

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-5697-7]

**California State Motor Vehicle Pollution Control Standards; Opportunity for Public Hearing****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of opportunity for public hearing and public comment.

**SUMMARY:** The California Air Resources Board (CARB) has notified EPA that it has approved amendments to its evaporative emission standards and testing procedures for passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles and engines, for all fuels except diesel fuel and natural gas, for 1996 through 1998 model years. By letter dated October 16, 1996, California requested EPA to grant a waiver of Federal preemption for these amendments pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b). This notice announces that EPA has tentatively scheduled a public hearing for March 26, 1997 to consider CARB's request and to hear comments from the general public concerning CARB's request. In addition, EPA is requesting that interested parties submit written comments. Any party desiring to present oral testimony for the record at the public hearing, instead of or in addition to submitting written comments, must notify EPA by March 20, 1997. If no party notifies EPA that it wishes to testify, then no hearing will be held and EPA will consider CARB's request based on written submissions to the record.

It should be noted that these amendments are limited to California's evaporative emission test standards and testing procedures for the 1996 through 1998 model years. EPA anticipates a separate waiver request and proceeding regarding CARB's evaporative emission test procedures and standards for the 1999 model year and thereafter. Therefore, parties wishing to comment should confine the scope of their comments to issues pertaining to the 1996 through 1998 model years.

**DATES:** EPA has tentatively scheduled a public hearing for March 26, 1997, beginning at 10:00 a.m., if any party notifies EPA by March 20, 1997, that it wishes to present oral testimony regarding CARB's requests. By March 21, 1997, any person who plans to attend the hearing should call Mr. David Dickinson of EPA's Vehicle Programs and Compliance Division at (202) 233-9256 to determine if a hearing will be

held. Any party may submit written comments regarding CARB's request by April 30, 1997.

**ADDRESSES:** If EPA receives a request for a public hearing, EPA will hold the public hearing announced in this notice in the first floor conference room at 501 3rd Street, NW., Washington, D.C. Parties wishing to present oral testimony at the public hearing should provide written notice to Mr. Dickinson, Vehicles Programs and Compliance Division, 401 M St., S.W. (6405J), Washington, DC 20460. In addition, written comments regarding the waiver request should be sent, in duplicate, to Mr. Dickinson at the address noted above. Copies of material relevant to the waiver request (Docket No. A-95-39) will be available for public inspection during the working hours of 8:00 a.m. to 5:30 p.m. Monday through Friday, at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, Room M1500, First Floor Waterside Mall, 401 M St., S.W., Washington, DC 20460, Telephone: (202) 260-7548.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dickinson, Attorney/Advisor, Vehicles Programs and Compliance Division, U.S. Environmental Protection Agency, 401 M St., S.W. (6405J), Washington, DC 20460. Telephone: (202) 233-9256. E-Mail address: Dickinson.David@epamail.epa.gov.

**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."

The State of California may be exempted from the prohibitions of section 209(a) of the Act. Section 209(b) of the Act provides in part that the Administrator shall, after notice and opportunity for public hearing, 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)."

Once California has been granted a waiver of the application of the prohibitions of section 209(a) for its standards and accompanying 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 the necessity of receiving further waiver of Federal preemption.

By letter dated August 21, 1995, CARB submitted to EPA a request for waiver of Federal preemption for amendments to its evaporative emission standards and test procedures. By letter dated October 16, 1996, CARB submitted a revised request for waiver of Federal preemption limiting the applicability of these amendments to the 1996 through 1998 model years. These amendments which apply to all classes of passenger cars, light-duty trucks, medium-duty vehicles, and heavy-duty vehicles and engines, except petroleum-fueled diesel vehicles and vehicles fueled by natural gas:

- a. Incorporate a supplemental test procedure to help assure adequate evaporative canister purge.
- b. Further align CARB's enhanced test procedures with the federal test procedures by conforming most of the differences between the two test procedures.
- c. Make the enhanced test procedure applicable to the complete heavy medium-duty vehicle class (8,501–14,000 lbs., gross weight vehicle rating (GVWR)).
- d. Amend the evaporative emission standard for the hot soak plus the diurnal emissions test for medium-duty vehicles which have a GVWR of 6,001–8,500 lbs. and fuel tanks equal or greater than 30 gallons from 2.0 to 2.5 grams per test.

EPA finalized its evaporative standards and test procedures on March 24, 1993 (see 58 FR 16002). EPA's new standards and test procedures are being phased-in with full compliance by 1999. In addition, on July 6, 1995, EPA issued a direct final rule designed to harmonize federal test procedures with CARB test procedures. EPA's present waiver consideration will only consider CARB's request for model years 1996–1998. Therefore, in the context of the waiver criteria set forth in section 209(b), CARB's amended standards and test procedures will be compared to

EPA's standards and test procedures for model years 1996 through 1998.

California states in its October 16, 1996 letter, referencing both its August 21, 1995 letter and recent developments, that it has determined that its amended standards are, in the aggregate, at least as protective of the public health and welfare as the applicable federal standards. Further, California, referencing its August 21, 1995 waiver request letter, states that it continues to need separate standards to meet compelling and extraordinary conditions. Finally, California, referencing its August 21, 1995 letter and its Manufacturers Advisory Correspondence (MAC) 196-05, states that its amendments are consistent with section 202(a) of the Act. 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, EPA has held that section 202(a) prohibits the procedures from imposing inconsistent certification requirements such that manufacturers would be unable to demonstrate compliance with both the California and Federal requirements with the same test vehicle and using a single test sequence.

California's request will be considered according to the procedures for a waiver determination, thus an opportunity for a public hearing is being provided. Any party wishing to present testimony at the hearing and/or to submit written comments should address the following issues:

- (1) Whether California's determination that its standards are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;
- (2) Whether California needs separate standards to meet compelling and extraordinary conditions; and,
- (3) Whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

## II. Procedures for Public Participation

Any party desiring to make an oral statement on the record should submit ten (10) copies, if feasible, of its proposed testimony and other relevant material to Mr. Dickinson of EPA's Vehicles Programs and Compliance Division at the address listed above not later than March 24, 1997. In addition, the party should submit 25 copies, if feasible, of the planned statement to the presiding officer at the time of the hearing.

In recognition that 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 participant.

If a hearing is held, the Agency will make a verbatim record of the proceedings. Interested parties 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 April 30, 1997. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, if any, relevant written submissions and other information which she deems pertinent.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information" (CBI).

If a person making comments wants EPA to base its waiver decision in part on a submission labeled as CBI, then a nonconfidential version of the document which summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to the person making comments.

Dated: February 24, 1997.

Mary D. Nichols,  
*Assistant Administrator for Air and Radiation.*

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BILLING CODE 6560-50-P

[ER-FRL-5477-8]

## Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 OR (202) 564-7153.

Weekly receipt of Environmental Impact Statements Filed February 17, 1997 Through February 21, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970060, Final EIS, AFS, ID, Priest Lake Ranger District Noxious Weed Control Project, Implementation, Idaho Panhandle National Forest, Bonner County, ID and Pend Oreille County, WA, Due: March 31, 1997, Contact: Tim Laysen (208) 443-2512.

EIS No. 970061, Draft EIS, AFS, SD, Anchor Hill Mine Expansion Project in Gilt Edge Mine, Plan-of-Operations, Black Hills National Forest, SD, Due: April 14, 1997, Contact: Don Murray (605) 578-2744.

EIS No. 970062, Draft EIS, DOI, UT, Uintah Unit Replacement Project, Implementation, Central Utah Water Conservancy District, Approval of Permits, Duchesne and Uintah Counties, UT, Due: April 29, 1997, Contact: R. Terry Holzworth (801) 226-7100.

EIS No. 970063, Draft EIS, COE, CA, Upper Guadalupe River Flood Control Project, Construction, Santa Clara Valley Water District, Santa Clara County, CA, Due: April 14, 1997, Contact: Robert F. Smith (415) 977-8450.

EIS No. 970064, Final EIS, AFS, WA, Taneum/Peaches Road Access Project, Issuance of Two Temporary Permits to Plum Creek for Road Construction, Wenatchee National Forest, Cle Elum Ranger District, Kittitas County, WA, Due: March 31, 1997, Contact: Douglas Campbell (509) 674-4411.

## Amended Notices

EIS No. 960576, Final EIS, AFS, WA, Huckleberry Land Exchange Consolidate Ownership and Enhance Future Conservation and Management, Federal Land and Non Federal Land, Mt. Baker-Snoqualmie National Forest, Skagit, Snohomish, King, Pierce, Kittitas and Lewis Counties, WA, Contact: Doug Schrenk (206) 888-1421. Review Period was erroneously extended to -21-97 in Published FR-02-07-97. Review Period Official ended on 1-21-97.

EIS No. 960586, Draft EIS, AFS, MT, Basin Creek Drainage, Salvage Timber and Watershed Rehabilitation, Kootenai National Forest, Three Rivers Ranger District, Lincoln