on individual discretion as the Corps proposes with respect to federal entities.<sup>33</sup>

38. Accordingly, we find that, pursuant to section 215 of the FPA, federal entities such as the Corps-Tulsa District that are registered by the ERO as users, owners, and operators of the Bulk-Power System must comply with mandatory Reliability Standards as to facilities that fall within the Bulk-Power System.

#### The Commission Orders

(A) The Commission grants NERC's request for a decision that, pursuant to section 215 of the FPA, federal entities that use, own, or operate the Bulk-

<sup>31</sup> In addition, the General Accounting Office stated that "[a]ll users, owners and operators of the bulk-power system would have to comply with the reliability standards." and "We understand this would include both private entities and federal entities (such as the Tennessee Valley Authority, the Bonneville Power Administration, and other federal power marketing agencies), among others." General Accounting Office, *Draft Legislation Concerning an Electric Reliability Organization*, at 3, n.5 (March 18, 2003), available at <http://www.gao.gov/decisions/other/360241.pdf>.

<sup>32</sup> See, e.g., 151 Cong. Rec. House 6943-44 (July 28, 2005) (statement of Rep. Hastings); 151 Cong. Rec. Senate 9344 (July 29, 2005) (statement of Sen. Maria Cantwell).

<sup>33</sup> NERC June 24, 2009 Notice of Penalty at 2-3 (citing October 3, 2007 Letter from Department of the Army, Southwestern Division, Corps of Engineers, to ERCOT).

Power System, must comply with mandatory Reliability Standards, as discussed in the body of this order.

(B) The Secretary is directed to publish a copy of this order in the **Federal Register**.

By the Commission, Commissioner Kelly is not participating.

**Nathaniel J. Davis, Sr.**,

*Deputy Secretary*.

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8971-2]

### Agency Information Collection Activities; OMB Responses

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

**ACTION:** Notice.

**SUMMARY:** This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). 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 regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

**FOR FURTHER INFORMATION CONTACT:** Rick Westlund (202) 566-1682, or e-mail at [westlund.rick@epa.gov](mailto:westlund.rick@epa.gov) and please refer to the appropriate EPA Information Collection Request (ICR) Number.

#### SUPPLEMENTARY INFORMATION:

#### OMB Responses to Agency Clearance Requests

##### OMB Approvals

*EPA ICR Number 1884.04*; Partial Update of the TSCA Section 8(b) Inventory Data Base, Production and Site Reports; 40 CFR part 710; was approved on 09/17/2009; OMB Number 2070-0162; expires on 09/30/2012; Approved without change.

*EPA ICR Number 2034.04*; NESHAP for the Wood Products Surface Coating Industry; 40 CFR part 63, subpart A and 40 CFR part 63, subpart QQQQ; was approved on 09/22/2009; OMB Number 2060-0510; expires on 09/30/2012; Approved without change.

*EPA ICR Number 1712.06*; NESHAP for Shipbuilding and Ship Repair Facilities—Surface Coating; 40 CFR part 63, subpart A and 40 CFR part 63, subpart II; was approved on 09/22/2009;

<sup>30</sup> See *supra* P 15.

OMB Number 2060-0330; expires on 09/30/2012; Approved without change.

*EPA ICR Number 2032.06*; NESHAP for Hydrochloric Acid Production; 40 CFR part 63, subpart A and 40 CFR part 63, subpart NNNNN; was approved on 09/22/2009; OMB Number 2060-0529; expires on 09/30/2012; Approved without change.

*EPA ICR Number 1899.05*; Emission Guidelines for Hospital/Medical/ Infectious Waste Incinerators; 40 CFR part 60, subpart A, 40 CFR part 60, subpart Ce, and 40 CFR part 62, subpart HHH, was approved on 09/27/2009; OMB Number 2060-0422; expires on 09/30/2012; Approved with change.

*EPA ICR Number 1803.07*; Drinking Water State Revolving Fund Program; 40 CFR 35.3545, 35.3550, and 35.3570; was approved on 09/30/2009; OMB Number 2040-0185; expires on 02/28/2010; Approved with change.

*EPA ICR Number 1391.09*; Clean Water Act State Revolving Fund Program; 40 CFR part 35, subpart K; was approved on 09/30/2009; OMB Number 2040-0118; expires on 12/31/2011; Approved with change.

*EPA ICR Number 0938.17*; General Administrative Requirements for Assistance Programs; 40 CFR parts 30 and 31; was approved on 09/30/2009; OMB Number 2030-0020; expires on 04/30/2012; Approved with change.

#### *OMB Number Transfers*

*EPA ICR Number 1363.18*; Toxic Chemical Release Reporting (Form R); 40 CFR part 372; the OMB number was changed from 2070-0093 to 2025-0009 on 09/16/2009.

*EPA ICR Number 1704.10*; Toxic Chemical Release Reporting, Alternate Threshold for Low Annual Reportable Amounts (Form A); 40 CFR part 372; the OMB number was changed from 2070-0143 to 2025-0010 on 09/16/2009.

Dated: October 13, 2009.

**John Moses,**

*Director, Collections Strategies Division.*

[FR Doc. E9-25365 Filed 10-20-09; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2009-0529; FRL-8971-1]

**Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NSPS for Synthetic Fiber Production Facilities, EPA ICR Number 1156.11, OMB Control Number 2060-0059**

**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 an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

**DATES:** Additional comments may be submitted on or before November 20, 2009.

**ADDRESSES:** Submit your comments, referencing docket ID number EPA-OECA-2009-0529, to (1) EPA online using [www.regulations.gov](http://www.regulations.gov) (our preferred method), or by e-mail to [docket.oeca@epa.gov](mailto:docket.oeca@epa.gov), or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, mail code 28221T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) 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.

**FOR FURTHER INFORMATION CONTACT:** Robert C. Marshall, Jr., Office of Enforcement Compliance Assurance, 2223A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564-7021; e-mail address: [marshall.robert@epa.gov](mailto:marshall.robert@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 July 30, 2009 (74 FR 38004), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA-HQ-OECA-2009-0529, which is available for public viewing online at <http://www.regulations.gov>, in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 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

Enforcement and Compliance Docket is (202) 566-1752.

Use EPA's electronic docket and comment system at <http://www.regulations.gov>, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select "docket search," then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at <http://www.regulations.gov>, 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. For further information about the electronic docket, go to [www.regulations.gov](http://www.regulations.gov).

**Title:** NSPS for Synthetic Fiber Production Facilities (Renewal).

**ICR Numbers:** EPA ICR Number 1156.11, OMB Control Number 2060-0059.

**ICR Status:** This ICR is scheduled to expire on October 31, 2009. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. 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 title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, and displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

**Abstract:** This subpart applies to affected facilities at synthetic fiber production facilities including each solvent-spun synthetic process that produces more than 500 megagrams of fiber per year. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the General Provisions specified at 40 CFR part 60, subpart HHH. Owners or operators of the affected facilities must make an initial notification, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring