

**ENVIRONMENTAL PROTECTION AGENCY**

[OEI-2005-0007; FRL-7951-6]

**Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on ICR Renewal; (Form A) EPA ICR Number 1704.08, OMB Control Number 2070-0143****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 EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12: Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting (EPA ICR No. 1704.08, OMB No. 2070-0143). ICR Number 1704.08, OMB Control Number 2070-0143 involves the reporting and record keeping requirements associated with reporting under the alternate threshold for reporting to the Toxics Release Inventory (TRI), which appear in 40 CFR part 372. This ICR involves a collection activity that is currently approved and scheduled to expire on January 31, 2006.

**DATES:** Comments, identified by the docket control number OEI-2005-0007, must be submitted on or before October 11, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OEI-2005-0007, by one of the following methods:

1. Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

2. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

3. E-mail: [oei.docket@epa.gov](mailto:oei.docket@epa.gov).

4. Fax number: 202-566-0741.

5. Mail: Office of Environmental Information (OEI) Docket, Environmental Protection Agency, Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Attention Docket ID No. TRI-2005-0007.

6. Hand Delivery: EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20004, telephone: 202-566-1744, Attention Docket ID No. TRI-2005-0007. Such deliveries are only accepted

during the Docket's normal hours of operation (8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. OEI-2005-0007. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.regulations.gov) Web sites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** EPA has established an official public docket for this action under Docket ID No. OEI-2005-0007. The public docket contains information considered by EPA in developing this ICR. In addition, interested parties should consult documents that are referenced in the documents that EPA has placed in the docket, regardless of whether these referenced documents are electronically or physically located in the docket. For assistance in locating documents that are referenced in documents that EPA has placed in the docket, but that are not electronically or physically located in the docket, please consult the person listed in the following **FOR FURTHER INFORMATION CONTACT** section. All documents in the docket are listed in the EDOCKET index at: <http://www.epa.gov/edocket>.

Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET, or in hard copy at the OEI Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The 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.

**FOR FURTHER INFORMATION CONTACT:**

Cassandra Vail, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202-566-0753; fax number: 202-566-0741; e-mail: [vail.cassandra@epa.gov](mailto:vail.cassandra@epa.gov).

**SUPPLEMENTARY INFORMATION:****General Information***A. Does This Notice Apply to Me?*

This document applies to facilities that submit annual reports under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA). It specifically applies to those who submit the TRI Form A Certification Statement. (See <http://epa.gov/tri/report/index.htm#forms> for detailed information about EPA's TRI reporting forms.) To determine whether your facility would be affected by this action, you should carefully examine the applicability criteria in part 372 subpart B of Title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

This document also is relevant to those who utilize EPA's TRI information, including State agencies, local governments, communities, environmental groups and other non-governmental organizations, as well as members of the general public.

*B. How Can I Get Additional Information or Copies of This Document and Other Support Documents?**a. In Person*

The Agency has established an official public docket for this action under

Docket ID No. OEI-2005-0007. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of this official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the OEI Docket 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 Public Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752.

#### b. Electronic Availability

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 dockets, and access those documents in the public docket that are available electronically. Once in the system, select either "quick search or advanced search," then key in the appropriate docket identification number (*i.e.*, OEI-2005-0007). Electronic copies of the ICR and the proposed Form A are available at this site. An electronic copy of the existing Form A and instructions for its completion are available at <http://www.epa.gov/tri/report/index.htm#forms>. The new Form A differs from the existing one in that certain changes were promulgated relating to the form in the Forms Modification Rule (70 FR 39931). These changes eliminated certain fields from the Form A.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online at <http://www.epa.gov/>

*edocket/* or see 67 FR 38102, May 31, 2002.

#### C. How and to Whom Do I Submit Comments?

1. *Tips for Preparing Your Comments.* When submitting comments, remember to:

Identify the notices/rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

a. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

b. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

c. Describe any assumptions and provide any technical information and/or data that you used.

d. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

e. Provide specific examples to illustrate your concerns, and suggest alternatives.

f. Explain your views as clearly as possible.

g. Make sure to submit your comments by the comment period deadline identified.

2. *Submitting CBI.* Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address only, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: OEI Document Control Officer, Mail Code: 2822T, U.S. EPA, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). EPA will disclose information claimed as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be

submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### D. What Information Is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(a) of the Paperwork Reduction Act (PRA), EPA specifically solicits comments and information to enable it to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### E. To What Information Collection Activity or ICR Does This Notice Apply?

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on January 31, 2006.

*Title:* Toxic Chemical Release Reporting; Alternate Threshold for Low Annual Reportable Amounts; Request for Comment on ICR Renewal.

*Abstract:* EPCRA section 313 requires certain facilities manufacturing, processing, or otherwise using certain toxic chemicals in excess of specified threshold quantities to report their environmental releases of such chemicals annually. Each such facility must file a separate report for each such chemical.

In accordance with the authority in EPCRA, EPA has established an alternate threshold for those facilities with low amounts of a listed toxic

chemical in wastes. A facility that otherwise meets the current reporting thresholds, but estimates that the total amount of the chemical that is released, disposed of, treated, recycled, or combusted for energy recovery does not exceed 500 pounds per year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year, can take advantage of reporting under the alternate threshold option for that chemical for that reporting year.

Each qualifying facility that chooses to apply the alternate threshold may file the Form A Certification Statement (EPA Form 9350-2) in lieu of a complete TRI reporting Form R (EPA Form 9350-1). In submitting the Form A Certification Statement, the facility certifies that the sum of the amount of the EPCRA section 313 chemical released, disposed of, treated, recycled, or combusted for energy recovery not exceed 500 pounds for the reporting year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year. Use of the Form A Certification Statement represents a substantial savings to respondents, both in burden hours and in labor costs. The new Form A differs from the existing one in that certain changes were promulgated relating to the form in the Forms Modification Rule (70 FR 39931). These changes eliminated certain fields from the Form A.

The Form A Certification Statement provides communities with information that the chemical is being manufactured, processed or otherwise used at facilities. Additionally, the Form A Certification Statement provides compliance monitoring and enforcement programs and other interested parties with a means to track chemical management activities and verify overall compliance with the rule. Responses to this collection of information are mandatory (see 40 CFR part 372) and facilities subject to reporting must submit either a Form A Certification Statement or a Form R.

#### *F. What Are EPA's Burden and Cost Estimates for This ICR?*

**Burden Statement:** 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. The annual public burden for this collection of information, which is approved under OMB Control No. 2070B0143, is estimated to average 20.6 hours per form for facilities submitting a Form A certification statement for a single listed non-PBT chemical. The ICR supporting statement provides a detailed explanation of the burden estimates that are summarized in this notice. The following is a summary of the estimates taken from the ICR supporting statement: *Estimated No. of Respondents:* 5000 respondents. *Frequency of Responses:* Annual. *Estimated Total Annual Burden Hours:* 259,192 burden hours. *Estimated Total Annual Burden Costs:* \$11.9 million.

#### *G. What Are the Proposed Changes to This ICR?*

Only a very minor adjustment to reflect the impacts of the previously mentioned Forms Modification Rule has been made to the ICR. No modeling or other changes are proposed. EPA is seeking a two-year renewal of the current EPA ICR No. 1704.07.

#### *H. Are There Changes in the Estimates From the Last Approval?*

The only changes proposed are the incorporation of reductions resulting from the Forms Modification Rule.

#### *I. What Is the Next Step in the Process for This ICR?*

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another Federal Register notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Dated: August 4, 2005.

**Michael P. Flynn,**  
*Director, Office of Information Analysis and Access.*

[FR Doc. 05-16039 Filed 8-11-05; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7951-8]

### **Proposed Settlement Agreement, Clean Air Act Citizen Suit**

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

**ACTION:** Notice of Proposed Settlement Agreement; 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 settlement agreement, to address a lawsuit filed by Sierra Club: *Sierra Club v. Johnson*, No. 05CV00750 (ESH) (D.D.C.). On or about April 13, 2005, Sierra Club filed a complaint alleging that EPA had a mandatory duty to provide a valid response within 60 days to Sierra Club's Title V petition and to respond to the remand of the United States Court of Appeals for the Eleventh Circuit in the case of *Sierra Club v. Leavitt*, 368 F.3d 1300 (11th Cir. 2004). Sierra Club had filed a petition seeking EPA's objection to the Clean Air Act Title V operating permit for the Oglethorpe Power Corporation's Wansley Combined Cycle Energy Facility issued by the Georgia Environmental Protection Division. EPA denied the petition in an Order dated November 15, 2002. Sierra Club appealed to the Eleventh Circuit, which vacated EPA's Order and remanded to the agency for further consideration. Under the terms of the proposed settlement agreement, EPA has agreed to respond to the remand by September 15, 2005, and Sierra Club has agreed to dismiss its suit with prejudice. In addition, under the proposed settlement, EPA would make a payment to Sierra Club in settlement of its claims for attorneys' fees in this matter.

**DATES:** Written comments on the proposed settlement agreement must be received by September 12, 2005.

**ADDRESSES:** Submit your comments, identified by docket ID number OGC-2005-0012, 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-