and greater to meet fleet average emission standards for oxides of nitrogen and particulate matter. Alternatively, the regulations require the vehicles in those fleets to comply with best available control technology requirements. Based on this request EPA noticed and conducted a public hearing on October 27, 2008, and provided an opportunity to submit written comment through December 19, 2008.\footnote{73 FR 58585 (October 7, 2008) and 73 FR 67509 (November 14, 2008).}

On February 11, 2010 CARB requested that EPA grant California authorization to enforce its In-Use Off-Road Diesel-Fueled Fleets regulation as amended in: December 2008 (and formally adopted in California on December 19, 2009); January 2009 (and formally adopted in California on December 31, 2009); and, a certain subset of amendments adopted by the CARB Board in July 2009 in response to California Assembly Bill 8 2X (and formally adopted on December 3, 2009). In CARB’s February 11, 2010 request letter to EPA it also notes additional amendments adopted in July 2009 and not yet formally adopted by California’s Office of Administrative Law. Once this last subset of amendments was formally adopted CARB planned to submit them to EPA for subsequent consideration. Based on CARB’s February 11, 2010 request, EPA noticed and conducted a public hearing on April 14, 2010, and provided an opportunity to submit written comment through May 18, 2010.\footnote{75 FR 1180 (March 12, 2010).}

On March 1, 2012 CARB requested that EPA grant California authorization to enforce its In-Use Off-Road Diesel-Fueled Fleets regulation as most recently amended in December 2010 (and formally adopted in California on December 14, 2011).\footnote{73 FR 58585 (October 7, 2008) and 73 FR 67509 (November 14, 2008).}

Based on CARB’s March 1, 2012 request and its In-Use Off-Road Diesel-Fueled Fleets regulation, EPA invites comment on whether (a) 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 capacious, (b) California needs separate standards to meet compelling and extraordinary conditions, and (c) California’s standards and accompanying enforcement procedures are consistent with section 209 of the Act.

EPA is requiring that any entity that wishes EPA to consider either oral testimony or written comment provide such testimony or written comment in the context of today’s Federal Register notice. Therefore, EPA will not be considering oral testimony or written comments based on the prior Federal Register notices, since CARB’s December 2010 amendments are likely to affect many of these prior comments. To the extent any entity believes that its prior comments remain pertinent then EPA is requiring such comments be resubmitted or incorporated into new comments.

Procedures for Public Participation: In recognition that public hearings are designed to give interested parties an opportunity to participate in this proceeding, there are not 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.

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 non-confidential 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: August 9, 2012.

Margo Tsirigotis Oge, 
Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FR Doc. 2012–20495 Filed 8–20–12; 8:45 am]
I. Background and Discussion

Section 209(e)(1) of the Act permanently preempts 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. For all other nonroad engines (including any engine that is no longer “new”), States are preempted from adopting and enforcing standards and other requirements relating to the control of emissions, except that section 209(e)(2) of the Act requires EPA to grant California authorization to adopt and enforce such regulations unless EPA makes one of three specifically enumerated findings. In addition, other States with attainment plans may adopt and enforce such regulations if the standards, and implementation and enforcement, are identical to California’s standards. On July 20, 1994, EPA promulgated a rule that sets forth, among other things, regulations providing that the administrative, enforcement, and judicial 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.

CARB has submitted to EPA, for authorization, its yard trucks powered by off-road engines and the auxiliary engines on two-engine sweepers provisions from its “Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles” (commonly referred to as the “Truck and Bus Regulation”) initially adopted by CARB on December 11, 2008 and subsequently amended on September 19, 2011. The Truck and Bus Regulation principally applies to non-new on-road motor vehicles, which is not the subject of this notice. The Truck and Bus Regulation also applies to any nonroad engines used to power yard trucks (which are principally used in off-road agricultural operations) and the

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3 States are expressly preempted from adopting or attempting to enforce any standard or other requirement relating to the control of emissions from new nonroad engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower. See express preemption under section 209(e)(1) of the Act also applies to new locomotives or new engines used in locomotives.

4 In order to be consistent 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.

CARB has submitted to EPA, for authorization, its yard trucks powered by off-road engines and the auxiliary engines on two-engine sweepers provisions from its “Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles” (commonly referred to as the “Truck and Bus Regulation”) initially adopted by CARB on December 11, 2008 and subsequently amended on September 19, 2011. The Truck and Bus Regulation principally applies to non-new on-road motor vehicles, which is not the subject of this notice. The Truck and Bus Regulation also applies to any nonroad engines used to power yard trucks (which are principally used in off-road agricultural operations) and the
auxiliary engine used to power the
broom or vacuum functions on two-
engine sweepers.6

As stated above, EPA is offering the
opportunity for a public hearing, and
requesting written comments on issues
relevant to a full waiver analysis.
Specifically, please provide 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)
California needs separate standards to
meet compelling and extraordinary
conditions, and (c) California’s
standards and accompanying
enforcement procedures are consistent
with section 209 of the Act.

II. 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 October 22, 2012.
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 great possible extent
and label it as “Confidential Business
Information” (CBI). If a person making
comments want EPA to base its decision
in part on a submission labeled CBI,
then a non-confidential version of the
document that summarizes the key data
or information should be submitted for
the public docket. To ensure that
proprietary information in not
inadvertently place 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.

6 The definition of yard truck is at section 2025
and two-engine sweeper is defined at 2025(d)(58).

Dated: August 9, 2012.
Margo Tsirigotis Oge,
Director, Office of Transportation and Air
Quality, Office of Air and Radiation.
[FR Doc. 2012–20499 Filed 8–20–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION
AGENCY
[Regional Docket Nos. V–2011–1, FRL9717–
8]
Clean Air Act Operating Permit
Program; Action on Petition for
Objection to State Operating Permit for
Georgia-Pacific Consumer Products
AGENCY: Environmental Protection
Agency (EPA).
ACTION: Notice of final Order on petition
to object to Clean Air Act (Act) Title V
operating permit.
SUMMARY: This document announces
that the EPA Administrator has denied a
petition from the Sierra Club, the Clean
Water Action Council and the Midwest
Environmental Defense Center
petition from the Sierra Club, the Clean
Water Action Council and the Midwest
Environmental Defense Center
Petitioners alleging that the permit is not in
compliance with the requirements of the Act.
Specifically, the Petitioners alleged that:
(1) The permit lacks applicable
prevention of significant deterioration
(PSD) requirements because WDNR
erroneously exempted as “routine
maintenance, repair, and replacement”
projects that resulted in a significant net
emissions increase based on the
applicable “actual to potential”
emissions test; (2) the permit lacks
applicable PSD and new source
performance standard requirements that
were triggered through non-exempt fuel
switching and WDNR improperly
differed addressing this issue; and, (3)
the permit lacks applicable
requirements ensuring protection of air
quality increments which apply
pursuant to the Wisconsin state
implementation plan and the PSD
programs.
On July 23, 2011, EPA received a
petition from the Sierra Club, the Clean
Water Action Council and the Midwest
Environmental Defense Center
(Petitioners) requesting that EPA object
to the Title V operating permit for
Georgia-Pacific. The Petitioners alleged
that the permit is not in compliance
with the requirements of the Act.
Specifically, the Petitioners alleged that:
(1) The permit lacks applicable
prevention of significant deterioration
(PSD) requirements because WDNR
erroneously exempted as “routine
maintenance, repair, and replacement”
projects that resulted in a significant net
emissions increase based on the
applicable “actual to potential”
emissions test; (2) the permit lacks
applicable PSD and new source
performance standard requirements that
were triggered through non-exempt fuel
switching and WDNR improperly
differed addressing this issue; and, (3)
the permit lacks applicable
requirements ensuring protection of air
quality increments which apply
pursuant to the Wisconsin state
implementation plan and the PSD
programs.

Susan Hedman,
Regional Administrator, Region 5.
[FR Doc. 2012–20519 Filed 8–20–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION
AGENCY
[FRL–9719–3]
Good Neighbor Environmental Board
Notification of Public Advisory
Committee Teleconference
AGENCY: Environmental Protection
Agency (EPA).
ACTION: Notification of Public Advisory
Committee Teleconference.