business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions (Renewal).

ICR numbers: EPA ICR No. 2243.06, OMB Control No. 2020–0033.

ICR Status: This ICR is scheduled to expire on August 31, 2010. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not 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 in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4347 establishes the federal government's national policy for protection of the environment. The Council on Environmental Quality Regulations (CEQ Regulations) at 40 CFR parts 1500 through 1508 establish procedures implementing the national policy. The CEQ Regulations (40 CFR 1505.1) require federal agencies to adopt and, as needed, revise their own implementing procedures to supplement the CEQ Regulations and to ensure their decision-making processes are consistent with NEPA. EPA accordingly laid out its "Procedures for Implementing the National Environmental Policy Act and Assessing the Environmental Effects Abroad of EPA Actions" at 40 CFR part 6.

Those subject to the final NEPA rule include certain grant or permit applicants who must submit environmental information documentation to EPA for their proposed projects. The final NEPA regulations consolidate and standardize the environmental review process applicable to all EPA actions subject to NEPA, including those actions now specifically addressed in the regulations and other actions subject to NEPA but not specifically addressed in the regulations (e.g., certain grants awarded for special projects authorized by Congress through the Agency's annual Appropriations Act).

EPA is collecting information from certain applicants as part of the process of complying with either NEPA or Executive Order 12114 ("Environmental Effects Abroad of Major Federal Actions"). EPA's NEPA regulations apply to the actions of EPA that are subject to NEPA in order to ensure that environmental information is available to the Agency's decision-makers and the public before decisions are made and before actions are taken.

When EPA conducts an environmental assessment pursuant to its Executive Order 12114 procedures, the Agency generally follows its NEPA procedures. Compliance with the procedures is the responsibility of EPA's Responsible Officials, and for applicant-proposed actions applicants may be required to provide environmental information to EPA as part of the environmental review process. For this Information Collection Request (ICR), applicant-proposed projects subject to either NEPA or Executive Order 12114 (and that are not addressed in other EPA programs' ICRs) are addressed through the NEPA process.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 123 hours 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.

Respondents/Affected Entities: Entities potentially affected by this action are certain grant or permit applicants who must submit environmental information documentation to EPA for their projects to comply with NEPA or Executive Order 12114, including Wastewater Treatment Construction Grants Program facilities, State and Tribal Assistance Grant recipients and new source National Pollutant Discharge Elimination System permittees.

Estimated Number of Respondents: 312.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 38,472 hours.

Estimated Total Annual Cost: $3,503,245, includes $7,638 annualized capital or O&M costs.

Changes in the Estimates: There is a decrease of 9,675 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease reflects the increasing the number of projects that are documented with a categorical exclusion (CE) rather than an environmental assessment (EA). Under the current ICR, approximately 60% of the annual 300 grant projects were documented with a CE, and 40% with an EA. However, we estimate that out of the 300 annual grant projects, 75% will be documented with a CE and 25% will be documented with an EA.

Dated: July 21, 2010.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2010–18367 Filed 7–26–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9180–4]

California State Motor Vehicle and Nonroad Engine Pollution Control Standards; Truck Idling Requirements; Opportunity for Public Hearing and Request for Public 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 requirements to reduce idling emissions from new and in-use trucks beginning in 2008. CARB's 2008 Truck Idling Requirements apply to new California certified 2008 and subsequent model year heavy-duty diesel engines in heavy-duty diesel vehicles with a gross vehicle weight rating over 14,000 pounds, and to in-use diesel-fueled commercial vehicles with gross vehicle weight ratings over 10,000 pounds that are equipped with sleeper berths. This notice announces that EPA has tentatively scheduled a public hearing to consider California's 2008 Truck Idling Requirements request and that EPA is accepting written comment on the request.

DATES: EPA has tentatively scheduled a public hearing concerning CARB's

request on August 31, 2010 at 10 a.m. EPA will hold a hearing only if any party notifies EPA by August 17, 2010, expressing its interest in presenting oral testimony. By August 24, 2010, any person who plans to attend the hearing may call Kristien Knapp at (202) 343–9949 to learn if a hearing will be held or may check the following Web page for an update: *http://www.epa.gov/otaq/cafr.htm.*

Parties wishing to present oral testimony at the public hearing should provide written notice to Kristien Knapp at the e-mail address noted below. If EPA receives a request for a public hearing, that hearing will be held at 1310 L Street, 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 until October 1, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0317, by one of the following methods:

- *On-Line at 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–2010–0317, U.S. 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.

On-Line Instructions for Submitting Comments: Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0317. 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 automatically be 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.*

EPA will make available for public inspection materials submitted by CARB, written comments received from any 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 ID No. EPA–HQ–OAR–2010–0317. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, located at 1301 Constitution Avenue, NW., Washington, DC. The Public Reading Room is open to the public on all Federal government work days from 8:30 a.m. to 4:30 p.m.; generally, it is open Monday through Friday, excluding holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (e-mail) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the fax number is (202) 566–9744. 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–2010–0317 in the "Enter Keyword or ID" fill-in box 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.

EPA's Office of Transportation and Air Quality also maintains a Web page that contains general information on its review of California waiver requests. Included on that page are links to several of the prior waiver **Federal Register** notices which are cited throughout today's notice; the page can be accessed at *http://www.epa.gov/otaq/cafr.htm.*

FOR FURTHER INFORMATION CONTACT: Kristien Knapp, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405J), NW., Washington, DC 20460. Telephone: (202) 343–9949. Fax: (202) 343–2800. E-mail: *knapp.kristien@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. California's 2008 Truck Idling Requirements

By letter dated May 9, 2008, CARB informed EPA that it had adopted its 2008 Truck Idling Requirements, and requested that EPA confirm that certain provisions of the requirements are not preempted by sections 209(a) of the Clean Air Act (Act); certain provisions are conditions precedent pursuant to section 209(a) of the Act; [1] certain provisions are within-the-scope of previous waivers and authorizations issued pursuant to sections 209(b) and 209(e) of the Act, respectively; and at least one provision requires and merits a full authorization pursuant to section 209(e) of the Act.[2] CARB's 2008 Truck Idling Requirements became effective California State law on November 15, 2006, amending title 13, California Code of Regulations (CCR) sections 1956.8, 2404, 2424, 2425, and 2485.[3]

CARB's 2008 Truck Idling Requirements consist of three elements:

[1] EPA can confirm that a California requirement is a condition precedent to sale, titling, or registration, if: (1) The requirements do not constitute new or different standards or accompanying enforcement procedures, and (2) the requirements do not affect the basis for the previous waiver decision.

[2] California Air Resources Board (CARB) Letter to EPA regarding, "Requirements to Reduce Idling Emissions From New and In-Use Trucks, Beginning in 2008; Request for Confirmation That Certain Requirements are not Subject to Preemption Under Clean Air Act Section 209(a) or Fall Within the Scope of Previously Granted Waivers and Authorizations, and Request for New Authorization Under Section 209(e)(2)," EPA–HQ–OAR–2010–0317–0001.

[3] *See* California Air Resources Board (CARB), "Final Regulation Order," EPA–HQ–OAR–2010–0317–0011.

(1) "New engine requirements" that require new California-certified 2008 and subsequent model year on-road diesel engines in vehicles with a gross vehicle weight rating (GVWR) greater than 14,000 pounds (*i.e.,* heavy-duty diesel vehicles or "HDDV"s) be equipped with a system that automatically shuts down the engine after five minutes of continuous idling; (2) "Sleeper truck requirements" that require the operator of a sleeper truck to manually shut down the engine after five minutes of continuous idling; and (3) "Alternative technology requirements" that establish in-use performance standards for HDDV operators who use alternative technologies to supply power for truck cab or sleeper berth climate control and/or other on-board accessories that otherwise would have been generated by the continuous idling of the truck's main engine.[4] CARB requests, first, that EPA confirm that its new engine requirements are not preempted by section 209(a) of the Act, or that they are other conditions precedent required prior to the initial sale of new heavy-duty diesel engines. Alternatively, CARB requests that if EPA concludes that the new engine requirements are preempted by section 209(a) of the Act, then EPA confirm that the requirements are within-the-scope of EPA's previously-issued waiver for 2007 and later model year heavy-duty diesel engines. Second, CARB requests that EPA confirm that its sleeper truck requirements are purely operational controls, which are not preempted by section 209(a) of the Act. Third, CARB requests the following determinations from EPA with respect to its alternative technology requirements: (1) A within-the-scope confirmation for its requirement that an alternative power supply (APS) may only be operated if that engine has been certified to meet either applicable California off-road or Federal nonroad emission standards and test procedures for its fuel type and power category;[5] (2) a full authorization for its requirement that a driver may not operate a diesel-fueled APS engine on a vehicle with a primary engine certified to the 2007 and subsequent model year standards unless the APS is certified to meet the applicable California or Federal standard and meets one of three additional requirements;[6] and (3) a determination that its requirements pertaining to fuel-fired heaters, batteries, fuel cells, and power inverter/chargers for on-shore power are not preempted by section 209.

II. Clean Air Act New Motor Vehicle and Engine Waivers of Preemption

Section 209(a) of the Clean Air Act preempts States and local governments from setting emission standards for new motor vehicles and engines; it 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.

Through operation of section 209(b) of the Act, California is able to seek and receive a waiver of section 209(a)'s preemption. If certain criteria are met, 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). Section 209(b)(1) only allows a waiver to be granted for any State that had 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 its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards (*i.e.,* if such State makes a "protectiveness determination"). Because California was the only State to have adopted standards prior to 1966, it is the only State that is qualified to seek and receive a waiver.[7] The Administrator must grant a waiver unless she finds that: (A) California's above-noted "protectiveness determination" is arbitrary and capricious;[8] (B) California does not need such State standards to meet compelling and extraordinary conditions;[9] or (C) California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.[10] EPA has previously stated that consistency with section 202(a) requires that California's standards must be technologically feasible within the lead time provided, giving due consideration of costs, and that California and applicable Federal test procedures be consistent.[11]

The second sentence of section 209(a) of the Act prevents States from requiring, "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." However, once EPA has granted California a waiver of section 209(a)'s preemption for emission standards and/or accompanying enforcement procedures, California may then require other such conditions precedent.[12] EPA can confirm that a California requirement is a condition precedent to sale, titling, or registration, if: (1) The requirements do not constitute new or different standards or accompanying enforcement procedures, and (2) the requirements do not affect the basis for the previous waiver decision.

III. Clean Air Act Nonroad Engine and Vehicle Authorizations

Section 209(e)(1) of the Act permanently preempts 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 its own 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 rule that sets forth, among other things, the criteria, as found in section 209(e)(2), which EPA must consider before granting any

[4] *See* California Air Resources Board (CARB), "Waiver and Authorization Action Support Document," pp. 1–13, EPA–HQ–OAR–2010–0317–0002.

[5] CARB believes this requirement is within-the-scope of the previous authorization for new nonroad engine standards because that authorization already allows enforcement of California's requirement that any new APS engine acquired since the 2000 model year is required to meet the California or Federal nonroad engine emission standards. (*See* 75 FR 8056 (February 23, 2010).)

[6] The additional requirements are one of the following: (a) Exhaust routed into the truck's exhaust system and PM trap; (b) a level 3 verified PM control strategy; or (c) use of other procedures to demonstrate an equivalent level of emissions compliance.

[7] *See* S.Rep. No. 90–403 at 632 (1967).

[8] CAA section 209(b)(1)(A).

[9] CAA section 209(b)(1)(B).

[10] CAA section 209(b)(1)(C).

[11] *See, e.g.,* 74 FR 32767 (July 8, 2009); *see also Motor and Equipment Manufacturers Association* v. *EPA* (MEMA I), 627 F.2d 1095, 1126 (DC Cir. 1979).

[12] "Once California receives a waiver for standards for a certain class of motor vehicles, it need only meet the waiver criteria of section 209(b) for regulations pertaining to those vehicles when it adopts new or different standards or accompanying enforcement procedures. Otherwise, California may adopt any other condition precedent to the initial retail sale, titling, or registration of those vehicles without the necessity of receiving a further waiver of Federal preemption." 43 FR 36680 (August 18, 1978).

California authorization request for new nonroad engine or vehicle emission standards. On October 8, 2008, the regulations promulgated in that rule were moved to 40 CFR Part 1074, and modified slightly.[13] As stated in the preamble to the section 209(e) rule, EPA has historically interpreted the section 209(e)(2)(iii) "consistency" inquiry to require, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers).[14]

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. To be consistent with section 209(e)(1), California's nonroad standards and enforcement procedures must not attempt to regulate engine categories that are permanently preempted from State regulation. To determine consistency with section 209(b)(1)(C), EPA typically reviews nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests. Pursuant to 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. Previous decisions granting waivers and authorizations have noted that State standards and enforcement procedures are inconsistent with section 202(a) if: (1) There is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time, or (2) the Federal and State testing procedures impose inconsistent certification requirements.

IV. Within-the-Scope Determinations

If California amends regulations that were previously granted a waiver of preemption, EPA can confirm that the amended regulations are within-the-scope of the previously granted waiver. Such within-the-scope amendments are permissible without a full waiver review if three conditions are met. First, the amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards. Second, the amended regulations must not affect consistency with section 202(a) of the Act. Third, the amended regulations must not raise any "new issues" affecting EPA's prior waivers.

V. EPA's Request for Public Comment

When EPA receives a new waiver or authorization request from CARB, EPA traditionally publishes a notice of opportunity for public hearing and comment in the **Federal Register**. Then, after the comment period has closed and EPA has evaluated CARB's request in light of the administrative record, EPA publishes a notice of decision in the **Federal Register**. In contrast, when EPA receives a request from CARB that EPA confirm that CARB amendments are within-the-scope of previous waivers and/or authorizations, EPA typically 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. Because CARB's request for its 2008 Truck Idling Requirements includes at least one requirement that CARB believes require a new full authorization, EPA invites public comment on the entire request, including but not limited to the following issues.

First, should EPA consider CARB's new engine requirements as non-preempted operational controls, or as conditions precedent? In the alternative, if CARB's new engine requirements should be treated as standards relating to the control of emissions or accompanying enforcement procedures, should they be subject to and do they meet the criteria for EPA to confirm that they are within-the-scope of EPA's waiver for new heavy-duty diesel engines for 2007 and subsequent model years? To the extent the new engine requirements should be treated as standards relating to the control of emissions or accompanying enforcement procedures and require a full waiver from EPA, do the requirements meet the full waiver criteria?

Second, are CARB's sleeper truck requirements properly considered an operational control and thus not preempted by section 209 of the Act? To the extent that CARB's sleeper truck requirements should be treated as standards relating to the control of emissions from new motor vehicles or engines or accompanying enforcement procedures and require a full waiver from EPA, do the requirements meet the criteria for a full waiver?

Third, with respect to CARB's alternative technology requirements, EPA presents the following specific questions: (1) Does CARB's requirement that an APS using an internal combustion engine be certified to meet either California off-road or Federal nonroad emission standards and test procedures meet the requirements for finding that it is within-the-scope of the authorization EPA issued for new nonroad engine standards, thus not requiring a full authorization?;[15] (2) If not, does CARB's requirement that an APS using an internal combustion engine be certified to meet either California off-road or Federal nonroad emission standards and test procedures meet the requirements for a full authorization?; (3) Does CARB's requirement that a diesel-fueled APS engine be certified to the California or Federal 2007 and subsequent model year standards and meet one of three other listed requirements[16] meet the criteria for a full authorization?; and (4) Are CARB's requirements pertaining to fuel-fired heaters, batteries, fuel cells, power inverter/chargers for on-shore power, and truck electrification preempted under section 209 of the Clean Air Act, and if so, do they meet the requirements for waiver under section 209(b) or authorization under section 209(e)?

As called out by these specific questions, EPA is seeking threshold input on whether to treat various elements of CARB's 2008 Truck Idling Requirements as conditions precedent, within-the-scope of previous waivers and authorizations, not preempted by section 209, or in need of a full waiver or authorization. After determining which analysis to conduct, EPA will likely review the requirements

[13] The applicable regulations, now in 40 CFR part 1074, subpart B, § 1074.105, provide:

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

(b) The authorization will not be granted if the Administrator finds that any of the following are true:

(1) California's determination is arbitrary and capricious.

(2) California does not need such standards to meet compelling and extraordinary conditions.

(3) The California standards and accompanying enforcement procedures are not consistent with section 209 of the Act.

(c) In considering any request from California to authorize the State to adopt or enforce standards or other requirements relating to the control of emissions from new nonroad spark-ignition engines smaller than 50 horsepower, the Administrator will give appropriate consideration to safety factors (including the potential increased risk of burn or fire) associated with compliance with the California standard.

[14] *See* 59 FR 36969 (July 20, 1994).

[15] 75 FR 8056 (February 23, 2010).

[16] The additional requirements are one of the following: (a) Exhaust routed into the truck's exhaust system and PM trap; (b) a level 3 verified PM control strategy; or (c) use of other procedures to demonstrate an equivalent level of emissions compliance.

according to its traditional criteria, and therefore, seeks substantive comment on whether the various elements of CARB's 2008 Truck Idling Requirements meet the applicable criteria for confirmation as conditions precedent,[17] within-the-scope,[18] non-preemption,[19] and full waiver[20] or authorization.[21]

VI. 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 public hearing is held, EPA will keep the record open until October 1, 2010. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record from the public hearing, if any, all 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–2010–0317.

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" (CBI). If a person making comments wants EPA to base its decision on a submission labeled as CBI, then a non-confidential version of the document that summarizes the key data or information should be submitted to the public docket. To ensure that proprietary information is not inadvertently placed in the public 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 according to 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: July 20, 2010.

Margo Tsirigotis Oge,

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

[FR Doc. 2010–18362 Filed 7–26–10; 8:45 am]

BILLING CODE 6560–50–P

[17] EPA has previously stated that, "Once California receives a waiver for standards for a certain class of motor vehicles, it need only meet the waiver criteria of section 209(b) for regulations pertaining to those vehicles when it adopts new or different standards or accompanying enforcement procedures. Otherwise, California may adopt any other condition precedent to the initial retail sale, titling, or registration of those vehicles without the necessity of receiving a further waiver of Federal preemption." 43 FR 36680 (August 18, 1978).

[18] As stated in **Section IV** above, EPA's inquiry for within-the-scope confirmations requires that: (1) The amended regulations must not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards; (2) the amended regulations must not affect consistency with section 202(a) of the Act; and (3) the amended regulations must not raise any "new issues" affecting EPA's prior waivers.

[19] A requirement is not preempted if it is not a "standard relating to the control of emissions from new motor vehicles or any new motor vehicle engines subject to [Title II of the Clean Air Act]," or "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." CAA § 209(a).

[20] As stated in **Section II** above, the Administrator must grant a waiver unless she finds that: (A) California's "protectiveness determination" is arbitrary and capricious; (B) California does not need such State standards to meet compelling and extraordinary conditions; or (C) California's 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.

[21] As stated in **Section III** above, the Administrator must grant an authorization unless she finds that: (A) California's "protectiveness determination" is arbitrary and capricious; (B) California does not need such standards to meet compelling and extraordinary conditions; or (C) California's standards and accompanying enforcement procedures are not consistent with section 209 of the Act. EPA has clarified through rulemaking that consistency with section 209 requires, at minimum, that California standards and enforcement procedures be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C) (as EPA has interpreted that subsection in the context of section 209(b) motor vehicle waivers). *See* 40 CFR 1074.105.

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R01–OW–2010–0318, FRL–9180–3]

Massachusetts Marine Sanitation Device Standard—Notice of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Determination.

SUMMARY: The Regional Administrator of the Environmental Protection Agency—New England Region, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the coastal waters of Gloucester, Rockport, Essex, Ipswich, Rowley, Newbury, Newburyport, Salisbury, Amesbury, West Newbury, Merrimac, Groveland, North Andover, Haverhill, Methuen, and Lawrence, collectively termed the Upper North Shore for the purpose of this notice.

ADDRESSES: *Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Ann Rodney, U. S. Environmental Protection Agency—New England Region, Office of Ecosystem Protection, Oceans and Coastal Protection Unit, Five Post Office Square, Suite 100, OEP06–1, Boston, MA 02109–3912. *Telephone:* (617) 918–1538. *Fax number:* (617) 918–0538. *E-mail address: rodney.ann@epa.gov*.

SUPPLEMENTARY INFORMATION: On May 20, 2010, EPA published a notice that the Commonwealth of Massachusetts had petitioned the Regional Administrator, Environmental Protection Agency, to determine that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of the Upper North Shore. Four comments were received on this petition. The response to comments can be obtained utilizing the above contact information.

The petition was filed pursuant to Section 312(f)(3) of Public Law 92–500, as amended by Public Laws 95–217 and 100–4, for the purpose of declaring these waters a No Discharge Area (NDA).

Section 312(f)(3) states: After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether