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This modification will add to the above list of approved codes in the existing exemption, so that CWM may also dispose of wastes denoted by the following RCRA waste codes: F037, F038, F086, K107, K108, K109, K110, K123, K124, K125, K126, K141, K142, K143, K144, K145, K147, K148, K149, K150, and K151 through its deep wells upon the effective date of this petition modification. When K131 and K132 are banned from land disposal on June 30, 1995, this modification will allow continued disposal of those wastes through the deep-well system.

#### D. Submission

On September 12, 1994, and October 28, 1994, CWM submitted requests to modify its existing petition for exemption from the land disposal restrictions on hazardous waste disposal

under the HSWA of RCRA (40 CFR Part 148). The submissions were reviewed by staff at the EPA.

### II. Basis for Determination

#### A. Waste Description and Analysis

CWM reports that the wastes codes for which this modification has been requested have not been disposed of by the Vickery facility. The actual chemical constituents found in the proposed codes are already found in previously exempted waste codes, which CWM does accept. CWM anticipates the possibility that manufacturers may proffer wastes containing the waste codes for which this exemption is requested.

#### B. Model Demonstration of No Migration

The grant of an exemption from the land disposal restrictions imposed by the HSWA of RCRA is based on a demonstration that disposed wastes will not migrate out of the defined waste management unit for a period of 10,000 years. This demonstration is based on the results of computer simulations which use geological information collected at the site or found to be appropriate for the site and mathematical models which have been proven to be capable of simulating natural responses to injection. The simulator is calibrated by matching simulator results against observations at the site. In this case, CWM simulated movement of a conservatively defined ion released at the top of the injection interval. Using values for geological parameters which have been shown to be exceptionally conservative (their use results in greater vertical movement of waste constituents than can reasonably be expected), CWM demonstrated that injected wastes will not migrate out of the defined injection zone for a period of 10,000 years. The Agency accepted the demonstration and granted the existing exemption in 1990.

A modification of an existing exemption to allow injection of additional hazardous waste constituents must show that the waste constituents denoted by the codes for which the modification is requested must behave similarly to those constituents for which the original demonstration of no migration was made. In this case, the underlying waste constituents have been shown to behave similarly because each is also a constituent of wastes denoted by codes which have already been exempted. This approach eliminated the need to reconsider each waste constituent individually. Comments on this approach are solicited.

### III. Conditions of Petition Approval

The existing petition was issued with conditions. Conditions numbered: (5), (6), (7), and (8) required CWM to perform actions which might provide additional confirmation that the conditions at the site were conservatively considered in the demonstration of no migration from the injection zone. The work required under these conditions has been completed by CWM, and no additional work by CWM under these conditions is anticipated, except that the Knox-Kerbel ground water monitoring well (condition 5) must remain active at least as long as the facility is active. The remaining conditions, those numbered: (1), (2), (3), (4), and (9) place well operation conditions on CWM and continue in force. No new conditions are attached to this modification.

Dated: February 6, 1995.

**Edward P. Watters,**

*Acting Director, Water Division, Region 5,  
U.S. Environmental Protection Agency.*

[FR Doc. 95-3611 Filed 2-13-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5154-9]

### California State Nonroad Engine and Equipment Pollution Control Standards; Opportunity for Public Hearing

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

**ACTION:** Notice of an Opportunity for Public Hearing and Public Comment.

**SUMMARY:** The California Air Resources Board (CARB) has notified EPA that it has adopted regulations for exhaust emission standards and test procedures for 1996 and later model heavy-duty off-road diesel cycle engines 175 horsepower or greater. CARB has requested that EPA authorize CARB to enforce regulations pursuant to section 209(e) of the Clean Air Act (Act), as amended, 42 U.S.C. 7543. This notice announces that EPA has tentatively scheduled a public hearing to consider CARB's request and to hear comments from interested parties regarding CARB's request for EPA's authorization and CARB's determination that its regulations, as noted above, comply with the criteria set forth in section 209(e). 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, written comments, must notify EPA by February 21, 1995. If no party notifies EPA that it wishes to

testify on the nonroad emission amendments, then no hearing will be held and EPA will consider CARB's request based on written submissions to the record.

**DATES:** EPA has tentatively scheduled a public hearing for March 1, 1995 beginning at 9:00 a.m., if any party notifies EPA by February 21, 1995 that it wishes to present oral testimony regarding CARB's request. Any party may submit written comments regarding CARB's requests by March 31, 1995. After February 21, 1995, any person who plans to attend the hearing may call Janice Raburn of EPA's Manufacturers Operations Division at (202) 233-9294 to determine if a hearing will be held.

**ADDRESSES:** If a request is received, EPA will hold the public hearing announced in this notice at the Channel Inn (Captain's Room), 650 Water Street SW., Washington, DC 20024. Parties wishing to present oral testimony at the public hearing should notify in writing, and if possible, submit ten (10) copies of the planned testimony to: Charles N. Freed, Director, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. In addition, any written comments regarding the waiver request should be sent, in duplicate, to Charles N. Freed at the same address to the attention of Docket A-94-44. Copies of material relevant to the waiver request (Docket A-94-44) will be available for public inspection during normal working hours of 8 a.m. to 5:30 p.m. Monday through Friday, including all non-government holidays, at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street SW., Washington, DC 20460. Telephone: (202) 260-7548. FAX Number: (202) 260-4400.

**FOR FURTHER INFORMATION CONTACT:** Janice Raburn, Attorney/Advisor, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, Washington, DC 20460. Telephone: (202) 233-9294.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 209(e)(1) of the Act as amended, 42 U.S.C. 7543(e)(1), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles subject to regulation under this Act: (A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and

which are smaller than 175 horsepower, and (B) new locomotives or new engines used in locomotives."

For those new pieces of equipment or new vehicles other than those a State is not permanently preempted from regulating under section 209(e)(1), the State of California may promulgate standards regulating such new equipment or new vehicles provided California complies with Section 209(e)(2). Section 209(e)(2) provides in part that the Administrator shall, after notice and opportunity for public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines "[i]f California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such authorization shall be granted if the Administrator finds that: (i) The determination of California is arbitrary and capricious, (ii) California does not need such California standards to meet compelling and extraordinary conditions, or (iii) California standards and accompanying enforcement procedures are not consistent with this section."

EPA interpreted the preceding criterion regarding consistency in the final regulation it issued to implement section 209(e) entitled "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" (section 209(e) rule). This rule sets forth several definitions and the authorization criteria EPA must consider before granting California an authorization to enforce any of its nonroad engine standards.<sup>1</sup> As described in the section 209(e) rule, in order to be deemed "consistent with this section", California standards and enforcement procedures must be consistent with section 209. In order to be consistent with section 209, California standards and enforcement procedures must reflect the requirements of sections 209(a), 209(e)(1), and 209(b). Section 209(a) prohibits states from adopting or enforcing emission standards for new motor vehicles or new motor vehicle engines. Section 209(e)(1) identifies the categories preempted from state regulation. As stated above, the preempted categories are (a) new engines which are used in construction equipment or vehicles or used in farm

equipment or vehicles and which are smaller than 175 horsepower, and (b) new locomotives or new engines used in locomotives. The section 209(e) rule includes definitions for farm equipment or vehicles and construction equipment or vehicles. California's proposed regulations would be considered inconsistent with section 209 if they applied to these permanently preempted categories. Additionally, the section 209(e) rule requires EPA to review nonroad authorization requests under the same "consistency" criterion that it reviews motor vehicle waiver requests. Under section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. California's nonroad standards would not be consistent with section 202(a) if there were inadequate lead time to permit the development of technology necessary to meet those standards, giving appropriate consideration to the cost of compliance within that time frame. Additionally, California's nonroad accompanying enforcement procedures would be inconsistent with section 202(a) if the Federal and California test procedures were inconsistent, that is, manufacturers would be unable to meet both the State and Federal test requirements with one test vehicle or engine.

Once California has been granted an authorization, under section 209(e)(2), for its standards and accompanying enforcement procedures for a category or categories of equipment, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject category or categories of equipment without the necessity of receiving further EPA authorization.

By letter dated August 24, 1993, CARB submitted to EPA a request that EPA authorize California to adopt regulations for 1996 and later model heavy-duty off-road diesel cycle engines. By letter dated July 26, 1994, EPA informed CARB that in light of two final rules issued by EPA, it would be necessary for CARB to revise its waiver request before EPA could begin the waiver process. First, EPA had not been able to process the nonroad waiver request until it issued a final section 209(e) rule (discussed above). In addition, EPA issued a rulemaking setting federal nonroad standards under section 213 of the Act.<sup>2</sup> One of the waiver requirements under section 209 is that CARB make a determination that its standards and test procedures are, in

<sup>1</sup> See 59 FR 36969, July 20, 1994 (to be codified at 40 CFR Part 85, Subpart Q, §§ 85.1601-85.1606). This final rule titled "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" was proposed at 56 FR 45866, Sept. 6, 1991.

<sup>2</sup> 59 FR 31306 (June 17, 1994).

the aggregate, at least as protective of public health and welfare as applicable federal standards. At the time CARB made the analysis for its August 23, 1993, waiver request, EPA had proposed but not finalized federal standards for nonroad engines at or above 37kW. Thus, CARB made a determination based upon a comparison between its standards and the standards EPA was proposing at that time. EPA made a few changes to its final rule, thus making it necessary for CARB to revise its finding and determination so as to have compared its standards with the final federal standards. By letter dated August 17, 1994, CARB submitted to EPA a supplement to its request of August 24, 1993, with the updated comparison that EPA requested.

California's regulations apply to all new heavy-duty off-road diesel cycle engines, 175 horsepower or greater, including alternate-fueled engines, produced on or after January 1, 1996. These regulations:

a. Establish tier 1 smoke and exhaust emission standards for engines 175 to 750 horsepower produced on or after January 1, 1996.

b. Establish smoke and exhaust emission standards for engines greater than 750 horsepower produced on or after January 1, 2000. (These engines are low sales volume, so longer development time is allowed.)

c. Establish tier 2 smoke and exhaust emission standards for engines 175 to 750 horsepower produced on or after January 1, 2001.

d. Require that crankcase emissions be controlled for 1996 and later alternate-fueled engines derived from diesel cycle engines and naturally aspirated diesel-fueled engines used in heavy-duty off-road applications.

e. Require that commencing in the year 2000, replacement engines for pre-1996 equipment comply with the 1996 emission regulations. Replacement engines for 1996 and later equipment are required to comply with the emissions standards applicable to the original engine.

f. Establish an 8-mode steady state emissions test for certification testing.

g. Require certification compliance testing, quality audit assembly line testing, and new engine compliance testing.

h. Establish a labeling requirement.

i. Require manufacturers to provide a five year or 3000 hour emissions warranty.

EPA issued a final rule (referenced above) for nonroad engines of similar horsepower on June 17, 1994.<sup>3</sup> EPA set

standards for engines at or greater than 130 to 560 kW (175 horsepower to 750 horsepower) identical to the CARB standards and effective January 1, 1996, the same date as the CARB standards. Also, EPA set standards for engines greater than 560 kW (750 horsepower) identical to CARB standards and effective January 1, 2000, the same date as the CARB standards. EPA did not promulgate tier 2 standards for the 175—750 horsepower category, so beginning in 2001 CARB standards would be more stringent than EPA standards.

California states in its August 17, 1994 letter that it has determined that its standards and test procedures for 1996 and later model heavy-duty off-road diesel cycle engines would not cause California emission standards, in the aggregate, to be less protective of public health and welfare as the applicable Federal standards. Further, California references its August 24, 1993 letter, which explained why compelling and extraordinary conditions warrant the need in California for separate standards for heavy-duty off-road diesel cycle engines. Finally, California states that its standards and test procedures are consistent with section 209 of the Act. California's request will be considered according to the criteria for an authorization request as set forth in the section 209(e) regulation.<sup>4</sup> Any party wishing to present testimony at the hearing or by written comment should address, as explained in the section 209(e) rule, 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 (i) section 209(a), which prohibits states from adopting or enforcing emission standards for new motor vehicles or engines, (ii) section 209(e)(1), which identifies the categories preempted from state regulation, and (iii) section 202(a) of the Act.

## II. Public Participation

If the scheduled hearing takes place, it will provide an opportunity for interested parties to state orally their views or arguments or to provide

pertinent information regarding the issues as noted above and further explained in the section 209(e) rule. Any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material along with its request for a hearing with the Director of EPA's Manufacturers Operations Division at the Director's address listed above not later than February 21, 1995. In addition, the party should submit 50 copies, if possible, of the proposed 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 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 March 31, 1995.

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest extent possible and label it as "Confidential Business Information." 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. If a person making comments wants EPA to base its final decision in part on a submission labeled as confidential business information, then a non-confidential version of the document which summarizes the key data or information should be placed in the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed 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.

<sup>4</sup> "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" at 59 FR 36969, July 20, 1994 (to be codified at 40 CFR Part 85, Subpart Q, §§ 85.1601-85.1606).

<sup>3</sup> 59 FR 31306 (June 17, 1994).

Dated: February 7, 1995.

**Richard D. Wilson,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 95-3608 Filed 2-13-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5154-8]

**Common Sense Initiative Council,  
Electronics Sector Subcommittee**

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

**ACTION:** Common Sense Initiative Council, Electronics Sector Subcommittee, Notice of Meeting.

**SUMMARY:** The Environmental Protection Agency established the Common Sense Initiative Council (CSIC)—Electronics Sector (CSI-ES) Subcommittee on October 17, 1994, to provide independent advice and counsel to EPA on policy issues associated with the electronics and computer industry. The charter was authorized through October 17, 1996, under regulations established by the Federal Advisory Committee Act (FACA).

**OPEN MEETING NOTICE:** Notice is hereby given that the CSI-ES Subcommittee will hold an open meeting on Wednesday, March 8, from 8:30 a.m. to 5:00 p.m., and Thursday, March 9, from 8:30 a.m. to 3:00 p.m., at the Sheraton National Hotel, Commonwealth Ballroom, Columbia Pike and Washington Boulevard, Arlington, VA 22204. Seating will be available on a first-come, first-served basis.

The meeting will include a description of the charge to the subcommittee, orientation to the FACA process, review and approval of operating principles, review and discussion of proposed work plan items, and discussion of formation of work groups for accepted work plan items. Opportunity for public comment on major issues under discussion will be provided at intervals throughout the meeting.

**INSPECTION OF COMMITTEE DOCUMENTS:** Documents relating to the above noted topics will be publicly available at the meeting. Thereafter, these documents, together with the CSI-ES meeting minutes will be available for public inspection in room 2417M of EPA Headquarters, 401 M Street SW., Washington, DC.

**FOR FURTHER INFORMATION:** Concerning this meeting of the CSI-ES, please contact Gina Bushong, US EPA (202) 260-3797, FAX (202) 260-1096, or by mail at U.S. EPA (7405), 401 M Street SW., Washington, DC 20460; Mark

Mahoney, Region 1, US EPA, (617) 565-1155; or Dave Jones, Region 9, U.S. EPA, (415) 744-2266.

Dated: February 7, 1995.

**Gina Bushong,**

*Designated Federal Official.*

[FR Doc. 95-3607 Filed 2-13-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5155-1]

**New Hampshire; Final Adequacy Determination of State/Tribal Municipal Solid Waste Permit Program**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Final Determination of Full Program Adequacy for the State of New Hampshire's Municipal Solid Waste Landfill Permitting Program.

**SUMMARY:** Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, 42 USC 6945(c)(1)(B), requires states to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs), which may receive hazardous household waste or small quantity generator hazardous waste, will comply with the revised Federal MSWLF Criteria (40 CFR Part 258). RCRA Section 4005(c)(1)(C), 42 USC § 6945(c)(1)(C), requires the Environmental Protection Agency (EPA) to determine whether states have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in State/Tribes with approved permit programs can use the site-specific flexibilities provided by

40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the federal landfill criteria shall apply to all permitted and unpermitted MSWLF facilities.

The State of New Hampshire applied for a determination of adequacy under Section 4005(c)(1)(C) of RCRA, 42 USC § 6945(c)(1)(C). EPA Region I reviewed New Hampshire's MSWLF permit program adequacy application and made a determination that all portions of New Hampshire's MSWLF permit program are adequate to assure compliance with the revised Federal MSWLF Criteria. After consideration of all comments received, EPA is today issuing a final determination that the State's program is adequate.

**EFFECTIVE DATE:** The determination of adequacy for the State of New Hampshire shall be effective on February 14, 1995.

**FOR FURTHER INFORMATION CONTACT:** EPA Region I, John F. Kennedy Federal Building, Boston, MA 02203, Attn: Mr. John F. Hackler, Chief, Solid Waste and Geographic Information Section, mail code HER-CAN 6, telephone (617) 573-9670.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

On October 9, 1991, EPA promulgated revised criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires states to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under 40 CFR part 258. Subtitle D also requires in Section 4005(c)(1)(C), 42 USC § 6945(c)(1)(C), that EPA determine the adequacy of state municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to approve State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for states or tribes to develop "adequate" programs for permits, or other forms of prior approval and conditions (for example, license to operate) to impose several minimum requirements. First, each State/Tribe must have enforceable