Accession Number: 20110921–5066. 
Description: Burgess Capital LLC. 
Applicants: Burgess Capital LLC. 
Partners, Ltd. submits tariff filing per 35.1: Baseline to be effective 9/21/2011. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5068. 
Description: New York Independent System Operator, Inc. 
Description: New York Independent System Operator, Inc. submits tariff filing per 35: NYISO PJM revision to be effective 9/16/2010. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5084. 
Description: Florida Power & Light Company. 
Applicants: Florida Power & Light Company. 
Description: Florida Power & Light Company submits tariff filing per 35: NTISO filing of tariff revisions per NYISO PJM settlement agreement to be effective 9/16/2010. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5096. 
Description: Glenwood Energy Partners, ltd. 
Applicants: Glenwood Energy Partners, ltd. 
Description: Glenwood Energy Partners, ltd. submits tariff filing per 35.1: Glenwood FERC Rate Schedule No. 1 Baseline to be effective 9/21/2011. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5097. 
Description: LoneStar Energy Partners LLC. 
Applicants: LoneStar Energy Partners LLC. 
Description: LoneStar Energy Partners LLC submits tariff filing per 35.1: LoneStar FERC Rate Schedule No. 1 Baseline to be effective 9/21/2011. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5100. 
Description: Westar Energy, Inc. 
Applicants: Westar Energy, Inc. 
Description: Westar Energy, Inc. submits tariff filing per 35.13(a)(2)(iii): Revisions to Schedule 3A, Balancing Area Services Agreement to be effective 12/1/2011. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5101. 
Description: Tatanka Wind Power, LLC. 
Applicants: Tatanka Wind Power, LLC. 
Description: Tatanka Wind Power, LLC submits tariff filing per 35.1: Tatanka Wind Power, LLC Baseline Tariff Filing to be effective 9/21/2011. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5102. 
Description: Nevada Solar One, LLC. 
Applicants: Nevada Solar One, LLC. 
Description: Nevada Solar One, LLC submits tariff filing per 35.1: Nevada Solar One, LLC Baseline Tariff Filing to be effective 9/21/2011. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5104. 
Description: Niagara Mohawk Power Corporation. 
Applicants: Niagara Mohawk Power Corporation. 
Description: Notice of Termination of Service Agreement No. 121 of Niagara Mohawk Power Corporation. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5131. 
Description: Kentucky Utilities Company. 
Applicants: Kentucky Utilities Company. 
Description: Kentucky Utilities Company submits its Application under Section 204 of the Federal Power Act. 
Filed Date: 09/21/2011. 

Accession Number: 20110921–5132. 
Description: Louisville Gas & Electric Company. 
Applicants: Louisville Gas & Electric Company. 
Description: Louisville Gas and Electric Company’s Application under Section 204 of the Federal Power Act. 
Filed Date: 09/21/2011. 

SUMMARY: By this decision the Environmental Protection Agency (EPA) has determined that provisions of the California Air Resources Board’s (CARB’s) 2008 amendments to the California Zero-Emission Vehicle (ZEV) regulations as they affect 2011 and prior model years (MYs) are within the scope of previous waivers of preemption granted to California for its ZEV regulations. In the alternative, EPA is
也授予加州一项预豁免权，即对于2008年及之前的MY，EPA授予预豁免权。EPA还授予加州在其请求中提出的预豁免权，以确保其遵守2008年ZEV法规。该预豁免权包括：

- **DATES**: 下文307(b)(1)条款的该清洁能源法案，审议该决定的终审裁决可能仅限于美国联邦巡回法院。审查请求必须在2011年12月2日前提交。

- **ADDRESSES**: 该决定文件的说明，以及所有文件均保存于EPA位于华盛顿特区的Air and Radiation Docket（Air Docket）。材料相关到该决定的保存于Docket No. EPA–HQ–OAR–2009–0780。该文件位于位于EPA办公楼，位于Washington DC 20460，地址位于1301 Constitution Avenue, Washington, DC 20460，也可在8:30 a.m.及4:30 p.m.工作时间，通过书面或电话提交。

- **E-Mail Address**: (202) 343–9256。E-mail Address: Dickinson.David@EPA.GOV

**SUPPLEMENTARY INFORMATION:**

**I. Chronology**

- California的初期ZEV计划被纳入其第一款低排放车辆程序，称为LEV I。ZEV计划的组件，即ZEV销售要求，包括2008年及之前的MY。EPA在2006年12月21日发布了预豁免权，对于这些法规的决定，于1月13日生效。

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**II. CARB的零排放车辆法规**

2008年ZEV法规维持ZEV义务和百分比ZEV要求，但给予制造商更多的灵活性，以遵守ZEV要求。EPA认为，ZEV规定于2007年及之后的MY中，EPA于2008年12月21日发布预豁免权，2009年1月13日生效，对法规进行了整体预豁免。

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**FOR FURTHER INFORMATION CONTACT:**


**NOTICES**

- **DATES**: 下文307(b)(1)条款的该清洁能源法案，审议该决定的终审裁决可能仅限于美国联邦巡回法院。审查请求必须在2011年12月2日前提交。

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III. Clean Air Act Waivers of Preemption and Within the Scope Decisions

Section 209(a) of the Act 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. Any State that has adopted standards or procedures for a certain group or class of vehicles, it may adopt other conditions precedent to the initial retail sale, titling or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after an opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any State that has adopted standards (other than crackdown emission standards) for the control of emissions from new motor vehicles or new motor engines prior to March 30, 1966,9 if the State determines that standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator must grant a waiver unless she finds that: (A) The protective determination of the State is arbitrary and capricious; (B) the State does not need the State standards to meet compelling and extraordinary conditions; or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

Previous waiver decisions have stated that State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology, given the cost of compliance within that time, or if the Federal and State test procedures impose inconsistent certification requirements.10

With regard to enforcement procedures accompanying standards, the Administrator must grant the waiver unless she finds that these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), or unless the Federal and California certification and test procedures are inconsistent.11

Once California has received a waiver for its standards and enforcement procedures for a certain group or class of vehicles, it may adopt other conditions precedent to the initial retail sale, titling or registration of these vehicles without the necessity of receiving an additional waiver.

If California acts to amend a previously waived standard or accompanying enforcement procedure, the amendment may be considered within the scope of a previously granted waiver provided that it does not undermine California’s determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, does not affect its consistency with section 202(a) of the Act, and raises no new issues affecting EPA’s previous waiver decisions.12

IV. Analysis

As explained in the Agency’s Decision Document EPA examined CARB’s 2008 ZEV amendments, as they affect 2011 and earlier MYs, under the within the scope criteria. EPA in the alternative also applied the full waiver criteria to the 2011 and earlier MYs. Although CARB requested that EPA confirm that the 2008 ZEV amendments, as they affect 2012 and later MYs, are within the scope of previous waivers of preemption, EPA instead applied the full waiver criteria to the regulations affecting those MYs.

A. California’s Protectiveness Determination

In its Waiver Request to EPA, CARB stated that the amendments to its ZEV requirements will not cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards nor undermine CARB’s previous protectiveness determination. Because EPA has not received adverse public comment challenging CARB’s protectiveness determination, I cannot find that CARB was arbitrary and capricious in its protectiveness determination and cannot deny the within the scope determination nor the waiver based on this criterion.

B. California’s Need for State Standards To Meet Compelling and Extraordinary Conditions

CARB also demonstrated continuing existence of compelling and extraordinary conditions, justifying the state’s need for its own motor vehicle pollution control program. Because EPA has not received adverse public comment challenging the need for CARB’s own motor vehicle pollution control program, I cannot deny the waiver based on a lack of compelling and extraordinary conditions.

C. Consistency With Section 202(a) of the Clean Air Act

CARB stated in its Waiver Request that the 2008 ZEV amendments provide manufacturers with additional compliance options and do not raise any concerns with regard to the technological feasibility of its regulations when giving due consideration to lead time and costs. In addition, CARB notes that the 2008 ZEV amendments do not create an issue of test procedure inconsistency.

The Manufacturers' suggested that the 2008 ZEV amendments were not consistent with section 202(a). However, as explained in EPA’s Decision Document, EPA finds that the manufacturer groups opposing the within the scope confirmation and the waiver of preemption have not met their burden of proof that the 2008 ZEV amendments are inconsistent with section 202(a) of the Act. I cannot find that CARB’s ZEV regulations, as noted, would cause the California motor vehicle emission standards to be inconsistent with section 202(a).

D. New Issues

As explained in the Decision Document, EPA finds that the 2008 ZEV amendments raise no new issues for 2011 and earlier MYs.

E. Decision

Therefore, I confirm that CARB’s 2008 ZEV amendments as they affect the 2011 and earlier MYs, as noted above, are within the scope of existing waivers of preemption. I also find that the 2008 ZEV amendments as they affect the 2011 and earlier MYs meet the criteria for a full waiver and thus I alternatively grant a waiver of preemption for the regulations as they affect these MYs. I also grant a waiver of preemption of CARB’s 2006 ZEV amendments as they affect 2012 and later MYs. A full explanation of EPA’s decision, including our review of comments received in opposition to CARB’s request, is contained in a Decision

9 California is the only State which meets section 209(b)(1) eligibility criteria for obtaining waivers. See e.g., S. Rep. No. 90–403, at 632 (1967).

10 See e.g., 43 FR 32,182 (July 25, 1978).


To be consistent, the California procedures need not be identical to the Federal procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and Federal requirements with the same vehicle. See, e.g., 43 FR 36679–680 (Aug. 18, 1978).

12 Decision Documents accompanying within the scope of waiver determination in 66 FR 7751 (January 25, 2001) at p. 5, and 51 FR 12391 (April 10, 1986) at p. 2; see also, e.g., 46 FR 36742 (July 15, 1981).
Document which may be obtained as explained above.

V. Statutory and Executive Order Reviews

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 new motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

This action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Further, the Congressional Review Act, 5 U.S.C. 801, et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

Finally, the Administrator has delegated the authority to make determinations regarding waivers under § 209(b) of the Act to the Assistant Administrator for Air and Radiation.

Dated: September 26, 2011.

Gina McCarthy,
Administrator for Air and Radiation.

[FR Doc. 2011–25399 Filed 9–30–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY


Guidance for 1-Hour SO₂ NAAQS SIP Submissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and public comment period.

SUMMARY: Notice is hereby given that the EPA has posted its draft non-binding guidance titled, “Guidance for 1-Hour SO₂ NAAQS SIP Submissions” on its Web site. The EPA invites public comments on this guidance document during the comment period specified below, and plans to issue an updated version of the guidance after reviewing timely submitted comments.

DATES: Comments should be submitted on or before November 2, 2011. Please refer to SUPPLEMENTARY INFORMATION for additional information on the comment period.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–1059, by one of the following methods:


2. E-mail: a-and-r-docket@epa.gov. Attention Docket ID No. EPA–HQ–OAR–2010–1059.


5. Hand Delivery: EPA Docket Center, 1301 Constitution Avenue, NW., Room 3334, Washington, DC. Such deliveries are only accepted during the Docket...