

### What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: January 24, 2011.

**Elizabeth Craig**,

*Acting Director, Office of Atmospheric Programs.*

[FR Doc. 2011-1921 Filed 1-28-11; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

[FRL-9260-4]

#### California State Motor Vehicle Pollution Control Standards; Greenhouse Gas Regulations; Within-the-Scope Request; Opportunity for Public Hearing

**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 amendments to its passenger vehicle greenhouse gas (GHG) emissions program. These amendments were formally adopted by CARB's Board in September 2009 and February 2010. By letter dated June 28, 2010, CARB submitted a request seeking EPA's confirmation that these amendments are within-the-scope of the waiver of preemption issued by EPA under section 209(b) of the Clean Air Act on June 30, 2009. This notice announces that EPA has tentatively scheduled a public hearing and is accepting written comment on California's request.

**DATES:** EPA has tentatively scheduled a public hearing concerning CARB's request on Thursday, February 17, 2011, beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by February 7, 2011, expressing interest in presenting oral testimony. By February 11, 2011, any person who plans to attend the hearing should call Kristien Knapp at (202) 343-9949, to learn if a hearing will be held. Interested parties

may also refer to <http://www.epa.gov/otaq/cafr.htm> for information regarding the tentatively scheduled hearing.

Parties wishing to present oral testimony at the public hearing should provide written notice to Kristien Knapp at the e-mail address noted below. If EPA receives a request for a public hearing, that hearing will be held in Room 1332A of the Ariel Rios North Building, which is located at 1200 Pennsylvania Avenue, NW., Washington, DC 20004.

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 until March 17, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID EPA-HQ-OAR-2010-0653, by one of the following methods:

- *On-Line at <http://www.regulations.gov>:* Follow the On-Line Instructions for Submitting Comments.
- *E-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).*
- *Fax: (202) 566-1741.*
- *Mail: Air and Radiation Docket, Docket ID EPA-HQ-OAR-2010-0653, U.S. Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.*
- *Hand Delivery: EPA Docket Center, Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.*

*On-Line Instructions for Submitting Comments:* Direct your comments to Docket ID EPA-HQ-OAR-2010-0653. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail

address will automatically be captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

EPA will make available for public inspection materials submitted by CARB, written comments received from any interested parties, and any testimony given at the public hearing. Materials relevant to this proceeding are contained in the Air and Radiation Docket and Information Center, maintained in Docket ID EPA-HQ-OAR-2010-0653. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open to the public on all Federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566-1744. The Air and Radiation Docket and Information Center's Web site is <http://www.epa.gov/oar/docket.html>. The electronic mail (e-mail) address for the Air and Radiation Docket is: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov), the telephone number is (202) 566-1742, and the fax number is (202) 566-9744. An electronic version of the public docket is available through the Federal government's electronic public docket and comment system. You may access EPA docket at <http://www.regulations.gov>. After opening the <http://www.regulations.gov> Web site, enter EPA-HQ-OAR-2010-0653 in the "Enter Keyword or ID" fill-in box to view documents in the record. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its

review of California waiver requests. Included on that page are links to prior waiver **Federal Register** notices which are cited in today's notice; the page can be accessed at <http://www.epa.gov/otaq/cafr.htm>. Interested parties may also refer to the Web page for updated information on whether a hearing will held.

**FOR FURTHER INFORMATION CONTACT:** Kristinn Knapp, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405J), NW., Washington, DC 20460. *Telephone:* (202) 343-9949. *Fax:* (202) 343-2804. *E-mail:* [knapp.kristien@epa.gov](mailto:knapp.kristien@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Chronology**

By letter dated December 21, 2005, CARB submitted to EPA a request seeking a waiver of preemption under section 209(b) of the Clean Air Act for California's passenger motor vehicle greenhouse gas (GHG) regulations. EPA originally denied CARB's request for a waiver of preemption in a **Federal Register** notice dated March 6, 2008.<sup>1</sup> CARB subsequently submitted a request that EPA reconsider that waiver denial on January 21, 2009. EPA's decision on reconsideration—granting California's waiver request—was issued on June 30, 2009, and published in the **Federal Register** on July 8, 2009.<sup>2</sup>

**II. CARB's Passenger Vehicle GHG Amendments**

In September 2009, CARB adopted its "Section 177 State 'Pooling' Amendments" that include provisions intended to streamline manufacturers' obligations by: (1) Providing manufacturers with the option of pooling vehicle sales across California and in States that have adopted California's GHG standards starting with model years 2009 through 2011,<sup>3</sup> and (2) revising its certification requirements to accept data from the Corporate Average Fuel Economy (CAFE) program.<sup>4</sup> Then in February 2010, CARB adopted its "2012–2016 Model Year National Program Amendments" that allow manufacturers to use the National Program greenhouse gas standards as deemed to comply with the California standards during the respective 2012 through 2016 model years.<sup>5</sup> By letter

dated June 28, 2010, CARB submitted a request seeking EPA's confirmation that these two sets of amendments are within-the-scope of the waiver of preemption issued by EPA under section 209(b) of the Clean Air Act on June 30, 2009.

**III. Clean Air Act Waivers of Preemption**

Section 209(a) of the Clean Air Act preempts States and local governments from setting emission standards for new motor vehicles and engines; it provides:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Through operation of section 209(b) of the Act, California is able to seek and receive a waiver of section 209(a)'s preemption. If certain criteria are met, section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a). A waiver can be granted for any State that had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards (this is known as California's "protectiveness determination"). Because California was the only State to have adopted standards prior to 1966, it is the only State that is qualified to seek and receive a waiver.<sup>6</sup> The Administrator must grant a waiver unless she finds that: (A) California's above-noted "protectiveness determination" is arbitrary and capricious;<sup>7</sup> (B) California does not need such State standards to meet compelling and extraordinary conditions;<sup>8</sup> or (C) California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.<sup>9</sup> Regarding consistency with section 202(a), EPA reviews California's

standards for technological feasibility and evaluates testing and enforcement procedures to determine whether they would be inconsistent with Federal test procedures (e.g., if manufacturers would be unable to meet both California and Federal test requirements using the same test vehicle).<sup>10</sup>

**IV. Within-the-Scope Determinations**

If California amends regulations that were previously granted a waiver of preemption, EPA can confirm that the amended regulations are within-the-scope of the previously granted waiver if three conditions are met. First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards. Second, the amended regulations must not affect consistency with section 202(a) of the Act. Third, the amended regulations must not raise any "new issues" affecting EPA's prior waivers.

**V. EPA's Request for Comments**

When EPA receives new waiver requests from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment, and then publishes a decision in the **Federal Register** following the conclusion of the comment period. In contrast, when EPA receives a request from CARB for a within-the-scope confirmation, EPA may publish a decision in the **Federal Register** and concurrently invite public comment if an interested party is opposed to EPA's decision.

Although CARB's request regarding its "Section 177 State 'Pooling' Amendments" and its "2012–2016 Model Year National Program Amendments" was submitted as a within-the-scope request, EPA is inviting comment on several issues. Within the context of a within-the-scope analysis, EPA invites comment on whether California's standards: (1) Undermine California's previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (2) affect the consistency of California's requirements with section 202(a) of the Act, and (3) raise any other new issues affecting EPA's previous waiver determinations. EPA is also requesting comment on issues relevant to a full waiver analysis, in the event that EPA determines that California's standards should not be considered within-the-scope of CARB's

<sup>1</sup> 73 FR 12,156 (March 6, 2008).

<sup>2</sup> 74 FR 32,744 (July 8, 2009).

<sup>3</sup> California Code of Regulations, Title 13 § 1961.1(a)(1)(A)(i).

<sup>4</sup> California Code of Regulations, Title 13 § 1961(a)(1)(B).

<sup>5</sup> California Code of Regulations, Title 13 § 1961.1(a)(1)(A)(ii). The National Program referred

to in California's regulation and promulgated by EPA and NHTSA can be found at 75 FR 25323 (May 7, 2010).

<sup>6</sup> See S.Rep. No. 90–403 at 632 (1967).

<sup>7</sup> Clean Air Act (CAA) section 209(b)(1)(A).

<sup>8</sup> CAA section 209(b)(1)(B).

<sup>9</sup> CAA section 209(b)(1)(C).

<sup>10</sup> See, e.g., 74 FR at 32767 (July 8, 2009); see also *Motor and Equipment Manufacturers Association v. EPA (MEMA I)*, 627 F.2d 1095, 1126 (DC Cir. 1979).

previous waivers, and instead require a full waiver analysis. Specifically, please comment on: (a) Whether CARB's determination that its standards, in the aggregate, 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.

## VI. Procedures for Public Participation

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 17, 2011. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at the EPA Air Docket EPA-HQ-OAR-2010-0653.

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" (CBI). If a person making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that proprietary information is not inadvertently placed in the public 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 according to 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: January 25, 2011.

**Margo T. Oge,**

*Director, Office of Transportation and Air Quality, Office of Air and Radiation.*

[FR Doc. 2011-2045 Filed 1-28-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-SFUND-2010-1086; FRL-9260-1]

### Potential Addition of Vapor Intrusion Component to the Hazard Ranking System

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

**ACTION:** Notice of Opportunity for Public Input.

**SUMMARY:** The Environmental Protection Agency ("EPA") is soliciting stakeholder input on whether to include a vapor intrusion component to the Hazard Ranking System ("HRS"). The HRS is the principal mechanism EPA uses to place sites on the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) National Priorities List (NPL). This potential addition would allow the HRS to directly consider the human exposure to contaminants that enter building structures through the subsurface environment and thus, enabling sites with vapor intrusion contamination to be evaluated for placement on the NPL. EPA is accepting public feedback on specific topics related to the potential HRS revision (see **SUPPLEMENTARY INFORMATION** section of this Notice), and will consider information gathered during this comment period, as well as input from three public listening sessions before making a decision on whether to issue a proposed rulemaking to add a vapor intrusion component to the HRS. The Agency is requesting comments only regarding this potential addition to the HRS. The Agency is not considering changes to the remainder of the HRS.

**DATES:** Comments on the topics identified in the **SUPPLEMENTARY INFORMATION** section of this notice must be submitted (postmarked) on or before April 16, 2011.

**ADDRESSES:** Submit comments on the topics identified in the **SUPPLEMENTARY INFORMATION** section of this notice, identified by Docket ID No. EPA-HQ-SFUND-2010-1086, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov).
- *Fax:* (202) 566-9744.
- *Mail:* U.S. Environmental Protection Agency; EPA Docket Center, Superfund Docket, Mail Code 28221T; 1200 Pennsylvania Avenue, NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center—Public Reading Room; EPA

West Building, Room 3334; 1301 Constitution Avenue, NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

- *Listening Session:* Oral and written comments on the topics in the **SUPPLEMENTARY INFORMATION** section of this Notice will be accepted at each of the three listening sessions. Follow the instructions provided on the listening session Web site at <http://www.epa.gov/superfund/sites/npl/hrsaddition.htm> for preparing written comments to be submitted at one of the listening sessions.

*Instructions:* Direct comments on the topics identified in the **SUPPLEMENTARY INFORMATION** section of this notice to Docket ID No. EPA-HQ-SFUND-2010-1086. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or [superfund.docket@epa.gov](mailto:superfund.docket@epa.gov). Note that the <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment.

If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and along with any disk or CD-ROM submitted. 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.

Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is