

raise new issues affecting EPA's previous waiver determinations? (3) If EPA were to consider CARB's requests as a new waiver request, then provide comment on (a) 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, (b) whether California needs separate standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

## II. Procedures for Public Participation

If a public hearing is held, any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material with David Dickinson at the address listed above no later than December 23, 2005. 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 that he or she deems irrelevant or repetitious and to impose reasonable time 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 January 25, 2006. 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 that he 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 decision in part on a submission labeled CBI, then a nonconfidential version of the document that 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 EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: November 3, 2005.

**Elizabeth Craig,**

*Acting Assistant Administrator, for Air and Radiation.*

[FR Doc. 05-22996 Filed 11-18-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-7994-9]

### California State Nonroad Engine and Vehicle Pollution Control Standards; Opportunity for Public Hearing and Request for Public Comment

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

**ACTION:** Notice of opportunity for public hearing and comment.

**SUMMARY:** The California Air Resources Board (CARB) has notified EPA that it has adopted an Airborne Toxic Control Measure (ATCM) establishing in-use performance standards for transport refrigeration units (TRU) and TRU generator sets that will be phased-in commencing on December 31, 2008. By letter dated March 28, 2005, CARB requested that EPA grant California authorization for such standards under section 209(e)(2) of the Clean Air Act (CAA), 42 U.S.C. 7543(b) (EPA frequently calls such authorizations "waivers of preemption"). This notice announces that EPA has tentatively scheduled a public hearing concerning California's request and that EPA is accepting written comment on the request.

**DATES:** EPA has tentatively scheduled a public hearing concerning CARB's request on January 3, 2006 beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by December 16, 2005, expressing its interest in presenting oral testimony. By December 21, 2005, any person who plans to attend the hearing should call Robert M. Doyle at (202) 343-9258 to learn if a hearing will be held. If EPA does not receive a request for a public hearing,

then EPA will not hold a hearing, and instead consider CARB's request based on written submissions to the docket. Any party may submit written comments by February 6, 2006.

**ADDRESSES:** EPA will make available for public inspection at the Air and Radiation Docket and Information Center written comments received from interested parties, in addition to any testimony given at the public hearing. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 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 Air and Radiation Docket is (202) 566-1743. The reference number for this docket is OAR-2005-0123. Parties wishing to present oral testimony at the public hearing should provide written notice to Robert M. Doyle at the address noted below. If EPA receives a request for a public hearing, EPA will hold the public hearing at 1310 L St., NW., Washington, DC 20005.

#### FOR FURTHER INFORMATION CONTACT:

Robert M. Doyle, Compliance and Innovative Strategies Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Telephone: (202) 343-9258, Fax: (202) 343-2804, e-mail address: [Doyle.Robert@EPA.GOV](mailto:Doyle.Robert@EPA.GOV). EPA will make available an electronic copy of this Notice on the Office of Transportation and Air Quality's (OTAQ's) homepage (<http://www.epa.gov/otaq/>). Users can find this document by accessing the OTAQ homepage and looking at the path entitled "Regulations." 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. Parties wishing to present oral testimony at the public hearing should provide written notice to Robert M. Doyle at: U.S. Environmental Protection Agency, 1200 Pennsylvania

Ave., NW., (6405J), Washington, DC 20460. Telephone: (202) 343-9258.

**Docket:** An electronic version of the public docket is available through EPA's electronic public docket and comment system. 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. Although a part of the official docket, the public docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Once in the edocket system, select "search," then key in the appropriate docket ID number.

#### SUPPLEMENTARY INFORMATION:

##### (A) Background and Discussion

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.<sup>1</sup>

Section 209(e)(2) of the Act allows the Administrator to grant California authorization to enforce state standards for new nonroad engines or vehicles which are not listed under section 209(e)(1), subject to certain restrictions. On July 20, 1994, EPA promulgated a regulation that sets forth, among other things, the criteria, as found in section 209(e)(2), by which EPA must consider any California authorization requests for new nonroad engines or vehicle emission standards (section 209(e) rules).<sup>2</sup>

Section 209(e)(2) requires the Administrator, after notice and opportunity for public hearing, to authorize California to enforce standards and other requirements relating to emissions control of new engines not listed under section 209(e)(1).<sup>3</sup> The section 209(e) rule and

its codified regulations<sup>4</sup> formally set forth the criteria, located in section 209(e)(2) of the Act, by which EPA must grant California authorization to enforce its new nonroad emission standards and they are as follows:

(a) The Administrator shall grant the authorization if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

(b) The authorization shall not be granted if the Administrator finds that:

(1) The determination of California is arbitrary and capricious;

(2) California does not need such California standards to meet compelling and extraordinary conditions; or

(3) California standards and accompanying enforcement procedures are not consistent with section 209.

As stated in the preamble to the section 209(e) rule, EPA has interpreted the requirement "California standards and accompanying enforcement procedures are not consistent with section 209" to mean that California standards and accompanying enforcement procedures must be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C), as EPA has interpreted that subsection in the context of motor vehicle waivers.<sup>5</sup> In order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. Secondly, California's nonroad standards and enforcement procedures must be consistent with section 209(e)(1), which identifies the categories permanently preempted from state regulation.<sup>6</sup> California's nonroad standards and enforcement procedures would be considered inconsistent with section 209 if they applied to the categories of engines or vehicles identified and preempted from State regulation in section 209(e)(1).

Finally, because California's nonroad standards and enforcement procedures must be consistent with section 209(b)(1)(C), EPA reviews nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests. Under section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if he finds that California "standards and accompanying enforcement procedures are not

consistent with section 202(a)" of the Act. As previous decisions granting waivers of Federal preemption for motor vehicles have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time period or if the Federal and State test procedures impose inconsistent certification procedures.<sup>7</sup>

CARB's March 28, 2005 letter to the Administrator notified EPA that it had adopted an Airborne Toxic Control Measure (ATCM) on February 26, 2004 establishing in-use performance standards for TRUs and TRU generator sets. This regulation can be found at title 13, California Code of Regulations (CCR), division 3, section 2477.

##### Procedures for Public Participation

In recognition that public hearings are 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 that he or she deems irrelevant or repetitious and to impose reasonable time 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 February 6, 2006. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing(s), if any, relevant written submissions, and other information that he deems pertinent. All information will be available for inspection at EPA Air Docket. (OAR-2005-0123).

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

<sup>1</sup> 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 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. (B) New locomotives or new engines used in locomotives. Subsection (b) shall not apply for purposes of this paragraph.

<sup>2</sup> See 59 FR 36969 (July 20, 1994), and regulations set forth therein, 40 CFR part 85, subpart Q, §§ 85.1601-85.1606.

<sup>3</sup> As discussed above, states are permanently preempted from adopting or enforcing standards relating to the control of emissions from new engines listed in section 209(e)(1).

<sup>4</sup> See 40 CFR part 85, subpart Q, § 85.1605.

<sup>5</sup> See 59 FR 36969, 36983 (July 20, 1994).

<sup>6</sup> Section 209(e)(1) of the Act has been implemented, see 40 CFR part 85, subpart Q §§ 85.1602, 85.1603.

<sup>7</sup> To be consistent, the California certification procedures need not be identical to the Federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and the Federal requirement with the same test vehicle in the course of the same test. See e.g., 43 FR 32182 (July 25, 1978).

decision in part on a submission labeled CBI, then a nonconfidential version of the document that 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 EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: November 3, 2005.

**Elizabeth Craig,**

*Acting Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 05-22995 Filed 11-18-05; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection(s) Requirement Submitted to OMB for Emergency Review and Approval

November 16, 2005.

**SUMMARY:** The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 21, 2005. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Kristy L. LaLonde, Office of Management and Budget, Room 10234 NEOB, Washington, DC 20503, (202) 395-3087, or via fax at 202-395-5167 or via Internet at [Kristy\\_L.\\_LaLonde@omb.eop.gov](mailto:Kristy_L._LaLonde@omb.eop.gov), and Judith B. Herman, Federal Communications Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554. You may submit your Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail, send them to: [PRA@fcc.gov](mailto:PRA@fcc.gov). To submit your comments by U.S. mail, mark it to the attention of Judith B. Herman, Federal Communications Commission, 445 12th Street, SW., Room 1-C804, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection(s), send an e-mail to [PRA@fcc.gov](mailto:PRA@fcc.gov) or contact Judith B. Herman at 202-418-0214.

**SUPPLEMENTARY INFORMATION:** The Commission has requested emergency OMB processing review of this new information collection with an OMB approval by November 18, 2005.

*OMB Control Number:* 3060-1004.

*Title:* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems.

*Form No.:* N/A.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit, not-for-profit institutions, and state, local and tribal government.

*Number of Respondents:* 50 respondents; 213 responses.

*Estimated Time Per Response:* 5-200 hours.

*Frequency of Response:* Quarterly, semi-annual and one-time reporting requirements, third party disclosure requirement, and recordkeeping requirement.

*Total Annual Burden:* 1,202 hours.

*Total Annual Cost:* N/A.

*Privacy Act Impact Assessment:* N/A.  
*Needs and Uses:* The Commission is seeking emergency OMB processing of this information collection by November 18, 2005. We have revised this information collection because on October 21, 2005, the Commission

released an order (FCC 05-181) finding that certain Tier III carriers did not sufficiently support their requests for waiver of the E911 rules, but providing the carriers with additional time, until July 21, 2006, to augment the record to show a clear path to full compliance with the E911 requirements. The Commission also imposed conditions and required Tier III carriers to file separate status reports by November 21, 2005, and commencing February 1, 2006, additional status reports on a quarterly basis, for a two-year period.

In addition, on October 28, 2005 (FCC 05-182) and on November 3, 2005 (FCC 05-188), in response to requests for relief submitted by certain Tier III carriers, the Commission released orders that granted, in part, limited extensions of the December 31, 2005 requirement, subject to conditions, and required Tier III carriers to file status reports on a quarterly basis, for a two-year period beginning on February 1, 2006. Further, FCC 05-188 required one Tier III carrier, in addition to the quarterly reporting requirements, to submit a compliance plan by November 3, 2006.

The Commission will use the information submitted by Tier III carriers subject to reporting requirements to ensure that they comply with the Commission's E911 requirements and the terms of the underlying orders addressing their requests for waiver relief.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 05-23098 Filed 11-18-05; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Meeting of the President's Council on Bioethics on December 8-9, 2005

**AGENCY:** The President's Council on Bioethics, HHS.

**ACTION:** Notice.

**SUMMARY:** The President's Council on Bioethics (Edmund D. Pellegrino, MD, Chairman) will hold its twenty-second meeting, at which, among other things, it will discuss ethical issues relating to children. Subjects discussed at past Council meetings (though not on the agenda for the present one) include: Cloning, assisted reproduction, reproductive genetics, IVF, ICSI, PGD, sex selection, inheritable genetic modification, patentability of human organisms, neuroscience, aging