

385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 95-19887 Filed 8-10-95; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5275-3]

California State Motor Vehicles Pollution Control Standards; Opportunity for Public Hearing

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of opportunity for public hearing and public comment period.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted regulations regarding on-board diagnostic system requirements for 1994 and later model year passenger cars, light-duty trucks, and medium-duty vehicles (OBD II). On-board diagnostics consist of a computer-based system incorporated into the vehicle electronics for the purpose of detecting operational malfunctions within the emission control system. When malfunctions are detected, a malfunction light is illuminated on the instrument panel and a trouble code is stored in the computer memory identifying the system in which the fault has occurred. CARB initially requested that EPA find its OBD II regulations within the scope of existing waivers of Federal preemption pursuant to section 209 of the Clean Air Act (Act), 42 U.S.C. 7543(b), as amended.

Subsequently, CARB twice amended the subject regulations. On June 14, 1995, California requested that, pursuant to section 209(b) of the Clean Air Act, EPA waive Federal preemption for its onboard diagnostics amendments including the December 1994 revisions. This notice announces that EPA has tentatively scheduled a public hearing for October 17, 1995, to hear comments

from the general public concerning CARB's request.

DATES: EPA has tentatively scheduled a public hearing for October 17, 1995, beginning at 9:30 a.m. Any person who wishes to testify on the record at the hearing must notify EPA by September 29, 1995, that it wishes to present oral testimony regarding CARB's request. Any party may submit written comments regarding CARB's request by November 17, 1995. If EPA receives one or more requests to testify on the pending request, a hearing will be held. Please note that if no one notifies EPA that they wish to testify, no hearing will be held. Therefore, any person who plans to attend the hearing should call Leila Holmes Cook of EPA's Manufacturers Operation Division at (202) 233-9252, on or after October 2, 1995, to determine if a request for a hearing has been received by the Agency and thus whether a hearing will be held. Regardless of whether or not a hearing is held, written comments regarding CARB's request will be accepted through November 17, 1995.

ADDRESSES: If a request is received, a public hearing will be held at: Sheraton Inn, 3200 Boardwalk, Ann Arbor, Michigan 48108. Parties wishing to testify at the hearing should provide written notice to: Charles N. Freed, Director, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. In addition, written comments, in duplicate, should be sent to Mr. Freed at the same address. Copies of material relevant to the waiver request (Docket No. A-90-28) will be available for public inspection during the working hours of 8:30 AM to 12:00 PM and 1:30 PM to 3:30 PM, Monday through Friday, at: U.S. Environmental Protection Agency, Air Docket (LE-131), Room M1500, First Floor Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 [Telephone (202) 260-7548].

FOR FURTHER INFORMATION CONTACT: Leila Holmes Cook, Attorney/Advisor, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, Washington, DC. 20460, Telephone: (202) 233-9252.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion

Section 209(a) of the Act as amended, 42 U.S.C. 7543(a), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part * * * [or] require certification, inspection, or any other approval

relating to the control of emissions * * * as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b) of the Act requires the Administrator, after notice and an opportunity for public hearing, to waive application of the prohibitions of section 209(a) for California "'* * * if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—(A) the determination of the State is arbitrary and capricious, (B) [California] does not need such * * * standards to meet compelling and extraordinary conditions, or (C) [its] standards and accompanying enforcement procedures are not consistent with section 202(a) of [the Act]."

As previous decisions granting waivers of federal preemption have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology given the cost of compliance within that time period or if the Federal and state test procedures impose inconsistent certification requirements.

With regard to enforcement procedures accompanying standards, I must grant the requested waiver unless I find that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), or unless the California and Federal certification test procedures are inconsistent.

Once California has been granted waiver for a set of standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without having to receive a further waiver of Federal preemption.

CARB initially requested that EPA find its OBD II regulations within the scope of existing waivers of federal preemption pursuant to section 209 of the Clean Air Act (Act), 42 U.S.C. 7543(b), as amended. Subsequently, CARB twice amended the subject regulations. EPA finalized its On-Board Diagnostics Rule on January 29, 1993 [58 FR 9468 (February 19, 1993)]. By letter dated June 14, 1995, California requested that, pursuant to section 209(b) of the Clean Air Act, EPA waive Federal preemption for its onboard diagnostics amendments including the December 1994 revisions. These

amendments, which apply to 1994 and later model year passenger cars, light-duty trucks, and medium-duty vehicles require the monitoring of essentially all emission control systems, and emission related components. In addition, it addresses deficiencies in the OBD I requirements that have become apparent since their adoption, and establishes new testing protocol and standardization procedures.

OBD II provides for new monitoring requirements covering: catalyst system condition, engine misfire detection, evaporative control system operation, supplementary air system function, the exhaust gas recirculation (EGR) system flow rate, chloroflourocarbon loss (air conditioning refrigerant), and monitoring of other components and systems controlled by the on-board engine control computer. In general the California OBD II regulations require that a deteriorated component or system be detected as malfunctioning by the time its lack of performance causes vehicle emissions to exceed 1.5 times any of the standards to which the vehicle is certified or when a component is completely non-functioning. Therefore, permissible emission increases are a function of the standards to which the vehicle is certified.

A number of changes to requirements initially established under OBD I were made to increase the effectiveness of the monitoring systems in detecting emission-related malfunctions. These requirements include tampering deterrence features, as well as, improvements to the malfunction detection effectiveness of the fuel system, oxygen sensor, EGR system, other emission-related electronic components.

Manufacturers are required to perform emission tests on a durability demonstration vehicle equipped with deteriorated emission-critical parts and show that the on-board diagnostic system will identify when an emission standard is exceeded by 1.5 times the applicable standard.

In order to facilitate vehicle repairs and assist Inspection and Maintenance Programs in utilizing the OBD system, CARB has required standardized vehicle communication systems that interface with a relatively low-cost, hand-held, universal diagnostic tool. The tool will be able to read specific diagnostic information such as fault codes which lead service personnel to the likely area of any malfunctions, and will provide continuously updated engine parameter data that will further help to isolate fault codes and ensure proper repairs.

In response to a Petition from Ford Motor Company, dated March 29, 1993, CARB modified its OBD II regulations to give the Executive Officer, upon request from a manufacturer, the authority to waive one or more of the OBD II requirements for vehicle models or engine families introduced prior to April 1, 1994. In making this determination the Executive Officer would consider, among other things, the overall extent to which the OBD II requirements will be met, and whether the manufacturer made good-faith efforts to comply with the regulation. For 1995 model year vehicles for which production begins after March 31, 1994, per vehicle penalties in increments of \$25 or \$50 per vehicle for the third and subsequently identified deficiency not to exceed \$500 per vehicle are possible.

On December 8, 1994, CARB approved amendments which addressed manufacturer concerns with developing fully compliant monitoring systems by the 1996 model year. Specifically, these amendments give additional compliance flexibility for manufacturers having difficulty creating enhanced diagnostic systems which monitor catalysts used in low-emission vehicles (LEV) and adequate misfire detection. In addition, the amendments also address monitoring requirements for evaporative system leaks and for the monitoring of diesel and alternate fuel vehicles.

In its request letter dated, June 14, 1995, California has stated that regardless of whether the EPA views the subject regulation as accompanying enforcement procedures or new standards, the requisite findings to support a grant of a waiver of federal preemption have been made. That is, as accompanying enforcement procedures, the regulations do not endanger the protectiveness finding that the ARE has made for previously granted waiver determinations and the regulations are consistent with the intent of section 202(a) of the federal CAA. In the alternative, if the OBD II regulations are viewed as new emission standards, a waiver should be granted because the regulations (as amended) are, in the aggregate, at least as stringent as the comparable federal OBD regulations, California needs its own motor vehicle program to meet compelling and extraordinary conditions in the state, and the regulations are consistent with section 202(a) of the CAA. Section 202(a) requires that the procedures provide sufficient lead time to permit the development and application of requisite technology, giving appropriate consideration to the cost of compliance within such period. In addition, the Agency has held that to avoid

inconsistency with section 202(a), California's procedures may not impose inconsistent certification requirements such that manufacturers would be unable to meet both the California and Federal requirements with the same test vehicle.

Once California has been granted waiver of Federal preemption for a set of standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to the initial retail sale, titling or registration of the subject class of vehicles without having to receive a further waiver of Federal preemption.

California's request will be considered according to the procedures for a waiver decision, which includes providing the opportunity for a public hearing. Any party wishing to present testimony at the hearing should address the following issues:

(1) Whether California's OBD II regulations are appropriately considered accompanying enforcement procedures or new emission standards;

(2) If CARB's regulations are accompanying enforcement procedures, address (A) whether these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), and (B) whether the California and Federal certification test procedures are inconsistent.

(3) If CARB's regulations are standards, address (A) whether California's determination that the amended standards are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious; (B) whether California needs separate standards to meet compelling and extraordinary conditions; and, (C) whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

II. Procedures for Public Participation

Any person desiring to make an oral statement on the record should file ten (10) copies of their proposed testimony and other relevant material with the Director of EPA's Manufacturers Operations Division at the Director's address listed above not later than October 13, 1995. In addition, that person should submit 25 copies, if feasible, of the planned statement to the presiding officer at the time of the hearing.

Because a public hearing is designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such.

Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements which he or she deems irrelevant or repetitious and to impose reasonable limits on the duration of the statement of any witness.

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested persons may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense.

Regardless of whether a public hearing is held, EPA will keep the record open until November 17, 1995. The Administrator will then render her decision on CARB's request based on the record of the public hearing, if one is held, relevant written submissions, and other information which is deemed pertinent. All information will be available for public inspection at the EPA Air Docket.

Dated: August 3, 1995.

Ann E. Goode,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 95-19902 Filed 8-10-95; 8:45 am]

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[FRL-5275-8]

Acid Rain Program: Acid Rain Compliance Plans & Exemptions

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of draft nitrogen oxides compliance plans and written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing draft nitrogen oxides (NO_x) compliance plans and written exemptions from the Acid Rain Program permitting and monitoring requirements to a total of 74 utility units at 30 plants in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, these NO_x compliance plans and exemptions are also being issued as a direct final action in the notice of nitrogen oxides compliance plans and written exemptions published elsewhere in today's **Federal Register**.

DATES: Comments on the NO_x compliance plans and written exemptions proposed by this action must be received on or before September 11, 1995, or within 30 days after notice is given in a publication of

general circulation in the area where the source is located, whichever is later.

ADDRESSES: Send comments to the following addresses:

For plants in Maryland, Pennsylvania, and West Virginia: Thomas Maslany, Director, Air, Radiation and Toxics Division, EPA Region 3, 841 Chestnut Building, Philadelphia, PA 19107.

For plants in Ohio and Wisconsin: David Kee, Director, Air and Radiation Division, EPA Region 5, Ralph H. Metcalfe Federal Bldg., 77 West Jackson Blvd., Chicago, IL 60604.

For plants in Arkansas, New Mexico, and Texas: Samuel Coleman, Director, Compliance Assurance and Enforcement Division, EPA Region 6, First Interstate Bank Tower, 1445 Ross Ave. (6EN-AA), Dallas, TX 75202-2733.

For plants in Iowa: William A. Spratlin, Director, Air and Toxics Division, EPA Region 7, 726 Minnesota Ave., Kansas City, KS 66101.

For plants in Arizona and California: Celia Bloomfield, EPA Region 9, Air and Toxics Division (A-5-2), 75 Hawthorne Street, San Francisco, CA, 94105.

Submit comments in duplicate and identify the NO_x compliance plan or written exemption to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the NO_x compliance plan or written exemption.

FOR FURTHER INFORMATION CONTACT: For plants in Maryland, Pennsylvania, and West Virginia: Linda Miller, (215) 597-7547, EPA Region 3; for plants in Wisconsin: Beth Valenziano, (312) 886-2703, EPA Region 5; for plants in Ohio: Franklin Echevarria, (312) 886-9653, EPA Region 5; for plants in Arkansas, New Mexico, and Texas: Daniel Meyer, (214) 665-7233, EPA Region 6; for plants in Iowa: Jon Knodel, (913) 551-7622, EPA Region 7; for plants in Arizona and California: Celia Bloomfield, (415) 744-1249, EPA Region 9.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft NO_x compliance plans and written exemptions, and the NO_x compliance plans and written exemptions issued as a direct final action in the notice of NO_x compliance plans and written exemptions published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any NO_x compliance plan or written

exemption, that NO_x compliance plan or written exemption in the notice of NO_x compliance plans and written exemptions will be withdrawn and all public comment received on that NO_x compliance plan or written exemption will be addressed in a subsequent final action based on the relevant NO_x compliance plan or written exemption in this notice of draft NO_x compliance plans and written exemptions. Because the Agency will not institute a second comment period on this notice of draft NO_x compliance plans and written exemptions, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the NO_x compliance plans and written exemptions, see the information provided in the notice of NO_x compliance plans and written exemptions elsewhere in today's

Federal Register.

Dated: August 7, 1995.

Joseph A. Kruger,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 95-19900 Filed 8-10-95; 8:45 am]

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[FRL-5275-9]

Acid Rain Program: Acid Rain Compliance Plans & Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of nitrogen oxides compliance plans and written exemptions.

SUMMARY: The U.S. Environmental Protection Agency is issuing, as a direct final action, nitrogen oxides (NO_x) compliance plans and written exemptions from the Acid Rain Program permitting and monitoring requirements to a total of 74 utility units at 30 plants in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, these compliance plans and exemptions are being issued as a direct final action. **DATES:** Each NO_x compliance plan and written exemption issued in this direct final action, will be final on September 21, 1995, or 40 days after notice is also given in a publication of general circulation in the area where the source is located, whichever is later, unless significant, adverse comments are received by September 11, 1995, or 30 days after the aforementioned local notice is published, whichever is later. If significant, adverse comments are timely received on any NO_x compliance plan or on any exemption in this direct