

I. Additional Information About the Proposed Consent Decree

Under the terms of the proposed consent decree, once the Court enters the decree EPA will initiate a review of NSPS subparts Da, Db, Dc, and Gg to determine whether they need to be revised. Within twelve months of entry of the consent decree, the appropriate EPA official will sign and promptly forward to the Office of Federal Register proposed revisions to subparts Da, Db, Dc, and Gg or proposed determinations that revisions to any of these subparts is not appropriate in light of readily available information on the efficacy of such standards. EPA would also be required to issue a proposed revision to the sulfur dioxide emission limits in subpart Da in accordance with section 403 of the CAAA of 1990.

Within 24 months from the date of entry of the decree, the appropriate EPA official would need to sign and forward to the Office of Federal Register a final rule revising subparts Da, Db, Dc, and Gg or a final determination that revision of any subpart is not appropriate. Within 24 months, EPA would also need to issue a final rule revising the sulfur dioxide emission limits in subpart Da in accordance with section 403 of the CAAA of 1990.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed consent decree from persons who were not named as parties or interveners to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the consent decree should be withdrawn, the terms of the decree will be affirmed.

II. Additional Information About Commenting on the Proposed Consent Decree

A. How Can I Get A Copy Of the Consent Decree?

EPA has established an official public docket for this action under Docket ID No. OGC-2003-0004 which contains a copy of the consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, 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.

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 docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

It is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information the disclosure of which is restricted by statute. Information claimed as CBI and other information the disclosure of which is restricted by statute is not included in the official public docket or in EPA's electronic public docket. EPA's policy is that copyrighted material, including copyrighted material contained in a public comment, will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the EPA Docket Center.

B. How and to Whom Do I Submit Comments?

You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment and with any disk or CD ROM you submit. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information

on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. 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.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 14, 2003.

Lisa K. Friedman,

Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 03-29182 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7589-5]

Proposed Settlement Agreement, Clean Air Act Petitions for Review

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 petitions for review filed by the Utility Air Regulatory Group, Clean Air Implementation Project, Air Permitting Forum, Alliance of Automobile Manufacturers, and the National Environmental Development Association's Clean Air Regulatory Project (collectively, "Petitioners") in the U.S. Court of Appeals for the District of Columbia Circuit: *Utility Air Regulatory Group v. EPA*, No. 02-1290 (and Consolidated Nos. 02-1291, 02-

1303, 02-1304, and 02-1325) (D.C. Cir.). On or about September 18, 2002, and thereafter, Petitioners filed petitions for review challenging EPA's interpretation of the sufficiency monitoring rules under the Act's Title V operating permits program, 40 CFR 70.6(c)(1) and 71.6(c)(1), as stated in the preamble to an interim final rule published on September 17, 2002 (67 FR 58529), and challenging EPA's State and Federal operating permits program rules in 40 CFR parts 70 and 71, as interpreted. Under the terms of the proposed settlement agreement, Petitioners and EPA (collectively, the "Parties") will promptly file a stipulation for dismissal of the petitions for review if EPA takes final action: (1) Declining to adopt the proposed revision to the text of §§ 70.6(c)(1) and 71.6(c)(1) published on September 17, 2002 (67 FR 58561); and (2) indicating that notwithstanding the recitation in §§ 70.6(c)(1) and 71.6(c)(1) of monitoring as a permit element, EPA has determined that the correct interpretation of §§ 70.6(c)(1) and 71.6(c)(1) is that these provisions do not establish a separate regulatory standard or basis for requiring or authorizing review and enhancement of existing monitoring independent of any review and enhancement as may be required under 40 CFR 70.6(a)(3) and 71.6(a)(3). EPA also has indicated that it does not intend in such final action "to address what constitutes a "gap" under [sections] 70.6(a)(3)(i)(B) and 71.6(a)(3)(i)(B) or criteria for how that "gap" should be filled."

DATES: Written comments on the proposed settlement agreement must be received by December 22, 2003.

ADDRESSES: Submit your comments, identified by docket ID number OGC-2003-0005, online at <http://www.epa.gov/edocket> (EPA's preferred method); by e-mail to 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-ROM should be formatted in Wordperfect or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

FOR FURTHER INFORMATION CONTACT: Kerry E. Rodgers, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection

Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone (202) 564-5671.

SUPPLEMENTARY INFORMATION:

I. Additional Information About the Proposed Settlement Agreement

Title V of the Clean Air Act requires major stationary sources of air pollution to obtain comprehensive operating permits that assure compliance with applicable requirements under the Act. EPA's regulations in 40 CFR parts 70 and 71 establish minimum requirements for State and Federal Title V operating permits programs, which include monitoring requirements. Petitioners in these consolidated cases challenged EPA's interpretation of the Title V sufficiency monitoring rules, §§ 70.6(c)(1) and 71.6(c)(1), as stated in the preamble to an interim final rule published on September 17, 2002 (67 FR 58529), as well as EPA's State and Federal operating permits program rules in 40 CFR parts 70 and 71, as interpreted.¹ On September 17, 2002, EPA also published a proposed rule (67 FR 58561) requesting public comment on the same interpretation as that set forth in the interim final rule.

The proposed settlement agreement provides that within two days of its execution by the Parties, the Parties will file a joint motion notifying the Court of the agreement and requesting that briefing in these cases be suspended and that the cases be held in abeyance pending implementation of the agreement. The proposed settlement agreement further provides that the Parties will promptly file a stipulation for dismissal of the petitions for review if EPA issues a final action: (1) Declining to adopt the proposed revision to the text of §§ 70.6(c)(1) and 71.6(c)(1) published on September 17, 2002 (67 FR 58561); and (2) indicating that notwithstanding the recitation in §§ 70.6(c)(1) and 71.6(c)(1) of monitoring as a permit element, EPA has determined that the correct interpretation of §§ 70.6(c)(1) and 71.6(c)(1) is that these provisions do not establish a separate regulatory standard or basis for requiring or authorizing review and enhancement of existing monitoring independent of any review and enhancement as may be required under §§ 70.6(a)(3) and 71.6(a)(3). EPA also has indicated that it does not intend in such final action "to address what constitutes a 'gap' under [sections] 70.6(a)(3)(i)(B) and 71.6(a)(3)(i)(B) or criteria for how that 'gap' should be filled."

¹ Case No. 02-1304 did not raise this second challenge.

Under the proposed settlement agreement, if EPA does not issue such final action by January 15, 2004, or if EPA otherwise fails to comply with the terms of the proposed settlement agreement, Petitioners may request that the Court lift the stay and establish a schedule for briefing and argument in these cases and EPA will join Petitioners in a motion making that request. Petitioners will not challenge any final action that is the same in substance as items (1) and (2) above, although Petitioners reserve any rights they may have to challenge any portion of such final action that is not the same in substance.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determine, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

II. Additional Information About Commenting on the Proposed Settlement Agreement

A. How Can I Get a Copy of the Settlement Agreement?

EPA has established an official public docket for this action under Docket ID No. OGC-2003-0005 which contains a copy of the settlement agreement. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, 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.

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Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic

public docket system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment. In contrast to EPA's electronic public docket, EPA's electronic mail (e-mail) system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, your e-mail address is automatically captured and included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

Dated: November 14, 2003.

Lisa K. Friedman,

Associate General Counsel, Air and Radiation Law Office, Office of General Counsel.

[FR Doc. 03-29184 Filed 11-20-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-7590-1]

California State Nonroad Engine and Vehicle Pollution Control Standards; Authorization of Nonroad Durability Standards, Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA today, pursuant to section 209(e) of the Clean Air Act (Act), 42 U.S.C. 7543(b), is authorizing California to enforce amendments to its Small Off-Road Engine (SORE) regulations which set new durability standards for covered engines. The California Air Resources Board (CARB), by letter dated October 4, 1999, requested that EPA confirm CARB's finding that these new durability standards and other amendments to the SORE Regulations are within-the-scope of a prior authorization under section 209(e) of the Act, granted by EPA to CARB's original SORE Regulations in July 1995. EPA determined that most of the amendments were within the scope of the prior authorization, but because the durability requirements amendments are brand new standards, EPA offered the opportunity for a public hearing, and requested comments, on these new standards. After completing review of these amendments, EPA is authorizing California to enforce the durability standards.

ADDRESSES: The Agency's Decision Document, containing an explanation of the Assistant Administrator's decision, as well as all documents relied upon in

making that decision, including those submitted to EPA by CARB, are available for public inspection in EPA Air Docket A-2000-09 at the following address: EPA Docket Center (EPA/DC), Public Reading Room, Room B102, EPA West Building, 1301 Constitution Avenue, 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, except on government holidays. The Air Docket telephone number is (202) 566-1742, and the facsimile number is (202) 566-1741. You may be charged a reasonable fee for photocopying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT:

Robert M. Doyle, Attorney-Advisor, Certification and Compliance Division, (6403), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (U.S. mail), 1301 L Street NW., Washington, DC 20005 (courier mail). Telephone: (202) 343-9258, Fax: (202) 343-2057, E-Mail: Doyle.Robert@EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Obtaining Electronic Copies of Documents

EPA makes available an electronic copy of this Notice and the Agency's Decision Document on the Office of Transportation and Air Quality (OTAQ) homepage (<http://www.epa.gov/OTAQ>). Users can find these documents by accessing the OTAQ homepage and looking at the path entitled "Recent Additions." This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice 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. Background

A. Nonroad Authorizations

Section 209(e)(1) of the Act addresses the permanent preemption of any State, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles.¹

¹ Section 209(e)(1) of the Act provides:

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