ENVIRONMENTAL PROTECTION AGENCY

California State Nonroad Engine Pollution Control Standards; In-Use
Diesel-Fueled Transport Refrigeration Units (TRUs) and TRU Generator Sets
and Facilities Where TRUs Operate; Request for Within-the-Scope and Full
Authorization; Opportunity for Public
Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified the
Environmental Protection Agency (EPA) that it has adopted amendments to its
In-Use Diesel-Fueled Transport Refrigeration Units (TRUs) and TRU
Generator Sets and Facilities Where TRUs Operate (together “2011 TRU
Amendments”) regulation. By letter dated March 2, 2015, CARB asked that
EPA authorize these amendments pursuant to section 209(e) of the Clean
Air Act. CARB seeks confirmation that certain 2011 TRU Amendments are
within the scope of prior authorizations issued by EPA, or, in the alternative,
that such amendments merit full authorization. CARB also seeks a full
authorization for other 2011 TRU Amendments. This notice announces
that EPA has tentatively scheduled a public hearing to consider California’s
authorization request for the 2011 TRU Amendments and that EPA is now
accepting written comment on the request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB’s
request on January 6, 2016, at 10 a.m. ET. EPA will hold a hearing only if any
party notifies EPA by December 15, 2015, of express interest in presenting
the Agency with oral testimony. Parties wishing to present oral testimony at
the public hearing should provide written notice to David Dickinson at the email
address noted below. If EPA receives a request for a public hearing, that hearing
will be held at the William Jefferson Clinton Building (North), Room 5528 at
1200 Pennsylvania Ave., NW., Washington, DC 20460. If EPA does not
receive a request for a public hearing, then EPA will not hold a hearing, and
instead will consider CARB’s request based on written submissions to the
docket. Any party may submit written comments until February 8, 2016.

Any person who wishes to know whether a hearing will be held may call

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–
OAR–2015–0224, by one of the following methods:
• Online at http://www.regulations.gov: Follow the Online
Instructions for Submitting Comments.
• Email: a-and-r-docket@epa.gov.
• Fax: (202) 566–9744.
0224, U.S. Environmental Protection Agency, Mail code: 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.

Online Instructions for Submitting Comments: Direct your comments to
Docket ID No. EPA–HQ–OAR–2015–
0224. 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 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 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

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–2015–0224. 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/
oor/docket.html. The electronic mail
(email) address for the Air and
Radiation Docket is: 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
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 Web site,
enter, 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 Web page
that contains general information on its
review of California waiver and
authorization requests. Included on that
page are links to prior waiver and
authorization Federal Register

FOR FURTHER INFORMATION CONTACT:
David Dickinson, Attorney-Advisor, Transportation and Climate Division,
Office of Transportation and Air Quality, U.S. Environmental Protection
Agency, 1200 Pennsylvania Ave. NW.,
(6405J), Washington, DC 20460. Telephone: (202) 343–9256. Fax: (202)
343–2804. Email: dickinson david@
epa.gov.
SUPPLEMENTARY INFORMATION:

I. California’s TRU Regulations; With-the-Scope Request and Request for Full Authorization

CARB’s TRU regulations require TRU engines to meet in-use standards that vary by horsepower (hp) range and have two levels of emissions stringency (LETRU and ULETRU—low-emission and ultra-low-emission transportation refrigeration units, respectively) that are phased in over time. The 2011 Amendments provide owners of 2001 through 2003 model year (MY) TRU engines that complied with the LETRU in-use performance standards by specified compliance deadlines a one-year extension of the deadline to comply with the more stringent ULETRU in-use performance standards. The 2011 Amendments also clarify manual recordkeeping requirements for electric standby-equipped TRUs and ultimately require automated electronic tracking system requirements for such TRUs; establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers or containers; and address other issues that arose during the initial implementation of the TRU regulation.

By letter dated March 2, 2015, CARB submitted a request to EPA pursuant to section 209(e) of the Clean Air Act (CAA or the Act) for confirmation that its 2011 Amendments fall within the scope of EPA’s previous authorizations, or, in the alternate, a full authorization for those amendments. Included in the within-the-scope request are the 2011 Amendments that (1) extend the ULETRU compliance date for MY 2003 and older TRUs that complied with the LETRU standard by specified dates; (2) extend compliance dates when compliant technology is unavailable or delayed for certain reasons; (3) establish new exemptions; and (4) allow in-use performance standards and associated compliance deadlines to be based on the year the TRU engine was manufactured instead of the TRU engine model year. CARB also seeks within-the-scope confirmation that certain amendments to its accompanying enforcement procedures are within the scope of prior EPA authorizations. CARB seeks a full authorization for a subset of the 2011 Amendments that set forth requirements for repowering TRUs with new replacement engines and that allow owners to repower TRUs with rebuilt engines meeting certain requirements. CARB also seeks a full authorization for a series amendments to the TRU accompanying enforcement procedures.

II. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the CAA prohibits states and local governments from adopting or attempting to enforce any standard or requirement relating to the control of emissions from certain types of new nonroad vehicles or engines. The Act also preempts states from adopting and enforcing standards and other requirements related to the control of emissions from other types of new nonroad vehicles or engines as well as non-new nonroad engines or vehicles. Section 209(e)(2), however, requires the Administrator, after notice and opportunity for public hearing, to authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such preempted vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. However, EPA shall not grant such authorization if it finds that (1) the determination of California is arbitrary or capricious; (2) California does not need such California standards to meet compelling and extraordinary conditions; or (3) California standards and accompanying enforcement procedures are not consistent with CAA section 209. In addition, other states with air quality attainment plans may adopt and enforce such regulations if the standards and the implementation and enforcement procedures 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. EPA revised these regulations in 1997. As stated in the preamble to the 1994 rule, EPA has historically interpreted the section 209(e)(2)(A)(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). 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 and authorizations to the three criteria listed therein. As a result, EPA has consistently refrained from denying California’s requests for waivers and authorizations based on any other criteria. In instances where the U.S. Court of Appeals has reviewed EPA decisions declining to deny waiver requests based on criteria not found in section 209(b), the Court has upheld and agreed with EPA’s determination. See Motor and Equipment Manufacturers Ass’n v. Nichols, 142 F.3d 449, 462–63, 466–67 (D.C. Cir. 1998). Motor and Equipment Manufacturers Ass’n v. EPA, 627 F.3d 599, 611, 1114–20 (D.C. Cir. 1979), see also 78 FR 58090, 58120 (September 20, 2013).

In considering any request to authorize California 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.

1 CARB’s amended regulation is codified at California Code of Regulations (CCR), title 13, section 2477. EPA granted California a full authorization for the initial TRU regulation in 2009 (74 FR 3030 [January 16, 2009]). EPA confirmed California’s 2010 amendments were within the scope of the initial TRU authorization in 2013 (78 FR 38970 [June 28, 2013]).

2 The 2011 TRU Amendments also provide an extension of applicable compliance dates should compliant technology not be available. For a complete description of CARB’s amended TRU regulation and the provisions which CARB seeks EPA’s authorization see CARB’s incoming request to EPA (and accompanying documents) submitted to the public docket at EPA–HQ–OAR–2015–0224–0024.

3 These amendments to the TRU accompanying enforcement procedures are listed in CARB’s authorization request, EPA–HQ–OAR–2015–0244–0002 at p. 24.


5 These amendments to the TRU accompanying enforcement procedures are listed in CARB’s authorization request, EPA–HQ–OAR–2015–0224–0002 at p. 25.

6 EPA’s review of California regulations under section 209 is not a broad review of the reasonableness of the regulations or its compatibility with all other laws. Sections 209(b) and 209(e) of the Clean Air Act limit EPA’s authority to deny California requests for waivers of
III. EPA’s Request for Comments

As stated above, EPA is offering the opportunity for a public hearing, and is requesting written comment on issues relevant to a within-the-scope analysis and a full authorization analysis. Specifically, we request comment on whether the 2011 Amendments (1) undermine California’s previous determination that its standards, in the aggregate, are at least as protective of public health and welfare as comparable federal standards; (2) affect the consistency of California’s requirements with section 209 of the Act; or (3) raise any other new issues affecting EPA’s previous waiver or authorization determinations.

Should any party believe that the amendments are not within the scope of the previous authorizations, EPA also requests comment on whether the 2011 Amendments meet the criteria for a full authorization. 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 February 8, 2016. 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–2015–0224.

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: November 9, 2015.

Christopher Grundler,
Director, Office of Transportation and Air Quality, Office of Air and Radiation.

[FRL 29368 Filed 11–16–15; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–9937–19–OECA]”

National Environmental Justice Advisory Council; Notification of Public Teleconference Meetings and Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, the U.S. Environmental Protection Agency (EPA) hereby provides notice that the National Environmental Justice Advisory Council (NEJAC) will host a two (2) public teleconference meetings on Wednesday, December 2, 2015, from 12:30 p.m. to 2:30 p.m. Eastern Time and Tuesday, December 15, 2015, from 3:30 p.m. to 5:30 p.m. Eastern Time. Items to be discussed by NEJAC over these coming meetings include respectively: U.S. Housing and Urban Development Final Rule on Affirmatively Furthering Fair Housing and Assessment Tool; and Chemical Plant Safety and Community Revitalization: 20 Years of the Brownfields Program.

There will be an opportunity for the public to comment on Wednesday, December 2, 2015, from 1:30 p.m. to 2:30 p.m. and Tuesday, December 15, 2015 from 4:30 p.m. to 5:30 p.m. Members of the public are encouraged to provide comments relevant to the topics of the meeting.

For additional information about registering to attend the meeting or to provide public comment, please see “REGISTRATION” under SUPPLEMENTARY INFORMATION.

DATES: The NEJAC teleconference meeting on Wednesday, December 2, 2015, will begin promptly at 12:30 p.m. Eastern Time. The NEJAC teleconference meeting on Tuesday,