



ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2013-0491; FRL 9900-20-OAR]

California State Motor Vehicle Pollution Control Standards; Tractor-Trailer Greenhouse Gas Regulation; Request for Waiver of Preemption; Opportunity for Public Hearing and 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 a tractor-trailer greenhouse gas emission regulation applicable to new and in-use 53-foot and longer box-type trailers and to new and in-use tractors that haul such trailers on California highways (HD Tractor-Trailer GHG Regulation). By letter dated June 20, 2013, CARB submitted a request that EPA grant a waiver of preemption of the Clean Air Act (CAA), of the HD Tractor-Trailer GHG Regulation pertaining to new tractors (2011 through 2013 model years) and new trailers (2011 and subsequent model years). This notice announces that EPA has scheduled a public hearing concerning California's request and that EPA is accepting written comment on the request.

DATES: EPA has scheduled a public hearing concerning CARB's request on September 16, 2013, beginning at 9:00 a.m. Any party planning to present oral testimony should notify EPA by September 6, 2013, expressing its interest. EPA will hold the public hearing at EPA's offices at 1310 L Street, NW, Washington, D.C. 20460. Any party may submit written comments by October 18, 2013.

ADDRESSES: EPA will make available for in person inspection, at the Air and Radiation

Docket and Information Center, 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, D.C. 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 EPA-HQ-OAR-2013-0491.

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 website: (<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.

FOR FURTHER INFORMATION CONTACT: David Dickinson, Compliance Division (6405J), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave, NW, Washington, D.C. 20460. Telephone: (202) 343-9256, Fax: (202) 343-2804, e-mail address:

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FOR OBTAINING AND SUBMITTING ELECTRONIC COPIES OF COMMENTS

Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2013-0491, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: dickinson.david@epa.gov

- Fax: (202)343-2804.

- Mail: U.S. Environmental Protection Agency, EPA West (Air Docket), 1200 Pennsylvania Ave., NW., Room B108, Mail Code 6102T, Washington, D.C. 20460, Attention Docket ID No. EPA-HQ-OAR-2013-0491. Please include a total of two copies.

- Hand Delivery: EPA Docket Center, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, D.C. 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-2013-0491.

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> website 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. 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.

<mailto:Dickinson.David@EPA.GOV>. **SUPPLEMENTARY INFORMATION:**

(A) CARB's Waiver Request for its HD Tractor-Trailer GHG Regulation

CARB's June 20, 2013, letter to the Acting Administrator presents EPA with CARB's HD Tractor-Trailer GHG Regulation as adopted in 2008 and amended in 2010 and 2012.¹ CARB is seeking a waiver for those elements of the HD Tractor-Trailer GHG Regulation applicable to new 2011 through 2013 model year (MY) Class 8 tractors equipped with integrated sleeper berths (sleeper cab tractors), and to new 2011 and subsequent MY dry-van and refrigerated-van trailers that are pulled by such tractors on California highways.

(B) Scope of Preemption and Criteria for a Waiver under the Clean Air Act

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

¹ See Title 17, California Code of Regulations (CCR) sections 95300 through 95312.

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) 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). EPA must grant a waiver unless the Administrator 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. Previous decisions granting waivers of federal preemption for motor vehicles have maintained that state standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time period or if the federal and state test procedures impose inconsistent certification procedures.²

(C) Request for Comment

² To be consistent, the California certification procedures need not be identical to the federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet the state and the federal requirements with the same test vehicle in the course of the same test. See, e.g., 43 FR 32182 (July 25, 1978).

EPA invites comment on CARB's request for a waiver of its HD Tractor-Trailer GHG Regulation with regard to those regulatory provisions pertaining to new tractors (2011 through 2013 model years) and new trailers (2011 and subsequent model years) under the following three criteria: whether (a) California's determination that its motor vehicle emission standards are, in the aggregate, at least as protective of public health and welfare as applicable federal standards is arbitrary and capricious, (b) California needs such standards to meet compelling and extraordinary conditions, and (c) California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Clean Air Act.

PROCEDURES FOR PUBLIC PARTICIPATION:

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. EPA will keep the record open until October 18, 2013. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, relevant written submissions, and other information that she 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 non-confidential 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: August 9, 2013

Christopher Grundler, Director
Office of Transportation and Air Quality

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