

Information from the EFP provides a basis for developing State Implementation Plans (SIPs), Reasonable Further Progress (RFP) reports, attainment status assessments for the National Ambient Air Quality Standards (NAAQS).

The legislative basis for the Emission Factor Program is Section 103(a)(1)(2)(3) of the Clean Air Act, which requires the Administrator to: "conduct * * * research, investigations, experiments, demonstrations, surveys, and studies relating to the causes, effects, extent, prevention, and control of air pollution" and "conduct investigations and research and make surveys concerning any specific problem of air pollution in cooperation with any air pollution control agency * * *"

EPA uses the data from the EFP to verify predictions of the computer model known as MOBILE, which calculates the contribution of mobile source emissions to ambient air pollution. MOBILE is used by EPA, state and local air pollution agencies, the auto industry, and other parties interested in estimating mobile source emissions.

The EPA would like to solicit comments to:

- (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; and
- (iii) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated technology (e.g., permitting electronic submission of responses).

Burden Statement: Public reporting burden for this collection of information is estimated to average 10 minutes per response for a contractor laboratory questionnaire and up to 2 hours per response for a post card questionnaire, including the time for reviewing instructions, completing the questionnaire, and delivering the vehicle for testing.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to: Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460; and the Paperwork Reduction Project (OMB # 2060-0078), Office of Information and

Regulatory Affairs, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

No person is required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR Part 9.

Send comments regarding these matters, or any other aspect of the information collection, including suggestions for reducing the burden, to the address listed above.

Dated: September 1, 1995.
Donald M. Szeles,
Mechanical Engineer.
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[AMS-FRL-5300-6]

California State Nonroad Engine Pollution Control Standards; Authorization of State Standards; Notice of Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice regarding authorization of State standards.

SUMMARY: EPA is authorizing California to enforce regulations for exhaust emission standards and test procedures for 1996 and later new heavy-duty off-road diesel cycle engines 175 horsepower and greater pursuant to section 209(e) of the Clean Air Act.

ADDRESSES: The Agency's decision document containing an explanation of the Administrator's decision, as well as all documents relied upon in reaching that decision, including those submitted by the California Air Resources Board (CARB), are available for public inspection in the Air and Radiation Docket and Information Center in Docket A-94-44 during the working hours of 8:00 a.m. to 5:30 p.m. at the Environmental Protection Agency, Air Docket (6102), Room M-1500, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. Copies of the decision can be obtained from EPA's Manufacturers Operations Division by contacting David Dickinson, as noted below.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Attorney/Advisor, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460. Telephone: (202) 233-9256.

SUPPLEMENTARY INFORMATION: I have decided to authorize California to

enforce regulations for standards and test procedures for nonroad engines pursuant to section 209(e) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543. These regulations establish exhaust emission standards and test procedures for 1996 and later new heavy-duty off-road diesel cycle engines 175 horsepower and greater, including alternate-fueled engines, produced on or after January 1, 1996. A comprehensive description of these California regulations can be found in the decision document for this authorization and in materials submitted by CARB.

On the basis of the record before me, I cannot make the findings required to deny authorization under section 209(e)(2) of the Act. Therefore, I am authorizing California to enforce these regulations.

On February 14, 1995 EPA published a notice of opportunity for a public hearing and a request for written comments concerning California's request.¹ EPA received no request for a hearing. EPA received comments from the United States Office of the Deputy Under Secretary of Defense.

Consequently, this determination is based on written submissions by CARB, the written comments submitted in response to the above-mentioned notice and all other relevant information.

Section 209(e) of the Act as amended, 42 U.S.C. 7543(e), addresses state regulation of nonroad engines and vehicles. EPA issued on July 20, 1994 a final regulation to implement section 209(e) entitled "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" (section 209(e) rule).² Section 209 preempts states from regulating several types of new nonroad engines and vehicles, including new engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower; and new locomotives or new engines used in locomotives. The section 209(e) rule sets forth definitions for these preempted categories of engines.

For those new pieces of equipment or new vehicles other than those a State is not permanently preempted from regulating under section 209(e)(1), the State of California may promulgate standards regulating such new equipment or new vehicles provided California complies with Section 209(e)(2). The section 209(e) rule provides that if certain criteria are met, the Administrator shall authorize

¹ 60 FR 8381 (February 14, 1995).

² See 59 FR 36969 (July 20, 1994) and codified at 40 C.F.R. Part 85, Subpart Q, §§ 85.1601-85.1606.

California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards; whether California needs state standards to meet compelling and extraordinary conditions; and whether California's standards and accompanying enforcement procedures are consistent with section 209.

California determined that its standards and test procedures would not cause California emission standards, in the aggregate, to be less protective of public health and welfare as the applicable Federal standards. I was not presented with any information opposing California's authorization request or demonstrating that California arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find California's determination to be arbitrary or capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle pollution control program. In addition, CARB provided information regarding actions taken by the California Legislature in an effort to address the current air quality conditions in California, directing CARB to consider adopting regulations for off-road engines. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Based on previous showings by California in the context of motor vehicle waivers and CARB's submission to the record regarding the status of air quality in the state, I agree that compelling and extraordinary conditions warrant the need in California for separate standards for heavy-duty off-road diesel cycle engines. Thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that the requirements of its emission standards and test procedures are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 209 of the Act.

The one issue of inconsistent test procedures was resolved. For the test procedure for hydrocarbons (HC), carbon monoxide (CO), and oxides of nitrogen (NO_x), EPA has more stringent test specifications such that EPA cannot be certain that if an engine were tested and met the California test

specifications, that it would definitely meet the EPA test specifications. It is clear, on the other hand, that an engine that passed the EPA test specifications could definitely be deemed to have passed the CARB test specifications. CARB presented a letter to EPA dated January 21, 1995, which resolved this issue.³ The letter stated that "tests properly conducted by the manufacturer, according to the U.S. EPA procedure, will be considered valid for purposes of California certification, quality-audit, and new engine compliance testing." Thus, the manufacturer will be able to accomplish both Federal and California certification requirements with one test and the test procedure tier of the consistency criterion is met.

The Agency received no comments regarding this issue. Since both California and Federal certification requirements can be met with the same test vehicle in the course of a single test, test procedure inconsistency is not a bar to California to obtaining authorization by EPA to adopt and enforce California regulations. Thus, based on the foregoing information, I cannot find that California's standards and accompanying enforcement procedures are inconsistent with section 209 of the Act.

The Agency received written comment from the United States Department of Defense expressing concern that CARB's emission standards will have a major impact on military operations in California. As further explained in the decision document for this authorization, EPA expects CARB to adequately address this concern by adopting regulatory language to closely parallel the national security exemption provisions promulgated by EPA.

Accordingly, I cannot make the determinations required for a denial of this authorization under section 209(e) of the Act, and therefore, I authorize the State of California to enforce these regulations.

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 nonroad equipment engines for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of

Columbia Circuit. Petitions for review must be filed by November 20, 1995. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver and authorization decisions, 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.

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

Dated: September 15, 1995.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 95-23436 Filed 9-20-95; 8:45 am]

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[FRL-5300-2]

Border Environment Cooperation Commission Guidelines

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Notice.

SUMMARY: This notice announces the availability of the BECC Guidelines for Project Submission and Criteria for Project Certification document to the public.

FOR FURTHER INFORMATION OR A COPY

CONTACT: April Lander, Manager-Environmental Program, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, TX 79913, tel. (011-52-16) 29-23-95, fax (011-52-16) 29-23-97, Email becc1@itsnet.com.

SUPPLEMENTARY INFORMATION: A report to the public discussing BECC responses to public comment is also available to the public. For further information or a copy contact April Lander, H. Roger Frauenfelder, General Manager, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, TX 79913.

³ Letter to Charles N. Freed, EPA from K.D. Drachand, CARB dated January 21, 1995. Docket A-94-44 II-D-3.