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**Authority:** 5 U.S.C. Appendix 2.

Dated: October 7, 2004.

**Sally L. Stroup,**

*Assistant Secretary for Postsecondary Education.*

[FR Doc. 04-23018 Filed 10-13-04; 8:45 am]

BILLING CODE 4000-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-7827-5]

### California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption for Off-Cycle Emission Test Requirements; Notice of Decision

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

**ACTION:** Notice regarding waiver of federal preemption.

**SUMMARY:** EPA today, pursuant to section 209(b) of the Clean Air Act (Act), 42 U.S.C. 7543(b), is granting California its request for a waiver of federal preemption for its regulations controlling emissions from off-cycle aggressive driving and air-conditioning usage for motor vehicles under 8,501 pounds gross vehicle weight rating. The California Air Resources Board (CARB) requested that EPA grant California a waiver of federal preemption for its regulations which incorporate EPA's two supplemental federal test procedures (SFTP) and associated certification standards.

**ADDRESSES:** The Agency's Decision Document, containing an explanation of the Assistant Administrator's decision, as well as all documents relied upon in making that decision, including those submitted to EPA by CARB, are available at the EPA's Air and Radiation Docket at EPA's Docket Center. The Docket Center is open from 8:30 to 4:30 p.m. Monday through Friday, at EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The reference number for this docket is OAR-2003-0187.

Electronic copies of this Notice and the accompanying Decision Document

are available via the Internet on the Office of Transportation and Air Quality (OTAQ) Web site (<http://www.epa.gov/OTAQ>). Users can find these documents by accessing the OTAQ Web site and looking at the path entitled, "Chronological List of All OTAQ Regulations." This service is free of charge, except for any cost you already incur for Internet connectivity. The electronic **Federal Register** version of the Notice is made available on the day of publication on the primary Web site (<http://www.epa.gov/docs/fedrgstr/EPA-AIR>).

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#### FOR FURTHER INFORMATION CONTACT:

David J. Dickinson, Certification and Compliance Division, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue (6405J), NW., Washington, DC 20460. Telephone: (202) 343-9256. E-Mail address: [Dickinson.David@EPA.GOV](mailto:Dickinson.David@EPA.GOV).

**SUPPLEMENTARY INFORMATION:** I have decided to grant California a waiver of Federal preemption pursuant to section 209(b) of the Act for amendments to its motor vehicle pollution control program regarding emissions from off-cycle aggressive driving (US06) and air-conditioning (SC03) as set forth at 13 California Code of Regulations 1960.1, 2062, and 2101 and the incorporated "California Exhaust Emission Standards and Test Procedures for 1988 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," "California New vehicle Compliance Test Procedure," and "California Assembly-Line Test Procedures for 1988 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles."

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards; whether California needs State standards to meet compelling and extraordinary conditions; and whether California's amendments are consistent with section 202(a) of the Act.

CARB determined that its off-cycle aggressive driving and air-conditioning

usage standards and accompanying enforcement procedures do not cause California's standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. EPA received no comments that questioned CARB's determination. EPA cannot make a finding that CARB's determination, that its requirements are, in the aggregate, at least as protective of public health and welfare, is arbitrary and capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle pollution control program, which includes the subject standards and procedures. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Therefore, I agree that California continues to have compelling and extraordinary conditions which require its own program, and, thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that the requirements of its emission standards and test procedures are technologically feasible and present no inconsistency with federal requirements and are, therefore, consistent with section 202(a) of the Act. No information has been presented to demonstrate that CARB's requirements are inconsistent with section 202(a) of the Act, nor does EPA have any other reason to believe that CARB's requirements are inconsistent with section 202(a). Thus, I cannot find that California's requirements will be inconsistent with section 202(a) of the Act. Accordingly, I hereby grant the waiver requested by California.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeal for the District of Columbia Circuit. Petitions for review must be filed by December 13, 2004. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is

exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Finally, the Administrator has delegated the authority to make determinations regarding waivers of Federal preemption under section 209(b) of the Act to the Assistant Administrator for Air and Radiation.

Dated: September 30, 2004.

**Jeffrey R. Holmstead,**

*Assistant Administrator, Office of Air and Radiation.*

[FR Doc. 04-23035 Filed 10-13-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7827-9]

### Science Advisory Board Staff Office; Notification of an Upcoming Meeting of the Ecological Effects Subcommittee of the Advisory Council on Clean Air Compliance Analysis

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

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office announces a public meeting of the Ecological Effects Subcommittee (EES) of the Advisory Council on Clean Air Compliance Analysis (Council). The EES will discuss charge questions related to ecological issues as found in the Office of Air and Radiation's Benefits and Costs of the Clean Air Act, Revised Analytic Plan for EPA's Second Prospective Analysis, 1990-2020.

**DATES:** The public meeting of the Council EES will be held on November 5, 2004 from 9 a.m. to 4 p.m. (Eastern time). The meeting will be held at the SAB Conference Center, 1025 F Street, NW., Suite 3700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding the SAB or the Council EES may contact Dr. Holly Stallworth, Designated Federal Officer, at telephone/voice mail: (202) 343-9867 or via e-mail at: [stallworth.holly@epa.gov](mailto:stallworth.holly@epa.gov). General information about the SAB and the meeting location may be found on the SAB Web site at: [www.epa.gov/sab](http://www.epa.gov/sab).

## SUPPLEMENTARY INFORMATION:

### Background

EPA's Office of Air and Radiation (OAR) conducts periodic, scientifically-reviewed studies to assess the costs and benefits of regulations promulgated under the Clean Air Act. The Council is an outside body of recognized experts charged with reviewing the data, methods and cost-benefit analyses conducted by OAR for implementing its programs. The EES is one of the Council's three subcommittees.

EPA has thus far issued one retrospective analysis of the Clean Air Act covering the 1970-1990 time period and one prospective analysis covering the 1990-2010 time period. EPA is planning a second prospective analysis covering the 1990-2020 time period and has issued two analytic blueprints for this analysis. The Council provided advice on these analytic blueprints in 2001 and 2004, but deferred three charge questions pertaining to ecological effects to the EES. The Council's reports may be found at: <http://www.epa.gov/sab/fiscal04.htm>. OAR's "Section 812" reports are posted at: <http://www.epa.gov/air/sect812/index.html>. Additional background on the Council and on the statutorily mandated analyses of the costs and benefits of Clean Air Act programs was provided in a **Federal Register** notice published on February 14, 2003 (68 FR 7531-7534).

The November 5, 2004 meeting will provide the Council EES an opportunity to address the Agency's three charge questions pertaining to ecological issues and Clean Air Act regulations. These three charge questions (numbers 18-20) may be found at: <http://www.epa.gov/air/sect812/812chargequestions-070303finalrevised.pdf>. A meeting agenda will be posted on the SAB Web site prior to the meeting.

### Procedures for Providing Public Comments

It is the policy of the EPA SAB to accept written public comments of any length, and to accommodate oral public comments whenever possible. The SAB Staff Office expects that public statements presented at the EES meeting will not be repetitive of previously submitted oral or written statements. Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). Interested parties should contact the DFO in writing (e-mail, fax or mail—see contact information above) by close of business October 29, 2004, in order to

be placed on the public speaker list for the meeting. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the participants and public at the meeting. Written Comments: Although the SAB Staff Office accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least seven business days prior to the meeting date so that the comments may be made available to the panel for their consideration. Comments should be supplied to the DFO at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files in IBM-PC/Windows 98/2000/XP format). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

### Meeting Accommodations

Individuals requiring special accommodation to access the public meetings listed above should contact the DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: October 7, 2004.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 04-23036 Filed 10-13-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7827-8]

### Science Advisory Board Staff Office; Notification of Advisory Meeting of the Science Advisory Board Illegal Competitive Advantage Economic Benefit Advisory Panel

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

**ACTION:** Notice.

**SUMMARY:** The Science Advisory Board (SAB) Illegal Competitive Advantage (ICA) Economic Benefit (EB) Advisory Panel will hold a public teleconference to finalize its draft advisory report to the Agency on economic methods related to assessing economic benefits attributed to non-compliance with EPA regulations.

**DATES:** The SAB ICA EB Advisory Panel will meet on November 4, 2004, via