

hours of 9 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. It is preferred that an appointment be made in advance of such inspection.

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**Authority:** 5 U.S.C. Appendix 2.

Dated: October 7, 2004.

**Sally L. Stroup,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 04-23017 Filed 10-13-04; 8:45 am]

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## DEPARTMENT OF EDUCATION

### Recognition of Accrediting Agencies, State Agencies for the Approval of Public Postsecondary Vocational Education, and State Agencies for the Approval of Nurse Education

**AGENCY:** National Advisory Committee on Institutional Quality and Integrity, Department of Education (The Advisory Committee).

#### What Is the Purpose of This Notice?

On August 11, 2004, we published a notice in the **Federal Register** to invite written comments on the petition for expansion of scope submitted by the Distance Education and Training Council (DETC) that will be reviewed at the Advisory Committee meeting to be held on December 13-15, 2004. This notice amends the requested scope of recognition to clarify the relationship between an institution's recognition by DETC and the institution's Title IV eligibility. This notice invites written comments on the amended scope of recognition requested by DETC.

#### Petition for an Expansion of Scope

1. Distance Education and Training Council, Accrediting Commission (Current scope of recognition: The accreditation of postsecondary institutions in the United States offering programs primarily by the distance education method up through the first professional degree level. Title IV Note: Accreditation by this agency does not enable the entities it accredits to establish eligibility to participate in Title IV programs.) (Requested scope of recognition: The accreditation of postsecondary institutions in the United States that offer degree programs primarily by the distance education method up through the first professional degree level, and are specifically certified by the agency as accredited for Title IV purposes; and the accreditation of postsecondary institutions in the United States not participating in Title IV that offer programs primarily by the distance education method up through the first professional degree level. Title IV Note: Accreditation by this agency does not enable the entities it accredits to establish eligibility to participate in Title IV programs, other than to permit degree-granting schools certified by DETC as accredited for Title IV purposes to establish eligibility to participate in the Distance Education Demonstration Program.)

#### Where Should I Submit My Comments?

Please submit your written comments by November 15, 2004 to Carol Griffiths, Accrediting Agency Evaluation, Accreditation and State Liaison. You may contact her at the U.S. Department of Education, 1990 K Street, NW., 7th Floor, Room 7105, Washington, DC 20006-8509, telephone: (202) 219-7011. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339.

#### What is the Authority for the Advisory Committee?

The National Advisory Committee on Institutional Quality and Integrity is established under Section 114 of the Higher Education Act (HEA), as amended, 20 U.S.C. 1011c. One of the purposes of the Advisory Committee is to advise the Secretary of Education on the recognition of accrediting agencies and State approval agencies.

#### Will This Be My Only Opportunity To Submit Written Comments?

Yes, this notice announces the only opportunity you will have to submit written comments. However, another **Federal Register** notice will announce the meeting and invite individuals and/

or groups to submit requests to make oral presentations before the Advisory Committee on the agencies that the Committee will review. That notice, however, does not offer an opportunity to submit written comment.

#### What Happens to the Comments That I Submit?

We will review your comments, in response to this notice, as part of our evaluation of the Distance Education and Training Council's compliance with the Secretary's Criteria for Recognition of Accrediting Agencies. The Criteria are regulations found in 34 CFR Part 602 (for accrediting agencies).

We will also respond to your comments, as appropriate, in the staff analysis we present to the Advisory Committee at its December 2004 meeting. Therefore, in order for us to give full consideration to your comments, it is important that we receive them by November 15, 2004. In all instances, your comments regarding the Distance Education and Training Council must relate to the Criteria for Recognition.

#### What Happens To Comments Received After the Deadline?

We will review any comments received after the deadline. If such comments, upon investigation, reveal that the accrediting agency is not acting in accordance with the Criteria for Recognition, we will take action either before or after the meeting, as appropriate.

#### Where Can I Inspect Petitions and Third-Party Comments Before and After the Meeting?

Subject to the provisions of 5 U.S.C. 522, petitions, interim reports, and those third-party comments received in advance of the meeting, will, upon written request, be made available, by appointment, for inspection and copying at the U.S. Department of Education, 1990 K Street, NW., 7th Floor, Room 7105, Washington, DC 20006-8509, telephone (202) 219-7011 until November 17, 2004. They will be available again after the December 13-15 Advisory Committee meeting.

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**Authority:** 5 U.S.C. Appendix 2.

Dated: October 7, 2004.

**Sally L. Stroup,**

*Assistant Secretary for Postsecondary Education.*

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## ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-7827-5]

### California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption for Off-Cycle Emission Test Requirements; Notice of Decision

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

**ACTION:** Notice regarding waiver of federal preemption.

**SUMMARY:** EPA today, pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b), is granting California its request for a waiver of federal preemption for its regulations controlling emissions from off-cycle aggressive driving and air-conditioning usage for motor vehicles under 8,501 pounds gross vehicle weight rating. The California Air Resources Board (CARB) requested that EPA grant California a waiver of federal preemption for its regulations which incorporate EPA's two supplemental federal test procedures (SFTP) and associated certification 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 at the EPA's Air and Radiation Docket at EPA's Docket Center. The Docket Center is open from 8:30 to 4:30 p.m. Monday through Friday, at EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The reference number for this docket is OAR-2003-0187.

Electronic copies of this Notice and the accompanying Decision Document

are available via the Internet on the Office of Transportation and Air Quality (OTAQ) Web site (<http://www.epa.gov/OTAQ>). Users can find these documents by accessing the OTAQ Web site and looking at the path entitled, "Chronological List of All OTAQ Regulations." This service is free of charge, except for any cost you already incur for Internet connectivity. The electronic **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.

**FOR FURTHER INFORMATION CONTACT:**

David J. Dickinson, Certification and Compliance Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405), NW., Washington, DC 20460. Telephone: (202) 343-9256. E-Mail address: [Dickinson.David@EPA.GOV](mailto:Dickinson.David@EPA.GOV).

**SUPPLEMENTARY INFORMATION:** 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 regarding emissions from off-cycle aggressive driving (US06) and air-conditioning (SC03) as set forth at 13 California Code of Regulations 1960.1, 2062, and 2101 and the incorporated "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," "California New vehicle Compliance Test Procedure," and "California Assembly-Line Test Procedures for 1988 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles."

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 its off-cycle aggressive driving and air-conditioning

usage 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. EPA received no comments that questioned CARB's determination. EPA cannot make a finding that CARB's determination, that its requirements are, in the aggregate, at least as protective of public health and welfare, is arbitrary and 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. No information has been presented to demonstrate that CARB's requirements are inconsistent with section 202(a) of the Act, nor does EPA have any other reason to believe that CARB's requirements are inconsistent with section 202(a). Thus, I cannot find that California's requirements 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 Appeal for the District of Columbia Circuit. Petitions for review must be filed by December 13, 2004. 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 Executive Order 12866. Therefore, it is