

Section 609(c) of the Act states that by January 1, 1992, no person may service any motor vehicle air conditioner without being properly trained and certified, nor without using properly approved refrigerant handling equipment. To this end, 40 CFR 82.42(a) states that by January 1, 1993, each service provider must have submitted to EPA on a one-time basis a statement signed by the owner of the equipment or another responsible officer that provides the name of the equipment purchaser, the address of the service establishment where the equipment will be located, the manufacturer name, equipment model number, date of manufacture, and equipment serial number. The statement must also indicate that the equipment will be properly used in servicing motor vehicle air conditioners and that each individual authorized by the purchaser to perform service is properly trained and certified. The information is used to verify compliance.

Any person who owns approved refrigerant handling equipment must maintain records of the name and address of any facility to which refrigerant is sent and must retain records demonstrating that all persons authorized to operate the equipment are currently certified technicians.

Finally, any person who sells or distributes a class I or class II refrigerant that is in a container of less than 20 pounds must verify that the purchaser is a properly trained and certified technician, unless the purchase of small containers is for resale only. In that case, the seller must obtain a written statement from the purchaser that the containers are for resale only, and must indicate the purchaser's name and business address. In all cases, the seller must display a sign where sales occur that states the certification requirements for purchasers.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average less than one hour 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:

**Affected Entities:** Motor vehicle dealers, automobile parts stores, general automotive repair shops, and automotive repair shops not elsewhere classified.

**Estimated Number of Potential Respondents:** 52,614.

**Frequency of Response:** On occasion.

**Estimated Total Annual Hour Burden:** 4,523 hours.

**Estimated Total Annual Costs:** \$208,307. This includes \$208,307 in labor costs and no capital or operation and maintenance costs.

**Changes in the Estimates:** There is a decrease of 2,177 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. There are three reasons for this decrease in burden hours. Today, it is estimated that there are only 600 thousand R-12 MVACs on the road, or 80% less than in 2008. Therefore, to account for the decreased market for small containers of CFC-12 refrigerant, this ICR estimates that the number of purchases for resale only by uncertified purchasers of small cans will be 80% less than in 2008. The second reason for the burden hours decrease is that CFC-12 refrigerant sent off-site for reclamation to an approved refrigerant reclaimed by owners of refrigerant recycling equipment certified under 40 CFR 82.36(a) has decreased and is anticipated to continue decreasing due to the significant decline of CFC-12 vehicles on road. The third reason for the burden hours decreased is that there are less approved technician certification programs in business than in the previous ICR. However, EPA anticipates a slow increase of one organization approval per year as new alternative refrigerants become available and new businesses become interested in certifying technicians for MVAC servicing for consideration.

**John Moses,**

*Director, Collection Strategies Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL 9716-8]

### California State Nonroad Engine Pollution Control Standards; California Nonroad Compression Ignition Engines—In-Use Fleets; Authorization Request; 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 additional amendments to its emission standards for fleets that operate nonroad, diesel-fueled equipment with engines 25 horsepower (hp) and greater. EPA previously announced an opportunity for public hearing and written comment on CARB's initial request for an authorization of its original regulations (73 FR 58585 (October 7, 2008) and 73 FR 67509 (November 14, 2008)). EPA announced an additional opportunity for public hearing and written comment on certain CARB amendments to the original regulations (75 FR 11880 (March 12, 2010)). By this notice EPA is announcing a completely new public hearing and written comment period.

**DATES:** EPA has scheduled a public hearing on 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>. Any party may submit written comment by October 22, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0691, 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-2008-0691, 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-2008-0691. 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>.

**FOR FURTHER INFORMATION CONTACT:**

David Dickinson, Compliance Division (6405), 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:**

**Background and Discussion:** Section 209(e)(1) of the Act addresses the permanent preemption of 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.

Section 209(e)(2) of the Act requires the Administrator to grant California authorization to enforce state standards for new nonroad engines or vehicles which are not listed under section 209(e)(1), subject to certain restrictions. On July 20, 1994, EPA promulgated a regulation that sets forth, among other things, the criteria, as found in section 209(e)(2), by which EPA must consider any California authorization requests for new nonroad engines or vehicle emission standards (section 209(e) rules).<sup>1</sup>

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 emissions control of new engines not listed under section 209(e)(1). The section 209(e) rule and its codified regulations formally set forth the criteria, located in section 209(e)(2) of the Act, by which EPA must grant California authorization to enforce its new nonroad emission standards and they are as follows:

(a) The Administrator shall grant the authorization if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

(b) The authorization shall not be granted if the Administrator finds that:

- (1) The determination of California is arbitrary and 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 section 209.<sup>2</sup>

As stated in the preamble to the section 209(e) rule, EPA has interpreted the requirement "California standards and accompanying enforcement procedures are not consistent with section 209" to mean that California standards and accompanying enforcement procedures must be consistent with section 209(a), section

<sup>1</sup> Section 209(e)(1) states, in part: No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles subject to regulation under this Act—

(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower.

(B) New locomotives or new engines used in locomotives.

EPA's regulation was published at 59 FR 36969 (July 20, 1994), and regulations set forth therein, 40 CFR part 85, Subpart Q, §§ 85.1601 et seq. A new rule, signed on September 4, 2008, moved these provisions to 40 CFR part 1074.

<sup>2</sup> See 40 CFR Part 85, Subpart Q, § 85.1605. Upon effectiveness of the new rule, these criteria will be codified at 40 CFR 1074.105.

209(e)(1), and section 209(b)(1)(C), as EPA has interpreted that subsection in the context of motor vehicle waivers.<sup>3</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. Secondly, California's nonroad standards and enforcement procedures must be consistent with section 209(e)(1), which identifies the categories permanently preempted from state regulation.<sup>4</sup> California's nonroad standards and enforcement procedures would be considered inconsistent with section 209 if they applied to the categories of engines or vehicles identified and preempted from State regulation in section 209(e)(1).

Finally, because California's nonroad standards and enforcement procedures must be consistent with section 209(b)(1)(C), EPA reviews nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests. Under section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if he finds that California "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act. Previous decisions granting waivers of Federal preemption for motor vehicles 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 giving appropriate consideration to the cost of compliance within that time period or if the Federal and State test procedures impose inconsistent certification procedures.<sup>5</sup>

On August 8, 2008, CARB requested that EPA authorize California to enforce its In-Use Off-Road Diesel-Fueled Fleets regulation adopted at its July 26, 2007 public hearing (by Resolution 07-19) and subsequently modified after supplemental public comment by CARB's Executive Officer by the In-Use Regulation in Executive Order R-08-002 on April 4, 2008 (these regulations are codified at Title 13, California Code of Regulations sections 2449 through 2449.3). CARB's regulations require fleets that operate nonroad, diesel-fueled equipment with engines 25 hp

<sup>3</sup> See 59 FR 36969, 36983 (July 20, 1994).

<sup>4</sup> See 40 CFR 1074.10, 1074.12.

<sup>5</sup> To be consistent, the California certification procedures need not be identical to the Federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and the Federal requirement with the same test vehicle in the course of the same test. See, e.g., 43 FR 32182 (July 25, 1978).

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.*

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## 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.