quantities." Under section 109 of the CAA, EPA establishes national ambient air quality standards (NAAQS) for each listed pollutant, with the NAAQS based on the air quality criteria. Section 109(d) of the CAA requires periodic review and, if appropriate, revision of existing air quality criteria. The revised air quality criteria reflect advances in scientific knowledge on the effects of the pollutant on public health or welfare. The EPA is also required to periodically review and revise the NAAQS, if appropriate, based on the revised criteria.

The EPA is currently conducting a joint review of the existing secondary (welfare-based) NAAQS for oxides of nitrogen (NO_X) and oxides of sulfur (SO_X). Because NO_X, SO_X, and their associated transformation products are linked from an atmospheric chemistry perspective as well as from an environmental effects perspective, and because of the National Research Council's 2004 recommendations to consider multiple pollutants in forming the scientific basis for the NAAQS, EPA has decided to jointly assess the science, risks, and policies relevant to protecting the public welfare associated with NO_X and SO_X. This is the first time since NAAQS were established in 1971 that a joint review of these two pollutants has been conducted. Since both the CASAC and EPA have recognized these interactions historically, and the science related to these interactions has continued to evolve and grow to the present day, there is a strong basis for considering them together.

As part of this review of the current secondary (welfare-based) NAAQS for NO_X and SO_X, EPA's OAQPS staff are preparing a first draft Policy Assessment. The objective of this assessment is to evaluate the policy implications of the key scientific information contained in the document *Integrated Science Assessment for Oxides of Nitrogen and Sulfur-Ecological Criteria* (*http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=201485*), prepared by EPA's National Center for Environmental Assessment (NCEA) and the results from the analyses contained in the *Risk and Exposure Assessment for Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur* (*http://www.epa.gov/ttn/naaqs/standards/no2so2sec/cr_rea.html*). The first draft Policy Assessment will be available online at: *http://www.epa.gov/ttn/naaqs/standards/no2so2sec/index.html*. This first draft Policy Assessment will be reviewed by the CASAC during a public meeting to be held April 1 and 2, 2010. Information about this public meeting will be available at *http://yosemite.epa.gov/sab/sabpeople.nsf/WebCommittees/CASAC.*

Dated: March 9, 2010.

Mary E. Henigin,

Acting Director, Office of Air Quality Planning and Standards.

[FR Doc. 2010–5576 Filed 3–11–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–9126–5]

California State Motor Vehicle Pollution Control Standards; Amendments to the California Zero Emission Vehicle (ZEV) Regulation; Waiver Request; Opportunity for Public Hearing

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 amendments to its regulations related to zero emission vehicles (ZEVs) in California. By letter dated September 17, 2009, CARB requested that EPA confirm that its amendments as they affect model years 2008–2011 are within-the-scope of previous waivers of preemption issued by EPA. CARB also requests that EPA confirm that amendments as they affect the 2012 and subsequent model years are also within-the-scope of previous waivers of preemption issued by EPA; or, in the alternative, that EPA grant a new waiver of preemption for these future model years. 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 April 13, 2010 at 10 a.m. EPA will hold a hearing only if any party notifies EPA by April 1, 2010, expressing its interest in presenting oral testimony. By April 6, 2010, any person who plans to attend the hearing may call David Dickinson at (202) 343–9256 to learn if a hearing will be held or may check the following Web site for an update: *http://www.epa.gov/otaq/cafr.htm.*

Parties wishing to present oral testimony at the public hearing should also provide written notice to David Dickinson at the address noted below. If EPA receives a request for a public hearing, that hearing will be held at 1310 L St, NW., Washington, DC 20005.

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 May 17, 2010.

ADDRESSES: EPA will make available for public inspection materials submitted by CARB, written comments received from 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 No. EPA–HQ–OAR–2009–0780. The docket is located at The Air Docket, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460, and may be viewed between 8 a.m. and 5:30 p.m., Monday through Friday. The telephone is (202) 566–1742. A reasonable fee may be charged by EPA for copying docket material.

Additionally, an electronic version of the public 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 EPA–HQ–OAR–2009–0780 in "Search Documents" 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.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Compliance and Innovative Strategies Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Telephone: (202) 343–9256, Fax: (202) 343–2804, e-mail address: *Dickinson.David@epa.gov.*

SUPPLEMENTARY INFORMATION:

(A) Procedural History

Within CARB's 1990–1991 California Low Emission Vehicle (LEV I) rulemaking, CARB required that ten percent of the passenger cars and LDT1s [1] marketed by all but small volume manufacturers were required to be ZEVs starting in the 2003 model year. EPA granted California an initial waiver of preemption for California's original 1990 ZEV requirements in January 1993 as part of the LEV I waiver.[2] CARB amended its original ZEV requirements in 1996, and in January 2001, EPA

[1] Under CARB's regulations, an LDT1 is a light-duty truck having a loaded weight of 0–3750 pounds.

[2] 58 FR 4166, January 13, 1993.

found that those amendments, which modified manufacturer ZEV production mandates for model years 1998 through 2002, were within-the-scope of the originally-granted waiver.[3] CARB again amended its ZEV requirements in 1999, 2001, and 2003, as they applied to 2007 and earlier model year passenger cars and LDT1s; in December 2006, EPA determined that those amendments fell within-the-scope of the 1993 waiver.[4] Within the December 2006 decision, EPA also granted CARB a new waiver for its 2007 through 2011 model year ZEV requirements. EPA expressly made no finding as to the 2012 and later model years.

CARB has again approved amendments to its ZEV requirements at a March 27, 2008 public hearing; the final amendments were adopted by Executive Order R–08–015 on December 17, 2008 (2008 ZEV amendments).[5] Because of the nature of CARB's 2008 ZEV amendments, CARB now requests, as stated in its September 17, 2009 letter, that EPA confirm that the 2008 ZEV amendments, as they affect the 2011 and earlier model years, be confirmed as within-the-scope of previous waivers. In addition, CARB also requests that the 2008 ZEV amendments, as they affect the 2012 and later model years, also be considered within-the-scope of previous waivers, or, alternatively, be granted a full waiver of preemption by EPA. CARB also states that EPA should grant a full waiver of preemption for the amendments as they affect the 2011 and earlier model years if EPA determines that the amendments are not within-the-scope of previous waivers for those model years.

(B) Background and Discussion

Section 209(a) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(a), provides:

> No state or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any State that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. California is the only State that is qualified to seek and receive a waiver under section 209(b). The Administrator must grant a waiver unless she finds that (A) the above-described "protectiveness" determination of the State is arbitrary and capricious, (B) the State does not need the State standard to meet compelling and extraordinary conditions, or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. EPA has previously stated that "consistency with section 202(a)" requires that California's standards must be technologically feasible within the lead time provided, given due consideration of costs, and that California and applicable Federal test procedures be consistent.

When EPA receives new waiver requests from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment and then, after the comment period has closed, publishes a notice of its decision in the **Federal Register.** In contrast, when EPA receives within-the-scope waiver requests from CARB, EPA usually publishes a notice of its decision in the **Federal Register** and concurrently invites public comment if an interested party is opposed to EPA's decision.

Although CARB has submitted a within-the-scope waiver request for its ZEV amendments as they affect the 2011 and earlier model years and the 2012 and later model years, EPA invites comment on the following issues. First, should California's ZEV amendments, as they affect either the 2011 and earlier model years or the 2012 model years and later, be considered under the within-the-scope criteria or should be considered under the full waiver criteria? Second, to the extent that those amendments should be considered as a within-the-scope request, do such amendments meet the criteria for EPA to grant a within-the-scope confirmation? Specifically, do those amendments: (a) Undermine California's previous determination that its standards, in the aggregate, are at least as protective of pubic health and welfare as comparable Federal standards, (b) affect the consistency of California's requirements with section 202(a) of the Act, or (c) raise new issues affecting EPA's previous waiver determinations? Please also provide comments to address the full waiver analysis, in the event that EPA cannot confirm that CARB's ZEV amendments are within-the-scope of previous waivers. The full waiver analysis, which we are requesting comment on, include consideration of the following three criteria: 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 are consistent with section 202(a) of the Act.

Procedures for Public Participation: In recognition that public hearings are designed to give interested parties an opportunity to participate in this proceeding, there are no 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.

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 pubic hearing is held, EPA will keep the record open until May 17, 2010. Upon expiration of the comment period, the Administrator will render a decision of CARB's request based on the record of the public hearing, if any, 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–2009–0780.

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 as CBI, then a non-confidential version of the document that summarizes the

[3] 66 FR 7751, January 25, 2001.

[4] 71 FR 78190, December 28, 2006. In the alternative, EPA found that the amendments affecting these vehicles also met the requirements for a full waiver.

[5] As explained in CARB's request letter and its attachments (including the amended regulation), the 2008 ZEV amendments modify or establish requirements for Phase I (2005–2008), Phase II (2009–2011); Phase III (2012–2014); Phase IV (2015–2017) and Phase V (2018 and later) model years.

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: March 5, 2010.

Margo Tsirigotis Oge,

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

[FR Doc. 2010–5485 Filed 3–11–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–9126–4]

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 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)). By this notice EPA is announcing an additional public hearing and a new written comment period.

DATES: EPA has scheduled a public hearing CARB's request on April 14, 2010, beginning at 10 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 May 18, 2010.

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.
- *E-mail: 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 e-mail. 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 e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail 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 and Innovative Strategies Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460. Telephone: (202) 343–9256, Fax: (202) 343–2804, e-mail address: *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).[1]

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[2] 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:

[1] 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, moves these provisions to 40 CFR Part 1074.

[2] *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.