

whole, go beyond what would have been achieved through full compliance with those regulations.

The primary users of this information will be EPA and our partners in the state and tribal environmental agencies, as well as facilities, sectors, communities, and government agencies that are project participants. The information will be used to assist in the development of Final Project Agreements that meet the needs of EPA, the states, and the participating entities. The information will also be used to gauge our success at implementing the XL projects, and the success of the projects themselves at demonstrating the usefulness of a performance-based approach. The information will allow EPA to better assure environmental performance and project feasibility, and may provide communities with greater opportunities to participate in environmental protection at the local level.

**Burden Statement:** Annual public reporting burden for this collection of information is estimated to average 232,000 hours for all respondents, including time for reviewing instructions, searching existing data sources, gathering and maintaining the needed data, and completing and reviewing the collection of information. This burden includes 105,000 hours for the application phase, 38,300 hours for the Final Project Agreements, 160 hours for tracking, and 88,000 hours for determining environmental performance. There is no recordkeeping burden.

**Respondents:** Any one of the entities regulated by EPA, as organized by individual facility, sector (group of facilities), community (facilities within a defined place and represented with local government), or government agency facilities.

**Estimated No. of Respondents:** 60.

**Estimated Total Annual Burden on Respondents:** 232,000 hours.

**Frequency of Collection:** Varies, one-time Final Project Agreements, quarterly tracking reports, and a verification of final environmental performance.

Send comments regarding the burden estimate, or any other aspect of this information collection, including suggestions for reducing the burden, (please refer to EPA ICR# 1755.02, and OMB #2010-0026) to:

Sandy Farmer, EPA ICR #1755.02, U.S. Environmental Protection Agency, Regulatory Information Division (Mail Code: 2136), 401 M Street, S.W., Washington, D.C. 20460

and

Timothy Hunt, OMB #2010-0026, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, N.W., Washington, D.C. 20530

Dated: June 15, 1995.

**Rick Westlund,**

*Acting Director, Regulatory Information Division.*

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[FRL-5224-6]

### California State Nonroad Engine and Equipment Pollution Control Standards; Opportunity for Public Hearing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of an opportunity for public hearing and public comment.

**SUMMARY:** The California Air Resources Board (CARB) has notified EPA that it has adopted regulations for exhaust emission standards and test procedures for nonroad recreational vehicles and engines (recreational vehicles) for 1997 and subsequent calendar years. CARB has requested that EPA authorize CARB to enforce these regulations pursuant to section 209(e) of the Clean Air Act (Act), as amended, 42 U.S.C. 7543, and EPA's regulation "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" (section 209(e) Rule) (40 CFR part 85; 59 FR 26969-36983). This notice announces that EPA has tentatively scheduled a public hearing to consider CARB's request and to hear comments from interested parties regarding CARB's request for EPA's authorization and CARB's determination that its regulations, as noted above, comply with the criteria set forth in the 209(e) Rule. In addition, EPA is requesting that interested parties submit written comments. Any party desiring to present oral testimony for the record at the public hearing, instead of, or in addition to, written comments, must notify EPA by July 26, 1995. If no party notifies EPA that it wishes to testify on the recreational vehicles regulations, then no hearing will be held and EPA will consider CARB's authorization request based on written submissions to the record.

**DATES:** EPA has tentatively scheduled a public hearing for August 8, 1995, beginning at 9:00 a.m., if any party notifies EPA by July 26, 1995, that it wishes to present oral testimony regarding CARB's request. Any party may submit written comments regarding

CARB's request by September 11, 1995. After July 26, 1995, any person who plans to attend the hearing may call David Dickinson of EPA's Manufacturers Operations Division at (202)233-9256 to determine if a hearing will be held.

**ADDRESSES:** If a request is received, EPA will hold the public hearing announced in this notice at the Channel Inn Hotel, 650 Water Street SW., Washington, DC. Parties wishing to present oral testimony at the hearing should notify in writing, and if possible, submit ten (10) copies of the planned testimony to: Charles N. Freed, Director, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. In addition, any written comments regarding the authorization request, should be sent, in duplicate, to Charles N. Freed at the same address to the attention of Docket A-95-17. Copies of material relevant to the authorization request (Docket A-95-17) will be available for public inspection during normal working hours of 8 a.m. to 4 p.m. Monday through Friday, including all non-government holidays, at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, S.W., Washington, DC 20460. Telephone: (202)260-7548. FAX Number: (202)260-4000.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Section 209(e)(1) of the Act as amended, 42 U.S.C. 7543(e)(1), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard 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."

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 regulate such new equipment or new vehicles provided California complies with Section 209(e)(2). Section 209(e)(2) provides in part that the Administrator shall, after notice and opportunity for

public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines "[i]f California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such authorization shall be granted if the Administrator finds that—(i) the determination of California is arbitrary and capricious, (ii) California does not need such California standards to meet compelling and extraordinary conditions, or (iii) California standards and accompanying enforcement procedures are not consistent with this section."

EPA has issued a final regulation titled "Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" (section 209(e) Rule) that sets forth several definitions, as explained below, and the authorization criteria EPA must consider before granting California an authorization to enforce any of its nonroad engine standards.<sup>1</sup> As described in the section 209(e) Rule, in order to be deemed "consistent with this section", California standards and enforcement procedures must be consistent with section 209. In order to be consistent with section 209 California standards and enforcement procedures must reflect the requirements of sections 209(a), 209(e)(1), and 209(b). Section 209(a) prohibits states from adopting or enforcing emission standards for new motor vehicles or new motor vehicle engines.<sup>2</sup> Section 209(e)(1) identifies the categories preempted from state regulation. As stated above, the preempted categories are (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, and (b) new locomotives or new engines used in locomotives. The section 209(e) Rule defines construction equipment or vehicle to mean "any internal combustion engine-powered machine primarily used in construction and

located on commercial construction sites. The section 209(e) Rule defines farm equipment or vehicle to mean "any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm. The section 209(e) rule defines "primarily used" to mean "used 51 percent or more."<sup>3</sup> Therefore, California's proposed emission regulations would be considered inconsistent with section 209 if they applied to these permanently preempted categories. Additionally, the section 209(e) Rule requires EPA to review nonroad authorization requests under the same "consistency" criterion that it reviews motor vehicle waiver requests. Under 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. California's nonroad standards are not consistent with section 202(a) if there is inadequate lead time to permit the development of technology necessary to meet those standards, giving appropriate consideration to the cost of compliance within that time frame. Additionally, California's nonroad accompanying enforcement procedures would be inconsistent with section 202(a) if the Federal and California test procedures were inconsistent, that is, manufacturers would be unable to meet both the State and Federal test requirements with one test vehicle or engine.

Once California has been granted an authorization, under section 209(e)(2), for its standards and accompanying enforcement procedures for a category or categories of equipment, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject category or categories of equipment without the necessity of receiving further EPA authorization.

By letter dated March 6, 1995, CARB submitted to EPA a request that EPA authorize California to enforce regulations for standards and test procedures for 1997 and subsequent calendar year recreational vehicles. These regulations, which apply to off-road motorcycles, all-terrain vehicles (ATVs), golf carts, go-karts, and specialty vehicles:

a. Establish an exhaust emission standard for off-road motorcycles and ATV engines produced after December

31, 1996, measured in grams-per-kilometer.

b. Establish a zero-emission requirement for golf carts produced after December 31, 1996.

c. Require that specialty vehicles less than 25 horsepower comply with the exhaust emission standards applicable to utility equipment engines as set forth in Title 13, California Code of Regulation, Section 2403.

d. Establish an exhaust emission standard for specialty vehicles 25 horsepower and greater produced after December 31, 1996 that is equivalent to the 1999 utility exhaust emission standards.

e. Require that no new engines produced for sale to replace pre-controlled off-road motorcycle, ATV, go-kart (25 horsepower and greater), golf cart, and specialty vehicle engines after the implementation of the exhaust emission standards, unless those new replacement engines comply with the applicable exhaust emission standards.

f. Adopt the current federal on-road motorcycle test procedures for off-road motorcycles and ATVs, with an option for ATVs to certify using CARB's utility engine test procedure. For go-karts 25 horsepower and above and specialty vehicles CARB's current utility engine testing procedures will apply. Require certification of engines including compliance and assembly-line quality audit test procedures.

g. Establish a labeling requirement for off-road motorcycles, ATVs, go-karts, and specialty vehicles.

h. Require that CARB's on-road vehicle recall procedures and program apply to off-road motorcycles and ATVs.

i. Establish a requirement that off-road motorcycles and ATVs be encoded with a vehicle identification number in order that such vehicles may be properly registered with California's Department of Motor Vehicles.

j. Require manufactures of specialty vehicles and go-karts 25 horsepower and above to comply with the two year warranty regulations that are part of California's utility engine regulations.

California states in its March 6, 1995 letter that it has determined that its standards for recreational vehicles are, in the aggregate, at least as protective of the public health and welfare as the applicable Federal standards. Further, California states that it needs separate standards to meet compelling and extraordinary conditions. Finally, California states that its standards and test procedures are consistent with section 209 of the Act. California's request will be considered according to the criteria for an authorization request as set forth in the section 209(e)

<sup>1</sup> See 59 FR 36969, July 20, 1994 (to be codified at 40 C.F.R. Part 85, Subpart Q, §§ 85.1601–85.1606). § 85.1604(a) states "California shall request authorization to enforce its adopted standards and other requirements relating to the control of emissions from new nonroad vehicles \* \* \*." As explained in the preamble to the 209(e) rule, California may first adopt a nonroad exhaust emission standard and then seek an authorization from EPA to enforce such standard.

<sup>2</sup> EPA believes CARB's authorization request for recreational vehicles does not raise an issue with regard to whether such vehicles are motor vehicles. EPA anticipates that it will utilize both its definitions of motor vehicles and nonroad engines to resolve this issue.

<sup>3</sup> See 40 CFR part 85, subpart Q, § 85.1602.

regulation.<sup>4</sup> Any party wishing to present testimony at the hearing or by written comment should address, as explained in the section 209(e) rule, the following issues:

- (1) Whether California's determination that its standards are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious;
- (2) Whether California needs separate standards to meet compelling and extraordinary conditions; and,
- (3) Whether California's standards and accompanying enforcement procedures are consistent with (i) section 209(a), which prohibits states from adopting or enforcing emission standards for new motor vehicles or engines, (ii) section 209(e)(1), which identifies the categories preempted from state regulation, and (iii) section 202(a) of the Act, which requires adequate lead time to permit the development of technology necessary to meet the standards, giving appropriate consideration to the cost of compliance within that time frame, and consistent Federal and California test procedures, that is, manufacturers would be able to meet both the State and federal test requirements with one test vehicle or engine.

## II. Public Participation

If the scheduled hearing takes place, it will provide an opportunity for interested parties to state orally their views or arguments or to provide pertinent information regarding the issues as noted above and further explained in the section 209(e) Rule. Any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material along with its request for a hearing with the Director of EPA's Manufacturers Operations Division at the Director's address listed above not later than July 26, 1995. In addition, the party should submit 50 copies, if possible, of the proposed statement to the presiding officer at the time of the hearing.

In recognition that a public hearing is 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 which he

deems irrelevant or repetitious and to impose reasonable 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 public hearing is held, EPA will keep the record open until September 11, 1995.

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." 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. If a person making comments wants EPA to base its final decision in part on a submission labeled as confidential business information, then a non-confidential version of the document which summarizes the key data or information should be placed in the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, it may be made available to the public without further notice to person making comments.

Dated: June 8, 1995.

**Richard D. Wilson,**

*Acting Assistant Administrator for Air and Radiation*

[FR Doc. 95-15165 Filed 6-20-95; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5221-3]

### Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses; Public Review of a Notification of Intent To Certify Equipment

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of agency receipt of a notification of intent to certify equipment and initiation of 45 day public review and comment period.

**SUMMARY:** The Agency has received a notification of intent to certify urban bus retrofit/rebuild equipment pursuant to 40 CFR Part 85, Subpart O from the Cummins Engine Company, Inc. (Cummins). Pursuant to § 85.1407(a)(7), today's **Federal Register** notice

summarizes the notification below, announces that the notification is available for public review and comment, and initiates a 45-day period during which comments can be submitted. The Agency will review this notification of intent to certify, as well as comments received, to determine whether the equipment described in the notification of intent to certify should be certified. If certified, the equipment can be used by urban bus operators to reduce the particulate matter of urban bus engines.

The Cummins notification of intent to certify, as well as other materials specifically relevant to it, is contained in category VIII-A of Public Docket A-93-42, entitled "Certification of Urban Bus Retrofit/Rebuild Equipment." This docket is at the address below.

Today's notice initiates a 45-day period during which the Agency will accept written comments relevant to whether or not the equipment included in this notification of intent to certify should be certified. Comments should be provided in writing to Public Docket A-93-42, Category VIII-A, at the address below. An identical copy should be submitted to Anthony Erb, also at the address below.

**DATES:** Comments must be submitted on or before August 7, 1995.

**ADDRESSES:** Submit separate copies of comments to the two following addresses:

1. U.S. Environmental Protection Agency, Public Docket A-93-42 (Category VIII-A), Room M-1500, 401 M Street SW., Washington, D.C. 20460.
2. Anthony Erb, Technical Support Branch, Manufacturers Operations Division (6405J), 401 "M" Street SW., Washington, D.C. 20460.

Docket items may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged by the Agency for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Anthony Erb, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Telephone: (202) 233-9259.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On April 21, 1993, the Agency published final Retrofit/Rebuild Requirements for 1993 and Earlier Model Year Urban Buses (58 FR 21359). The retrofit/rebuild program is intended to reduce the ambient levels of

<sup>4</sup>"Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards" at 59 FR 36969, July 20, 1994 and 40 CFR Part 85, Subpart Q, §§ 85.1601-85.1606.