ENVIRONMENTAL PROTECTION AGENCY

[AMS–FRL–7619–1]

California State Motor Vehicle Pollution Control Standards; Within the Scope Requests; Opportunity for Public Hearing and Comment

AGENCY: Environmental Protection Agency (EPA).

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

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has approved two separate sets of amendments to its ''Malfunction and Diagnostic System Requirements for 1994 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines (OBD II).'' The first set of amendments addresses implementation and certification concerns that had been identified since implementation of OBD II in 1994. These amendments also add several monitoring requirements and diagnostic and repair information requirements. The second set of amendments applies to 2004 and subsequent model year vehicles. These amendments, among other things, also address implementation and certification issues that have been identified since implementation of OBD II in 1994, and address monitoring requirements for new emission technologies that will be used in 2004 and subsequent model year vehicles. The amendments also include several new compliance provisions relating to OBD II monitoring requirements, including post-assembly line evaluation testing and an OBD II specific in-use testing protocol. CARB requests that EPA confirm CARB's findings that its amendments are within-the-scope of a previous waiver issued by EPA under section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b), which covered CARB's OBD II regulations through April 26, 1995.

DATES: EPA has tentatively scheduled a public hearing for March 22, 2004, beginning at 10 a.m. EPA will hold a hearing only if a party notifies EPA by February 20, 2004, expressing its interest in presenting oral testimony regarding CARB's requests or other issues noted in this notice. By March 1, 2004, any person who plans to attend the hearing should call David Dickinson of EPA's Certification and Compliance Division at (202) 343–9256 to learn if a hearing will be held. Any party may submit written comments by April 21, 2004.

ADDRESSES: EPA will make available for public inspection at the Air and Radiation Docket written comments received from interested parties, in addition to any testimony given at the public hearing. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1743. The reference number for this docket is A–99–45. Parties wishing to present oral testimony at the public hearing(s) should provide written notice to David Dickinson at the address noted below; parties should also submit any written comments to David Dickinson. If EPA receives a request for a public hearing, EPA will hold the public hearing at 1310 L St, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Certification and Compliance 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.* EPA will make available an electronic copy of this Notice on the Office of Transportation and Air Quality's (OTAQ's) homepage (*http://www.epa.gov/otaq/*). Users can find this document by accessing the OTAQ homepage and looking at the path entitled ''Regulations.'' This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice on the day of publication on the primary Web site: (*http://www.epa.gov/docs/fedrgstr/EPA–AIR/*).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur. Parties wishing to present oral testimony at the public hearing should provide written notice to David Dickinson at: U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (6405J), Washington, DC 20460. Telephone: (202) 343–9256.

SUPPLEMENTARY INFORMATION:

I. Background

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. The Administrator must grant a waiver unless he finds that (A) the determination of the state is arbitrary and capricious, (B) the state does not need the state standards 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.

CARB submitted an October 30, 2003, letter to the Administrator notifying EPA that it had adopted additional amendments to its OBD II program and requesting that EPA confirm that its amendments are within the scope of the previously granted OBD II waiver. These amendments provide, among other requirements: (1) The continuation of existing emission malfunction thresholds for vehicles manufacturers in 2004 and subsequent model years with an increase in the malfunction threshold for vehicles complying with LEV II SULEV from 1.75 times the applicable standard to 2.5 times the applicable standard; (2) an update or expansion of current monitoring requirements including catalyst system monitoring for oxides of nitrogen (NO_X) conversion efficiency, secondary air system monitoring for proper air flow during vehicle warm-up for 2006 and subsequent model years, more frequent monitoring of many components to better detect for intermittent faults and a standardized methodology to determine operating frequency for several major monitors during in-use driving (*i.e.*, In-Use Performance Ratios); (3) new monitoring requirements to account for new emission-control technologies, which will, in general, be phased in starting with the 2005 or 2006 model year, including monitoring for

variable valve timing and/or control systems, cold start emission reduction strategies, and direct ozone reduction systems, and for diesel emission control systems (catalyst and particulate trap); (4) additional diagnostic information on the OBD data stream, including, but not limited to, vehicle identification numbers (VIN), catalyst temperature, distance traveled since MIL activated and other information contained in Title 13 CCR 1968.2 (f)(4.2); (5) an allowance for the new Controller Area Network (CAN) communication protocols in addition to the current communication protocols for 2004–2007 and solely for all 2008 and subsequent model years; and (6) new enforcement provisions which include (i) requirements for a sampling of assembly line production vehicles, validation testing on one to three production vehicles per model year, and a collection of in-use data from new motor vehicles during the first six months after production begins and (ii) a new ''section 1968.5'' which establishes an OBD II-specific in-use testing protocol and associated remedial provisions, including detailed in-use testing procedures for OBD II systems installed on 2004 and subsequent model year vehicles, criteria that CARB will consider in determining compliance and appropriate remedies, and procedures for manufacturers to follow in the course of remedial action.

CARB also submitted a December 24, 1997, letter to the Administrator notifying EPA that it had adopted amendments to its OBD II program. These amendments provide for, among other requirements: (1) Catalyst monitoring requirements for low emission vehicles (LEV I program) to specify a tailpipe emission level malfunction criterion in place of a front catalyst efficiency criterion with a phase-in commencing in 1998; (2) a new phase-in of the ''full-range'' misfire requirement of 50 percent in the 1997–1999 model years, 75 percent in 2000, 90 percent in 2001 and 100 percent in 2002, including a clarification of the criteria for meeting the full range detection requirements; (3) an allowance of manufacturers to demonstrate compliance with the requirement to monitor the evaporative system for leaks equal or greater in magnitude than a 0.020 inch diameter hole, with a phase-in beginning with the 2000 model year, if it can demonstrate that smaller diameter leaks will not cause evaporative emissions to exceed 1.5 times the applicable standard; (4) a positive crankcase ventilation (PCV) monitoring requirement with a phase-in from the 2002 through 2004 model years; (5) a thermostat monitoring requirement with a phase-in from the 2000 through 2002 model years; (6) an extension of the alternate fuel vehicle full compliance requirement with OBD II to the 2005 model year; (7) beginning with the 1997 model year through the 2003 model year, manufacturers could continue to have two deficiencies without being subject to penalties, unless a monitoring strategy was completely absent, in which case penalties would accrue with the first deficiency, and any additional deficiency provisions; (8) a deletion of the tampering protection provisions except those that apply to non-reprogrammable vehicles; and (9) various service information requirements.

CARB asserts, and requests that the Administrator determine, that its OBD II amendments fall within the scope of EPA's previously granted waiver, and thereby may be deemed to meet the requirements of section 209(b) of the Act set forth above.

EPA has decided in the past that when California's amendments: (1) Do not undermine the previous determination that California's standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards; (2) do not affect the consistency of California's requirements with section 202(a) of the Act; and (3) raise no new issues affecting EPA's previous waiver determinations, then EPA's concurrence that the amendments are within the scope of a previous waiver determination is merited.

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

Because of the many elements of CARB's OBD II amendments, EPA invites comment on the following issues before making a determination for CARB's within the scope requests: (1) Should EPA consider CARB's requests as within the scope of a previous waiver request or should they be considered and examined as new waiver requests? (2) If EPA were to consider CARB's requests as within the scope requests then do California's respective amendments (a) undermine California's previous determinations that its standards, in the aggregate, are at least as protective of public health and welfare as comparable Federal standards, (b) affect the consistency of California's requirements with section 202(a) of the Act, and (c) raise new issues affecting EPA's previous waiver determinations? (3) If EPA were to consider CARB's requests as new waiver requests, then provide comment on (a) whether California's determinations that its standards are at least as protective of public health and welfare as applicable federal standards are arbitrary and capricious, (b) whether California needs separate standards to meet compelling and extraordinary conditions, and (c) whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

II. Procedures for Public Participation

If a public hearing is held, any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material with David Dickinson at the address listed above no later than March 19, 2004. In addition, the party should submit 25 copies, if feasible, of the planned 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 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 public hearing is held, EPA will keep the record open until April 21, 2004. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, if any, relevant written submissions, and other information that he deems pertinent.

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 nonconfidential 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: January 27, 2004.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 04–2422 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7618–6]

Great Lakes National Program Office FY2004–2005 Funding Guidance—Request for Initial Proposals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funding availability.

SUMMARY: The U.S. Environmental Protection Agency's Great Lakes National Program Office (GLNPO) is requesting Initial Proposals for projects, collectively totaling up to $4,180,000, furthering protection and clean up of the Great Lakes ecosystem. Initial Proposals are requested through the USEPA Great Lakes National Program Office FY2004–2005 Funding Guidance (''Funding Guidance'').

DATES: The deadline for all Initial Proposals is 8 a.m. Central time, Monday morning, March 29, 2004.

ADDRESSES: The Funding Guidance is available on the Internet at *http://www.epa.gov/glnpo/fund/2004guid/*. It is also available from Lawrence Brail (312–886–7474/*brail.lawrence@epa.gov*).

FOR FURTHER INFORMATION CONTACT: Mike Russ, EPA–GLNPO, G–17J, 77 West Jackson Blvd., Chicago, IL 60604 (312–886–4013/*russ.michael@epa.gov*).

SUPPLEMENTARY INFORMATION: Projects should address Contaminated Sediments, Pollution Prevention and Toxics Reduction, Habitat (Ecological) Protection and Restoration, Invasive Species, Strategic or Emerging Issues, and Other Lakewide Management Plan or Remedial Action Plan (LaMP/RAP) Priorities.

Assistance is available pursuant to Clean Water Act section 104(b)(3) for activities in the Great Lakes Basin and in support of the Great Lakes Water Quality Agreement. State pollution control agencies, interstate agencies, other public or nonprofit private agencies, institutions, and organizations are eligible to apply.

Dated: January 28, 2004.

Gary V. Gulezian,

Director, Great Lakes National Program Office.

[FR Doc. 04–2420 Filed 2–4–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7618–9]

Proposed Amendment to CERCLA Section 122(h) Administrative Agreement for Recovery of Response Costs for the Amenia Town Landfill Superfund Site, Town of Amenia, Dutchess County, NY

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region II, of a proposed amendment to an administrative agreement pursuant to section 122(h) of CERCLA, 42 U.S.C. 9622(h), for recovery of response costs concerning the Amenia Town Landfill Superfund Site (''Site'') located in the Town of Amenia, Dutchess County, New York. The proposed amendment would add two parties, Great Eastern Color Lithographic Corporation and H.O. Penn Machinery Company, Inc. to the prior cost recovery settlement concerning this Site. The prior settlement required the original settling parties, Town of Amenia, New York; Ashland, Inc.; BP America Inc.; Curtiss-Wright Corporation; International Business Machines Corporation; Alastair B. Martin; Estate of Edith Martin; Metal Improvement Company, Inc.; Town of Sharon, Connecticut; Syngenta Crop Protection, Inc.; TBG Services, Inc.; Unisys Corporation; and Weyerhaeuser Company to pay $361,873.17 in reimbursement of EPA's response costs at the Site. That settlement included a covenant not to sue the settling parties pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), in exchange for their payments. The prior settlement was the subject of a public notice published in 68 FR 48383 (August 13, 2003). No comments were received concerning the prior settlement which became effective on September 18, 2003. The proposed amendment to the prior settlement agreement would add the two additional parties who would be subject to the same obligations and benefits under the prior settlement as the original parties to that settlement and a further obligation to pay an additional $11,000 each ($22,000 total) in reimbursement of EPA's past costs. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed amendment to the prior settlement. EPA will consider all comments received and may modify or withdraw its consent to the amendment to the settlement if comments received disclose facts or considerations that indicate that the proposed amendment is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region II, 290 Broadway, New York, New York 10007–1866.

DATES: Comments must be submitted on or before March 8, 2004.

ADDRESSES: The proposed amendment to the prior settlement is available for public inspection at EPA Region II offices at 290 Broadway, New York, New York 10007–1866. Comments should reference the Amenia Town Landfill Superfund Site located in the Town of Amenia, Dutchess County, New York, Index No. CERCLA–02–2003–2029. To request a copy of the proposed amendment to the prior settlement agreement, please contact the individual identified below.

FOR FURTHER INFORMATION CONTACT: George A. Shanahan, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007–1866. Telephone: 212–637–3171.

Dated: January 23, 2004.

William McCabe,

Acting Director, Emergency and Remedial Response Division, Region 2.

[FR Doc. 04–2418 Filed 2–4–04; 8:45 am]

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