

and Community Right-to-Know Act (EPCRA), EPA ICR Number 1352.07.

**Abstract:** The authority for these requirements is sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), 1986 (42 U.S.C. 11011, 11012). EPCRA Section 311 requires owners and operators of facilities subject to OSHA HCS to submit a list of chemicals or MSDSs (for those chemicals that exceed thresholds, specified in 40 CFR Part 370) to the State Emergency Response Commission (SERC), Local Emergency Planning Committee (LEPC) and the local fire department (LFD) with jurisdiction over their facility. This is a one-time requirement unless a new facility becomes subject to the regulations or updating the information by facilities that are already covered by the regulations. EPCRA Section 312 requires owners and operators of facilities subject to OSHA HCS to submit an inventory form for those chemicals that exceed the thresholds to the SERC, LEPC, and LFD with jurisdiction over their facility. This activity is to be completed on March 1 of each year, on the inventory of chemicals in the previous calendar year.

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 are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments 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.

**Burden Statement:** The average burden for MSDS reporting under 40 CFR 370.21 is estimated at 1.6 hours for new and newly regulated facilities and approximately 0.6 hours for those existing facilities that obtain new or

revised MSDSs or receive requests for MSDSs from local governments. For new and newly regulated facilities, this burden includes the time required to read and understand the regulations, to determine which chemicals meet or exceed reporting thresholds, and to submit MSDSs or lists of chemicals to SERC, LEPCs, and local fire departments. For existing facilities, this burden includes the time required to submit revised MSDSs and new MSDSs to local officials. The average reporting burden for facilities to perform Tier I or Tier II inventory reporting under 40 CFR 370.25 is estimated to be approximately 3.1 hours per facility, including the time to develop and submit the information. There are no recordkeeping requirements for facilities under EPCRA sections 311 and 312.

The average burden for state and local governments to respond to requests for MSDSs or Tier II information under 40 CFR 370.30 is estimated to be 0.17 hours per request. The average burden for state and local governments for managing and maintaining the reports is estimated to be 32.25 hours. The average burden for maintaining and updating the 312 database is 320 hours. The total burden to facilities over the three-year information collection period is estimated to be 5,182,000 hours, at a cost of \$164 million, with an associated state and local burden of 439,000 hours at a cost of \$8.4 million.

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.

Dated: July 30, 1999.

**David Speights,**

*Acting Director, Chemical Emergency Preparedness and Prevention Office.*

[FR Doc. 99-20203 Filed 8-4-99; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-6414-3]

### California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption—Notice of Waiver Decision and Within the Scope Determinations

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

**ACTION:** Notice regarding waiver of federal preemption and within the scope determinations.

**SUMMARY:** EPA is granting California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended, 42 U.S.C. 7543(b) (Act), for 1996 to 1998 model year motor vehicle evaporative emission standards and test procedures. Additionally, EPA today has determined that California's amendments to its evaporative emission standards and test procedures for 1995 model year motor vehicles and California's amendments regarding ultra-small volume manufacturers in 1998 model year are within the scope of previous waivers of Federal preemption granted pursuant to section 209(b) of the Act and today's waiver decision.

**DATES:** Any objections to the findings in this document regarding EPA's determination that California's amendments to its evaporative emission standards and test procedures for 1995 model year or the requirements applicable to ultra-small volume manufacturers for 1998 model year are within the scope of both previous waivers and today's waiver of Federal preemption must be filed by September 7, 1999. Otherwise, at the end of this 30-day period, these findings will become final. Upon receipt of any timely objection, EPA will consider scheduling a public hearing to reconsider these findings in a subsequent **Federal Register** document.

**ADDRESSES:** Any objections to the within the scope findings described above should be filed with Mr. David J. Dickinson at the address noted below. The Agency's decisions as well as all documents relied upon in reaching these decisions, including those submitted by the California Air Resources Board (CARB), are available for public inspection in the Air and Radiation Docket and Information Center during the working hours of 8:00 a.m. to 4:00 p.m. at the Environmental Protection Agency, Air Docket (6102), Room M-1500, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. All documents submitted in the

evaporative emission standards and test procedures waiver request, as well as the within the scope waiver requests noted above, can be found in Docket A-95-39. Copies of the Decision Document (which discusses both the waiver and the within the scope determinations) can be obtained from EPA's Vehicle Programs and Compliance Division by contacting David J. Dickinson, as noted below, or can be accessed on the EPA Office of Mobile Sources Internet Home Page, also noted below.

**FOR FURTHER INFORMATION CONTACT:** David J. Dickinson, Manager, Vehicles Programs and Compliance Division (6405J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. Telephone: (202) 564-9256, FAX: (202) 565-2057, E-Mail: Dickinson.David@EPAMAIL.EPA.GOV.

**SUPPLEMENTARY INFORMATION:**

**I. Obtaining Electronic Copies of Documents**

Electronic copies of this Notice and the accompanying Decision Document are available via the Internet on the Office of Mobile Sources (OMS) Home Page (<http://www.epa.gov/OMSWWW/>). Users can find these documents by accessing the OMS Home Page and looking at the path entitled "Regulations." This service is free of charge, except for any cost you already incur for Internet connectivity. The official **Federal Register** version of the Notice is made available on the day of publication on the primary Web site (<http://www.epa.gov/docs/fedrgstr/EPA-AIR/>).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc. may occur.

**II. Enhanced Evaporative Emission Standards and Test Procedures for 1996 to 1998 Model Year Waiver Request**

I have decided to grant California a waiver of Federal preemption pursuant to section 209(b) of the Act for amendments to its motor vehicle pollution control program which will (1) establish a supplemental evaporative emission test procedure; (2) align California's evaporative emission enhanced test procedure (enhanced test procedure) with federal test procedures; (3) apply the enhanced test procedure to the complete heavy medium-duty vehicle class (8,501-14,000 lbs. gross weight vehicle rating (GVWR)), and (4) establish an amendment to the evaporative emission standard for the hot soak plus diurnal

emissions test for medium-duty vehicles that have a GVWR of 6,001-8,500 lbs. and fuel tanks equal to or greater than 30 gallons from 2.0 to 2.5 grams per test. A comprehensive description of the California evaporative emission standards and accompanying program can be found in the Decision Document for this waiver and in materials submitted to the Docket by California and other parties.

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards; whether California needs State standards to meet compelling and extraordinary conditions; and whether California's amendments are consistent with section 202(a) of the Act.

CARB determined that these standards and accompanying enforcement procedures do not cause California's standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. Information presented to me by a party opposing California's waiver request did not demonstrate that California arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find California's determination to be arbitrary or capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle pollution control program, which includes the subject standards and procedures. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Therefore, I agree that California continues to have compelling and extraordinary conditions which require its own program, and, thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that the requirements of its emission standards and test procedures are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 202(a) of the Act. Information presented to me by a party opposing California's waiver request did not satisfy the burden of

persuading EPA that the standards are not technologically feasible within the available lead time, considering costs. Thus, I cannot find that California's amendments will be inconsistent with section 202(a) of the Act. Accordingly, I hereby grant the waiver requested by California.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by October 4, 1999. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver decisions, this action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 12, 1981). Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Nor is a Regulatory Impact Analysis being prepared under Executive Order 12291 for this determination, since it is not a rule.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to make determinations regarding waivers of Federal preemption under section 209(b) of the Act to the Assistant Administrator for Air and Radiation.

**III. 1995 Model Year Enhanced Evaporative Standards and Test Procedures Amendments Within the Scope Request**

I have determined that California's amendments to its 1995 model year enhanced evaporative standards and test procedures are within the scope of previous waivers of Federal preemption granted pursuant to section 209(b) of the Act. The substantive amendments to the enhanced evaporative standards and test procedures emission which are applicable under California state law to 1995 model year passenger cars, light duty trucks, medium-duty vehicles, and

heavy-duty vehicles creates the following:

(1) A supplemental test procedure (similar to the federal supplemental test procedure) which consists of vehicle preconditioning (including canister loading), the federal test procedure (FTP) exhaust test, a hot soak, and a two-day diurnal test.

(2) A change to the evaporative emission standards for the hot soak and the diurnal emissions test for medium-duty vehicles (6,001–8,500 lbs. GVWR) with fuel tanks greater than 30 gallons from 2.0 to 2.5 grams.

(3) An allowance for manufacturers to carry over 1995 model year enhanced certification data as long as the supplemental test data are provided and specified conditions are met.

In an August 21, 1995 letter to EPA, CARB notified EPA of the above-described amendments to its evaporative emission regulations affecting 1995 model year vehicles, and requested that EPA confirm that these amendments are within the scope of existing waivers of Federal preemption.<sup>1</sup> The Executive Officer stated that “[t]he regulatory amendments approved herein will not cause California motor vehicle emissions standards, in the aggregate, to be less protective of public health and welfare as applicable Federal standards.”<sup>2</sup>

In its August 1991 request, CARB explains why it limited its earlier request for a waiver of federal preemption to the 1995 model year. CARB desired to have a consistent set of evaporative emission test procedures for manufacturers and understood that EPA would be promulgating a supplemental test procedure that would be applicable to 1996 model year and thereafter. Therefore, CARB received an earlier waiver from EPA for its 1995 model year evaporative emission standards and test procedures on September 13, 1994.<sup>3</sup> By today’s decision EPA is finding that CARB’s amendments as they apply to the 1995 model year do not undermine California’s determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards.

As stated in CARB’s letter, CARB’s amendments do not affect the consistency of California’s requirements with section 202(a) as they are merely meant to more closely align the California and federal requirements.<sup>4</sup>

EPA agrees with this representation. As noted above, EPA has previously granted a waiver of federal preemption for CARB’s 1995 model year evaporative emission standards and test procedures, therefore, EPA now has determined that these amendments do not undermine California’s determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards, are not inconsistent with section 202(a) of the Act, and raise no new issues affecting the Environmental Protection Agency’s (EPA) previous waiver determination. Thus these amendments are within the scope of previous waivers determinations. A full explanation of EPA’s decision is contained in a determination document which may be obtained from EPA as noted above.

#### **IV. 1998 Model Year Enhanced Evaporative Standards and Test Procedures for Ultra-Small Volume Manufacturers Within the Scope Request**

I have determined that California’s amendments to its 1998 model year enhanced evaporative standards and test procedures applicable to ultra-small volume manufacturers (USVMs) are within the scope of today’s waiver (for 1996 through 1998 model year evaporative emission standards and test procedures) of Federal preemption granted pursuant to section 209(b) of the Act. California had originally exempted USVMs from the phase-in requirements of the evaporative emission requirements and instead required USVMs to achieve 100 percent compliance in the 1998 model year. California’s amendments postpone the implementation of the 100 percent compliance of USVMs from 1998 to the 1999 model year.

As discussed above, EPA may consider an amendment to be within the scope of a previously granted waiver if the amendment does not undermine California’s determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards, does not affect the consistency of California’s requirements with section 202(a) of the Act, and does not raise new issues affecting EPA’s previous waiver determination.

On December 24, 1997, CARB requested that EPA find CARB’s amendments to enhanced evaporative emission regulations applicable to USVMs to be within the scope of CARB’s previously submitted waiver request of August 21, 1995 (this previous request is addressed by EPA in the full waiver of federal preemption

noted above and also announced today). Because California’s amendments for USVMs now more closely align with federal requirements (federal requirements for small volume manufacturers does not apply until the 1999 model year), and because of the small number of vehicles involved, EPA does not believe that CARB’s protectiveness determination has been undermined. Additionally, the postponement of the requirement for USVMs does not pose any consistency issue with section 202(a) because lead time has now been extended for these manufacturers and CARB will allow such manufacturers to conduct their testing with federal fuel and test temperatures, thus eliminating and test procedure consistency concern. Thus, these amendments do not undermine California’s determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards, are not inconsistent with section 202(a) of the Act, and raise no new issues affecting EPA’s previous waiver determination. A full explanation of EPA’s decision is contained in a determination document which may be obtained from EPA as noted above.

Because these amendments are within the scope of previous waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings by September 7, 1999, EPA will consider holding a public hearing to provide interested parties an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that EPA should reconsider its findings. Otherwise, these findings shall become final on September 7, 1999.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California’s requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by October 4, 1999. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 12, 1981).

<sup>1</sup> Letter from James D. Boyd, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated August 21, 1995, at 2 (hereinafter “CARB letter”).

<sup>2</sup> CARB letter at 7.

<sup>3</sup> 59 FR 46978 (September 13, 1994).

<sup>4</sup> CARB letter at 9.

Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Nor is a Regulatory Impact Analysis being prepared under Executive Order 12291 for this determination, since it is not a rule.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to make determinations regarding waivers of Federal preemption under section 209(b) of the Act to the Assistant Administrator for Air and Radiation.

Dated: July 28, 1999.

**Robert Perciasepe,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 99-20200 Filed 8-4-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6413-7]

**National Drinking Water Advisory Council; Small Systems Implementation Working Group, Notice of Conference Call**

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

**ACTION:** Notice.

**SUMMARY:** Under Section 10(a)(2) of Public Law 92-423, "The Federal Advisory Committee Act," notice is hereby given that a conference call of the Small Systems Implementation Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on August 24, 1999, from 1:00 p.m. to 3:00 p.m. EDT. The call will be held at the U.S. Environmental Protection Agency, 401 M Street S.W., Room 1132 East Tower, Washington, D.C. The meeting is open to the public to observe, but seating will be limited.

The purpose of this meeting is to review draft papers on seven policy issues related to small systems. These papers are an initial step towards formulating the working group's recommendations to the National Drinking Water Advisory Council.

For more information, please contact Peter E. Shanaghan, Designated Federal Officer, Small Systems Implementation

Working Group, U.S. EPA, Office of Ground Water and Drinking Water (4606), 401 M Street, S.W., Washington, D.C. 20460. The telephone number is 202-260-5813 and the email address is shanaghan.peter@epa.gov.

Dated: July 29, 1999.

**Elizabeth J. Fellows,**

*Acting Designated Federal Officer, National Drinking Water Advisory Council.*

[FR Doc. 99-20202 Filed 8-4-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6415-5]

**Proposed Settlement Under Section 122 (h) (1) of the Comprehensive Environmental Response, Compensation and Liability Act**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed administrative settlement agreement and opportunity for public comment—Pijak Farm and Spence Farm Superfund sites.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to resolve certain claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA). Notice is being published to inform the public of the proposed settlement and the opportunity to comment. This settlement concerns the Pijak Farm and Spence Farm Superfund Sites in Plumsted Township, Ocean County, New Jersey and is intended to resolve the recovery of certain past costs incurred by EPA.

**DATES:** Comments must be provided by September 7, 1999.

**ADDRESSES:** Comments should be addressed to the United States Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007, and should refer to: In the Matter of the Pijak Farm and Spence Farm Superfund Sites, Agreement for Recovery of Past Response Costs, U.S. EPA Index No. II-CERCLA-02-99-2018. **FOR FURTHER INFORMATION CONTACT:** U.S. Environmental Protection Agency, Office of Regional Counsel, 290 Broadway—17th Floor, New York, NY 10007; Attention: Damaris Urdaz Cristiano, Esq. Ms. Cristiano can be reached at (212) 637-3140.

**SUPPLEMENTARY INFORMATION:** In accordance with section 122(i)(1) of

CERCLA, notice is hereby given of a proposed administrative settlement concerning the Pijak Farm and Spence Farm Superfund Sites located in Plumsted Township, Ocean County, New Jersey. Section 122(h)(1) of CERCLA provides EPA with authority to settle certain claims for response costs incurred by the United States when the settlement has received the approval of the Attorney General of the United States of America. The settling parties will pay \$16,526.72 to reimburse EPA for past response costs incurred at the Pijak Farm and Spence Farm Superfund Sites.

Dated: July 26, 1999.

**John S. Frisco,**

*Acting Director, Emergency and Remedial Response Division.*

[FR Doc. 99-20204 Filed 8-4-99; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

[OPPTS-42190B; FRL-6090-6]

**Dibasic Esters; Final Enforceable Consent Agreement and Testing Consent Order**

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

**ACTION:** Notice.

**SUMMARY:** Under section 4 of the Toxic Substances Control Act (TSCA), EPA has issued a testing consent order (Order) that incorporates an enforceable consent agreement (ECA) with the Aceto Corporation, E.I. du Pont de Nemours and Company, and Solutia Inc. (the "Companies"). The Companies have agreed to perform toxicity and dermal penetration rate testing on dimethyl adipate (CAS No. 627-93-0) (DMA), dimethyl glutarate (CAS No. 1119-40-0) (DMG), and dimethyl succinate (CAS No. 106-65-0) (DMS), known collectively as dibasic esters (DBEs). This notice announces the ECA and Order for DBEs and summarizes the terms of the ECA.

**DATES:** The effective date of the ECA and Order is August 5, 1999.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact:* Christine M. Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: (202) 554-1404 and TDD: (202) 554-0551; e-mail address: TSCA-Hotline@epa.gov.

*For technical information contact:* George Semeniuk, Project Manager,