

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.<sup>6</sup>

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 October 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.<sup>7</sup>

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).<sup>8</sup>

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 capricious, (b) California needs separate standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures

<sup>6</sup> 73 FR 58585 (October 7, 2008) and 73 FR 67509 (November 14, 2008).

<sup>7</sup> 75 FR 1180 (March 12, 2010).

<sup>8</sup> See EPA-HQ-OAR-2008-0691. CARB's December 2010 amendments include provisions that delay the original implementation dates of the regulation by requiring large fleets to comply with emission reduction requirements by January 1, 2014, medium fleets by January 1, 2017, and small fleets by January 1, 2019.

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]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 9716-9]

### California State Nonroad Engine Pollution Control Standards; In-Use Heavy-Duty Vehicles (As Applicable to Yard Trucks and Two-Engine Sweepers); 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 and subsequently amended emission standards applicable to yard trucks powered by off-road engines and the auxiliary engines on two-engine sweepers. By letter dated March 2, 2012, CARB submitted a request seeking EPA authorization of these standards under section 209(e) of the Clean Air Act (CAA), 42 U.S.C. 7543(e). This notice announces that EPA has tentatively scheduled a public hearing concerning California's request and that EPA is accepting written comment on the request.

**DATES:** EPA has tentatively scheduled a public hearing concerning CARB's request on September 20, 2012 beginning at 10:00 a.m. The hearing will be held at 1310 L St NW., Washington, DC 20005. Parties wishing to present oral testimony at the public hearing should provide written notification to David Dickinson at the address noted below. Should you have further questions regarding the hearing, please contact David Dickinson or you may consult the following Web site for any updates: <http://www.epa.gov/otaq/cafr.htm>. 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 by October 22, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2012-0335, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- *Email:* [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-2012-0335, 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.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2012-0335. 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 email. 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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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 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>.

Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at the address noted below. If EPA receives a request for a public hearing, EPA will hold the public hearing at 1310 L St. NW., Washington, DC 20005 at 10:00 a.m.

**FOR FURTHER INFORMATION CONTACT:** David Dickinson, Compliance Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave NW., Washington, DC 20460. Telephone: (202) 343-9256, Fax: (202) 343-2804,

email address: [Dickinson.David@EPA.GOV](mailto:Dickinson.David@EPA.GOV).

#### SUPPLEMENTARY INFORMATION:

##### 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.<sup>1</sup> 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 the criteria, as found in section 209(e)(2), which EPA must consider before granting any California authorization request for new nonroad engine or vehicle emission standards.<sup>2</sup> EPA revised these regulations in 1997.<sup>3</sup> As stated in the preamble to the 1994

<sup>1</sup> 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. Such express preemption under section 209(e)(1) of the Act also applies to new locomotives or new engines used in locomotives.

<sup>2</sup> 59 FR 36969 (July 20, 1994).

<sup>3</sup> See 62 FR 67733 (December 30, 1997). The applicable regulations, now in 40 CFR part 1074, subpart B, § 1074.105, provide:

(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.

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>4</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.

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.<sup>5</sup> 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

<sup>4</sup> See 59 FR 36969 (July 20, 1994).

<sup>5</sup> CARB did not submit the entire Truck and Bus Regulation to EPA for waiver or authorization consideration. The regulation is codified at Title 13, California Code of Regulations, section 2025.

auxiliary engine used to power the broom or vacuum functions on two-engine sweepers.<sup>6</sup>

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.

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

Dated: August 9, 2012.

**Margo Tsigotitis Oge,**

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

[FR Doc. 2012-20499 Filed 8-20-12; 8:45 am]

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## 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 asking EPA to object to a Title V operating permit issued by the Wisconsin Department of Natural Resources (WDNR) to Georgia-Pacific Consumer Products (Georgia-Pacific).

Sections 307(b) and 505(b)(2) of the Act provide that a petitioner may ask for judicial review of those portions of the petition which EPA denies in the United States Court of Appeals for the appropriate circuit. Any petition for review shall be filed within 60 days from the date this notice appears in the **Federal Register**, pursuant to section 307 of the Act.

**ADDRESSES:** You may review copies of the final Order, the petition, and other supporting information at the EPA Region 5 Office, 77 West Jackson Boulevard, Chicago, Illinois 60604. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. Additionally, the final Order for the Georgia-Pacific petition is available electronically at: <http://www.epa.gov/region7/air/title5/petitiondb/petitiondb.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Genevieve Damico, Chief, Air Permits Section, Air Programs Branch, Air and Radiation Division, EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone (312) 353-4761.

**SUPPLEMENTARY INFORMATION:** The Act affords EPA a 45-day period to review and object, as appropriate, to Title V operating permits proposed by state

permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of the EPA review period to object to a Title V operating permit if EPA has not done so. A petition must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise issues during the comment period, or the grounds for the issues arose after this period.

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 deferred 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, 2012, the Administrator issued an Order denying the petition. The Order explains the reasons behind EPA's conclusion.

Dated: July 27, 2012.

**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.