

program in achieving the objectives of the regulations. The Forms are required before making customs entry; see 19 CFR 12.73 and 12.74.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.81 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of the Agency's estimate, which is only briefly summarized here:

*Estimated total number of potential respondents:* 4,801.

*Frequency of response:* Once per entry. (One form per shipment may be used).

*Estimated total average number of responses for each respondent:* 2.5.

*Estimated total annual burden hours:* 6,029.

*Estimated total annual costs:* \$299,481. This includes an estimated burden cost of \$261,479 and an estimated cost of \$38,002 for capital investment or maintenance and operational costs.

#### **Are there changes in the estimates from the last approval?**

There are no changes in the number of hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. Form 3520-21 has remained relatively unchanged since the previous renewal and therefore the burden for filling in the form remains unchanged.

#### **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: June 22, 2011.

**Karl J. Simon,**

*Director, Compliance and Innovative Strategies Division.*

[FR Doc. 2011-16356 Filed 6-28-11; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

[FRL-9427-1]

### **California State Nonroad Engine Pollution Control Standards; Commercial Harbor Craft Regulations; Opportunity for Public Hearing and 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 regulations for the control of emissions of particulate matter and oxides of nitrogen from new and in-use diesel-fueled engines on commercial harbor craft. CARB has requested that EPA issue a new authorization under section 209(e) of the Clean Air Act for the emission standards established by these regulations. This notice announces that EPA has tentatively scheduled a public hearing to consider California's authorization request, and that EPA is now accepting written comments on the request.

**DATES:** EPA has tentatively scheduled a public hearing concerning CARB's request for July 21, 2011, at 1 p.m. EST. EPA will hold a hearing only if any party notifies EPA by July 15, 2011, expressing its interest in presenting oral testimony. 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 at 1310 L Street, NW., Washington, DC 20005. If EPA does not receive a request for a public hearing, then EPA will not hold a hearing, and will instead consider CARB's request based on written submissions to the docket. Any party may submit written comments until August 22, 2011.

By July 20, 2011, any person who plans to attend the hearing may call

Tayyaba Waqar at (202) 343-9182, to learn if a hearing will be held.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2011-0549, 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 No. EPA-HQ-OAR-2011-0549, 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 No. EPA-HQ-OAR-2011-0549. EPA's policy is that all comments we receive 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> website 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 No. EPA-HQ-OAR-2011-0549. 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 dockets at <http://www.regulations.gov>. After opening the <http://www.regulations.gov> website, enter EPA-HQ-OAR-2010-0549, 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 webpage that contains general information on its review of California waiver requests. Included on that page are links to prior waiver and authorization **Federal Register** notices; the page can be accessed at <http://www.epa.gov/otaq/cafr.htm>.

**FOR FURTHER INFORMATION CONTACT:** Kristien G. Knapp, Attorney-Advisor, Compliance and Innovative Strategies Division, Office of Transportation and Air Quality, 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. California's Commercial Harbor Craft Regulations

In a letter dated April 12, 2010, CARB submitted to EPA its request pursuant to section 209(e) of the Clean Air Act ("CAA" or "the Act"), regarding its regulations to enforce emission standards for new and in-use commercial harbor craft operated within California waters and twenty-four nautical miles of the California baseline ("commercial harbor craft regulations" or "CHC regulations").<sup>1</sup> The CARB Board approved the commercial harbor craft regulations at its November 15, 2007 hearing (by Resolution 07-47).<sup>2</sup> After making modifications, as directed by the Board, CARB's Executive Officer formally adopted the rulemaking in Executive Order R-08-007 on September 2, 2008.<sup>3</sup> CARB's commercial harbor craft regulations became operative under California state law on November 19, 2008.<sup>4</sup> The regulations are codified in title 13, California Code of Regulations (CCR), section 2229.5 and title 17, CCR section 93118.5.<sup>5</sup> California's commercial harbor craft regulations establish emission standards; requirements related to the control of emissions; and enforcement provisions. The requirements are applicable to diesel propulsion and auxiliary engines on new and in-use commercial harbor crafts, with some exceptions.<sup>6</sup> Commercial harbor craft include a variety of different types of vessels, including ferries, excursion vessels, tugboats, towboats, and commercial and charter fishing boats. Approximately eighty percent of commercial harbor craft engines operating in California are previously unregulated diesel engines, accounting for approximately 3.3 tons per day (tpd) of diesel particulate matter (PM) and 73 tpd of oxides of nitrogen (NO<sub>x</sub>). California's commercial harbor craft regulations aim to reduce these emissions so that California can meet the 2014 National Ambient Air Quality Standards (NAAQS) deadline for PM<sub>2.5</sub>

<sup>1</sup> Letter from James Goldstene to Lisa P. Jackson, EPA-HQ-OAR-2011-0549-0001.

<sup>2</sup> CARB Attachment 10, Resolution 07-47, EPA-HQ-OAR-2011-0549-0027.

<sup>3</sup> CARB Attachment 11, Executive Order R-08-007, EPA-HQ-OAR-2011-0549-0030.

<sup>4</sup> See CARB Attachment 16, California Office of Administrative Law, Approval Notice, EPA-HQ-OAR-2011-0549-0035.

<sup>5</sup> See CARB Attachment 15, California Office of Administrative Law, Final Regulation Order, EPA-HQ-OAR-2011-0549-0034.

<sup>6</sup> See CARB, Authorization Support Document, p. 5, EPA-HQ-OAR-2011-0549-0002.

in the South Coast Air Basin. The commercial harbor craft regulations apply separately to new and in-use engines used on harbor craft.<sup>7</sup>

For new harbor crafts, each propulsion and auxiliary diesel engine on the vessel is required to be certified to the most stringent federal new marine engine emissions standards for that engine's power rating and displacement in effect at the time of sale, lease, rent, or acquisition. The regulation imposes additional requirements for larger new ferries (with the capacity to transport seventy-five or more passengers), either by using best available control technology ("BACT"),<sup>8</sup> or by using a federal Tier 4 certified propulsion engine.

For in-use harbor craft, newly acquired new or in-use harbor craft may not be sold, offered for sale, leased, rented, or acquired unless the diesel propulsion or auxiliary engines are certified to at least the federal Tier 2 or Tier 3 marine emission standards for new engines of the same power rating and displacement. In-use emission requirements are imposed on Tier 0 and Tier 1 marine engines in ferries, excursion vessels, tugboats, towboats, push boats, and multipurpose harbor craft. Those harbor crafts are required to meet emission limits equal to or cleaner than the federal new marine engine certification standards in effect for the year that in-use engine compliance is required.

California's commercial harbor craft regulations also impose requirements related to monitoring, reporting and recordkeeping of compliance on owners and operators of new and in-use harbor craft. Subject to CARB approval, harbor craft owners and operators may opt to meet requirements by implementing alternative emission control strategies.<sup>9</sup>

### II. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Act permanently preempts any State, or political subdivision thereof, from

<sup>7</sup> CARB, Authorization Support Document, EPA-HQ-OAR-2011-0549-0002.

<sup>8</sup> BACT is the diesel emission control strategy (DECS) determined by CARB to be the greatest feasible reduction of NO<sub>x</sub> or PM when used with the ferry's propulsion engines and does not result in an increase of ten percent or more of any air pollutant including NO<sub>x</sub> or PM, relative to the engine's emission of that air pollutant without the use of BACT and use of DECS on or with engine does not invalidate or otherwise adversely affect the propulsion engine's original warranty.

<sup>9</sup> Alternative emission control strategies can include engine modification, exhaust after-treatment control, engine repower, use of alternative fuels or fuel additives, or fleet averaging. See CARB, Authorization Support Document, EPA-HQ-OAR-2011-0549-0002.

adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles. 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 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>10</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>11</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 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. EPA's Request for Comments

As stated above, EPA is offering the opportunity for a public hearing, and requesting written comment on issues relevant to a full section 209(e) 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.

### IV. 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 August 22, 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-2011-0549.

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: June 24, 2011.

**Margo T. Oge,**

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

[FR Doc. 2011-16398 Filed 6-28-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-9426-9]

### California State Nonroad Engine Pollution Control Standards; Ocean-Going Vessels At-Berth in California Ports; Opportunity for Public Hearing and 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 airborne toxic control measures for auxiliary diesel engines operated on ocean-going vessels at-berth in California ports ("At-Berth Regulation"). The At-Berth Regulation is designed to reduce emissions of oxides of nitrogen and particulate matter from auxiliary diesel engines on container vessels, passenger vessels and refrigerated cargo vessels while they are docked at specified California ports. CARB has requested that EPA grant a new full authorization pursuant to Clean Air Act section 209(e) for this regulation. This notice announces that EPA has tentatively scheduled a public hearing to consider California's At-Berth Regulation, and that EPA is now accepting written comment on the request.

**DATES:** EPA has tentatively scheduled a public hearing concerning CARB's request on July 21, 2011, at 10 a.m. EST. EPA will hold a hearing only if any party notifies EPA by July 15, 2011, expressing its interest in presenting oral testimony. Parties wishing to present oral testimony at the public hearing should provide written notice to Kristien Knapp at the e-mail address

<sup>10</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>11</sup> See 59 FR 36969 (July 20, 1994).