

relating to the control of emissions from new engines not listed under section 209(e)(1), if certain criteria are met. EPA has promulgated regulations implementing these provisions at 40 CFR part 1074. These regulations set forth the criteria that EPA must consider before granting California authorization to enforce its new nonroad emission standards.<sup>4</sup>

As stated in the preamble to the section 209(e) rule, EPA has historically interpreted the section 209(e)(2)(iii) "consistency" inquiry to require, at minimum, that California standards and enforcement procedures 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 section 209(b) 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. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from state regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests. Pursuant to section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act. Previous decisions granting waivers and authorizations have noted that state

<sup>4</sup>Title 40 of the Code of Federal Regulations, part 1074.105 provides:

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

(b) The authorization will not be granted if the Administrator finds that any of the following are true:

(1) California's determination is arbitrary and capricious.

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

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

(c) In considering any request from California to authorize the state to adopt or enforce standards or other requirements relating to the control of emissions from new nonroad spark-ignition engines smaller than 50 horsepower, the Administrator will give appropriate consideration to safety factors (including the potential increased risk of burn or fire) associated with compliance with the California standard.

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

standards and enforcement procedures are inconsistent with section 202(a) if: (1) There is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the Federal and state testing procedures impose inconsistent certification requirements.

### III. Procedures for Public Participation

As stated above, EPA is offering the opportunity for a public hearing, and requesting written comment on issues relevant to a full authorization analysis. Specifically, we request 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 such standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 209 of the Act.

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 24, 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 No. EPA-HQ-OAR-2011-0101.

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: February 3, 2011.

**Lori Stewart,**

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

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9264-6]

### Science Advisory Board Staff Office; Notification of a Public Meeting of a Science Advisory Board Work Group

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

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office announces a public meeting of a work group of the Chartered Science Advisory Board to discuss the President's FY 2012 Budget Request for the EPA Office of Research and Development.

**DATES:** The meeting dates are March 3, 2011 from 1 p.m. to 6 p.m. and March 4, 2011 from 8 a.m. to 4 p.m. (Eastern Time).

**ADDRESSES:** The meeting will be held at the Four Points by Sheraton, 1201 K Street, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing to obtain general information concerning this public meeting should contact Dr. Angela Nugent, Designated Federal Officer (DFO), EPA Science Advisory Board (1400R), 1200 Pennsylvania Ave., NW., Washington, DC 20460; via telephone/voice mail: (202) 564-2218; fax: (202) 565-2098; or e-mail at [nugent.angela@epa.gov](mailto:nugent.angela@epa.gov). General information concerning the EPA Science Advisory Board can be found on the SAB Web site at <http://www.epa.gov/sab>.

**SUPPLEMENTARY INFORMATION:** The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDA), codified at 42 U.S.C. 4365, to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that a work group of the chartered SAB will hold a public meeting to discuss the President's requested Fiscal

Year 2012 Budget to support EPA research needs. The SAB work group and the SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

**Background:** The chartered SAB conducts a review of the EPA research budget annually and provides written comments to the EPA Administrator and to Congress, as requested, on the adequacy of EPA's requested research budget. At the meeting, a work group of the chartered SAB will receive briefings on the requested research budget for Fiscal Year 2012 and develop a draft report for review by the full chartered SAB. The report will provide comments on the requested budget, in light of EPA's research needs. Previous SAB budget advisories are on the SAB Web site at <http://www.epa.gov/sab>.

**Availability of Meeting Materials:** The agenda and other materials in support of the meeting will be placed on the SAB Web site at <http://www.epa.gov/sab> in advance.

**Procedures for Providing Public Input:** Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit comments on the topics included in this advisory activity and/or the group conducting the activity. They should send their comments directly to the Designated Federal Officer for the relevant advisory committee. **Oral Statements:** In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Dr. Nugent, DFO, in writing (preferably via e-mail) at the contact information noted above by February 28, 2011 to be placed on a list of public speakers for the meeting.

**Written Statements:** Written statements should be received in the SAB Staff Office by February 28, 2011 so that the information may be made available to the chartered SAB members for their consideration and placed on the SAB Web site for public information. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF,

WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Submitters are asked to provide versions of each document submitted with and without signatures, because the SAB Staff Office does not publish documents with signatures on its Web sites.

**Accessibility:** For information on access or services for individuals with disabilities, please contact Dr. Angela Nugent at (202) 564-2218, or [nugent.angela@epa.gov](mailto:nugent.angela@epa.gov). To request accommodation of a disability, please contact Dr. Nugent, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 3, 2011,

**Anthony Maciorowski,**

Deputy Director, EPA Science Advisory Board Staff Office.

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Fracturing Study Plan should be directed to Susan Burden, EPA Office of Research and Development (ORD), at [burden.susan@epa.gov](mailto:burden.susan@epa.gov) or (202) 564-6308. Media inquiries regarding EPA's Draft Hydraulic Fracturing Study Plan should be directed to Ms. Amy Dewey, EPA Office of Public Affairs (OPA), at [dewey.amy@epa.gov](mailto:dewey.amy@epa.gov) or (202) 564-7816.

#### SUPPLEMENTARY INFORMATION:

**Background:** The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDA), codified at 42 U.S.C. 4365 to provide independent scientific and technical advice to the Administrator on the technical basis for Agency positions and regulations. The SAB is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Pursuant to FACA and EPA policy, notice is hereby given that an ad hoc SAB Panel will hold a public meeting to review EPA's Draft Hydraulic Fracturing Study Plan. The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

The EPA Draft Study Plan develops research questions and identifies research needs, and proposes an approach to: (1) Gather existing data and information, including input from stakeholders; (2) catalog potential impacts of hydraulic fracturing on drinking water resources; and (3) identify data gaps. EPA is seeking SAB review and comment regarding the Draft Study Plan. The SAB Staff Office previously announced that it was forming an SAB ad hoc Panel to provide independent expert advice on EPA's Draft Hydraulic Fracturing Study Plan (75 FR 42087-42088, July 20, 2010). The purpose of the March 7-8, 2011, meeting is for the Panel to discuss their review comments on EPA's Draft Study Plan.

**Availability of Meeting Materials:** The agenda and the EPA Draft Study Plan will be available on the SAB Web site at <http://www.epa.gov/sab> in advance of the meeting.

**Procedures for Providing Public Input:** Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9264-5]

### Science Advisory Board Staff Office; Notification of a Public Meeting of the Science Advisory Board Panel for the Review of EPA's Hydraulic Fracturing Study Plan

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

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public face-to-face meeting of the SAB Panel to conduct an independent review of EPA's Draft Hydraulic Fracturing Study Plan.

**DATES:** The meeting will be held on March 7, 2011 from 9 a.m. to 5 p.m., and March 8, 2011 from 8 a.m. to 5 p.m. (Eastern Time).

**ADDRESSES:** The Panel meeting will be held at the Westin Alexandria Hotel located at 400 Courthouse Square, Alexandria, VA 22314.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this meeting may contact Mr. Edward Hanlon, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564-2134; by fax at (202) 565-2098 or via e-mail at [hanlon.edward@epa.gov](mailto:hanlon.edward@epa.gov). General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at <http://www.epa.gov/sab>. Any inquiry regarding EPA's Draft Hydraulic