

service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

*Comment Date:* 5 p.m. eastern time on February 12, 2007.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E6-21412 Filed 12-14-06; 8:45 am]

**BILLING CODE 6717-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8256-5]

### Agency Information Collection Activities OMB Responses

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

**ACTION:** Notice.

**SUMMARY:** This document announces the Office of Management and Budget's (OMB) responses to Agency clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

**FOR FURTHER INFORMATION CONTACT:** Susan Auby (202) 566-1672, or e-mail at [auby.susan@epa.gov](mailto:auby.susan@epa.gov) and please refer to the appropriate EPA Information Collection Request (ICR) Number.

#### SUPPLEMENTARY INFORMATION:

### OMB Responses to Agency Clearance Requests

#### OMB Approvals

EPA ICR No. 2243.01; Procedures for Implementing NEPA; was approved 11/15/2006; OMB Control Number 2020-0033; expires 05/31/2007.

#### Short Term Extension

EPA ICR No. 0168.08; NPDES and Sewage Sludge Management State Programs; in 40 CFR part 122, 40 CFR 123.21-123.24, 40 CFR 123.26-123.29, 40 CFR 123.43-123.45, 40 CFR 123.62-123.64, 40 CFR 124.53-124.54, 40 CFR part 125, 40 CFR part 501, 40 CFR 123.26(e), 40 CFR 123.26(e)(5), 40 CFR 123.41(a), 40 CFR 501.21, 40 CFR 501.34, 40 CFR 501.11, 40 CFR 501.16, 40 CFR 123.26(b)(2) and (3), 40 CFR 124.53 and 124.54, 40 CFR 123.43 and 123.44, 40 CFR 501.14, 40 CFR 123.45, 40 CFR 501.21, 40 CFR 123.21, 40 CFR 123.64, 40 CFR 123.26(b)(1), (2) and(3),

40 CFR 123.43 and 123.44(i); OMB Number 2040-0057; on 11/21/2006, OMB extended the expiration date through 12/31/2006.

EPA ICR No. 2178.01; Market-based Stormwater Management in the Shepherd Creek Watershed in Cincinnati, OH; OMB Number 2080-0076; on 11/30/2006, OMB extended the expiration date through 03/31/2007.

EPA ICR No. 0220.09; Clean Water Act Section 404 State-Assumed Programs; in 40 CFR 233.10-233.14, 40 CFR 233.20-233.21, 40 CFR 233.30, 40 CFR 233.50, 40 CFR 233.52; OMB Number 2040-0168; on 11/21/2006, OMB extended the expiration date through 01/31/2007.

Dated: December 8, 2006.

**Richard T. Westlund,**

*Acting Director, Collection Strategies Division.*

[FR Doc. E6-21419 Filed 12-14-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8257-2]

### California State Nonroad Engine and Vehicle Pollution Control Standards; Decision of the Administrator

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

**ACTION:** Notice regarding authorization of California small off-road engine emission standards.

**SUMMARY:** EPA today, pursuant to section 209(e) of the Clean Air Act (Act), 42 U.S.C. 7543(e), is granting California its request for an authorization of its small off-road engine emission standards for 2007 and subsequent model years (SORE). By letter dated April 11, 2005, the California Air Resources Board (CARB) requested that EPA grant California an authorization (sometimes referred to as a waiver of federal preemption) for its SORE regulations which set forth amended exhaust emission standards and new evaporative emission standards and associated test procedures for Class I and Class II small off-road engines for 2007 and subsequent model years.

**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 EPA's Air and Radiation Docket and Information Center (Air Docket). Materials relevant to this decision are contained in Docket No.

EPA-HQ-OAR-2005-0133. The docket is located at The Air Docket, Room 3334, 1301 Constitution Avenue, NW., Washington, DC 20460, and may be viewed between 8 a.m. and 5:30 p.m., Monday through Friday. The telephone is (202) 566-1742. A reasonable fee may be charged by EPA for copying docket material.

Additionally, 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 [www.regulations.gov](http://www.regulations.gov) Web site, select "Environmental Protection Agency" from the pull-down Agency list, then scroll to "Keyword or ID" and enter EPA-HQ-OAR-2004-0133 to view documents in the record of the SORE authorization request. 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.

#### FOR FURTHER INFORMATION CONTACT:

David Dickinson, Compliance and Innovative Strategies Division, U.S. Environmental Protection Agency, Ariel Rios Building (6405J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Telephone: (202) 343-09256. E-Mail Address: [Dickinson.David@EPA.GOV](mailto:Dickinson.David@EPA.GOV).

**SUPPLEMENTARY INFORMATION:** I have decided to grant California an authorization pursuant to section 209(e) of the Act for the SORE regulations.<sup>1</sup> As explained in the Decision Document supporting today's decision, I have decided to grant a full authorization for all of the SORE regulation despite CARB's request that some portions be considered within the scope of previous authorization determinations. As also explained in the Decision Document, EPA received a series of comments supporting CARB's request for an authorization and received comments from one commenter that conditionally supported the authorization and raised other concerns but did not represent that such other concerns should be the basis for denying or delaying the authorization. For the reasons set forth below and further discussed in the Decision Document, EPA is granting CARB's request for authorization for its SORE regulations.

Section 209(e)(1) of the Act addresses the permanent preemption of any State, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating

<sup>1</sup> The CARB Board approved the SORE regulations by Resolution 03-24.

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 state 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 regulation that sets forth, among other things, the criteria, as found in section 209(e)(2), by which EPA must consider any California authorization requests for new nonroad engines or vehicle emission standards. The regulations found at 40 CFR part 85, subpart Q, § 85.1605 provides:

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

(b) The authorization shall not be granted if the Administrator finds that:

(1) The determination of California is arbitrary and capricious;

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

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

As stated in the preamble to the section 209(e) rule, EPA has interpreted the requirement that “California standards and accompanying enforcement procedures are not consistent with section 209” to mean that California standards and accompanying enforcement procedures must 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 motor vehicle waivers.<sup>2</sup> 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. Secondly, California’s nonroad standards and enforcement procedures must be consistent with section 209(e)(1), which identifies the categories permanently preempted from state regulation.

Finally, because California’s nonroad standards and enforcement procedures must be consistent with section 209(b)(1)(C), EPA will review nonroad authorization requests under the same “consistency” criteria that are applied to motor vehicle waiver requests. Under section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if he finds that California “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 stated 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 requirements.

Congress further directed EPA to “give appropriate consideration to safety factors (including the potential increased risk of burn or fire) associated with compliance with the California standard” when considering any request from California to authorize the state to adopt or enforce standards or other requirements relating to the control of emission from new non-road spark-ignition engines smaller than 50 horsepower.<sup>3</sup>

CARB determined that its SORE standards do not cause California’s standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. No information has been submitted to demonstrate that California’s standards, in the aggregate, to be less protective than the applicable Federal standards. Thus, EPA cannot make a finding that CARB’s determination that its SORE standards are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards to be arbitrary and capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its nonroad pollution control program, which includes the SORE regulations. 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, thus I cannot deny the authorization on the basis of the lack of compelling and extraordinary conditions.

CARB has determined that its SORE regulations are not inconsistent with section 209(a)—they do not regulate new motor vehicles or new motor vehicle engines. No information has been submitted opposing this determination. Therefore, I agree that California’s SORE regulations are consistent with section 209(a).

CARB has determined that its SORE regulations are not inconsistent with

section 209(e)(1)—they do not regulate new engines which are used in construction equipment or vehicles or used in farm equipment or vehicles which are smaller than 175 horsepower. No information has been submitted opposing this determination. As explained in the Decision Document, pressure washers are included in CARB’s SORE regulation and are found not to be inconsistent with section 209(e)(1).

CARB has determined that its SORE regulations are not inconsistent with section 209(b)(1)(C) as EPA has implemented that subsection in the context of motor vehicles. CARB has determined that it has provided adequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time period. Comment was received stating that “phase-in flexibility” was required by equipment manufacturers in order to successfully transition into model years where new emission standards apply. As explained in the Decision Document EPA believes that California has adequately addressed this concern. No information was submitted to suggest that CARB’s certification requirements, including test procedures, are inconsistent with applicable federal certification requirements. Therefore I cannot find that CARB’s SORE regulations are inconsistent with section 202(a).

As explained in the Decision Document, EPA has considered safety factors, including the potential increased risk of burn or fire, both in the context of satisfying the statutory criteria of section 209(e) and in the context of the language in the 2004 Omnibus Appropriation Act. In either context, EPA finds that issues of safety risks have been adequately addressed by California and safety factors do not prevent EPA from authorizing California’s regulations.

EPA agrees with all CARB findings with regard to the provisions listed. Additionally, no information was presented to EPA by any party which would demonstrate that California did not meet the burden of satisfying the statutory criteria of section 209(e).

For these reasons, EPA authorizes California to enforce the SORE regulations.

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 nonroad engines and vehicles for sale in California. For this reason, I hereby

<sup>2</sup> See 59 FR 36969, 36983 (July 20, 1994).

<sup>3</sup> See Fiscal Year 2004 Omnibus Appropriations Act (Pub. L. 108–109 division G section 428).

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 Appeals for the District of Columbia Circuit. Petitions for review must be filed by February 13, 2007. 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 authorization 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 authorizations under section 209(e) of the Act to the Assistant Administrator for Air and Radiation.

Dated: December 11, 2006.

**William L. Wehrum,**

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. E6-21378 Filed 12-14-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-8256-6]

### Proposed Settlement Agreement

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

**ACTION:** Notice of Proposed Settlement Agreement; Request for Public Comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement, to address lawsuits filed by Pasadena Refining Systems, Inc. ("Petitioner") in the United States Court of Appeal for the Fifth Circuit: *Pasadena Refining Systems, Inc. v. EPA*, No. 04-60982 and No. 05-60551 (Fifth Cir.). Petitioner requested judicial review of various letters sent by EPA officials in which the EPA officials responded to PRSI's request to determine whether PRSI would qualify for small refiner status under 40 CFR

80.550 of EPA's Nonroad Diesel regulations. Petitioners also requested judicial review of EPA's decision to approve, in part, PRSI's request for hardship relief under 40 CFR 80.560 of EPA's Nonroad Diesel regulations.

**DATES:** Written comments on the proposed settlement agreement must be received by January 16, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID number EPA-HQ-OGC-2006-0932, online at <http://www.regulations.gov> (EPA's preferred method); by e-mail to [oei.docket@epa.gov](mailto:oei.docket@epa.gov); mailed to EPA Docket Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; or by hand delivery or courier to EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC, between 8:30 a.m. and 4:30 p.m. Monday through Friday, excluding legal holidays. Comments on a disk or CD-ROM should be formatted in Word or ASCII file, avoiding the use of special characters and any form of encryption, and may be mailed to the mailing address above.

**FOR FURTHER INFORMATION CONTACT:**

Gretchen Graves, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-5581; fax number (202) 564-5603; e-mail address: [graves.gretchen@epa.gov](mailto:graves.gretchen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Additional Information About the Proposed Settlement

PRSI, the purchaser of the Crown Central Petroleum refinery at Pasadena, Texas, requested judicial review of various letters sent by EPA officials in response to an inquiry from PRSI to determine whether PRSI would qualify for small refiner status under 40 CFR 80.550 of EPA's Nonroad Diesel regulations. Petitioners also requested judicial review of EPA's decision to approve, in part, PRSI's request for hardship relief under 40 CFR 80.560 of EPA's Nonroad Diesel regulations. The proposed settlement would resolve these lawsuits.

The proposed settlement agreement is available for review in the docket described above. For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed settlement agreement from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of

Justice may withdraw or withhold consent to the proposed settlement agreement if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, based on any comment which may be submitted, that consent to the settlement agreement should be withdrawn, the terms of the agreement will be affirmed.

PRSI has claimed that a dollar amount contained in section A.5 of the attached compliance plan contains confidential business information ("CBI"). EPA has not determined whether the term is entitled to confidential treatment under EPA's Freedom of Information Act regulations. 40 CFR part 2, subpart B. According to our regulations, EPA can not release information claimed as confidential before a CBI determination is made. *Id.* Therefore, EPA has redacted that term for purposes of this notice, based on this claim. EPA invites comment on all aspects of the proposed settlement and the appropriateness of its terms, including comments regarding the appropriate dollar amount to include in section A.5.

#### II. Additional Information About Commenting on the Proposed Settlement

##### A. How Can I Get a Copy of the Settlement?

The official public docket for this action (identified by Docket ID No. EPA-HQ-OGC-2006-0932) contains a copy of the settlement. An electronic version of the public docket is available through <http://www.regulations.gov>. You may use the [www.regulations.gov](http://www.regulations.gov) to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

##### B. How and To Whom Do I Submit Comments?

Direct your comments to the official public docket for this action under Docket ID No. EPA-HQ-OGC-2006-0932. You may submit comments as provided in the **ADDRESSES** section. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.