

Environmental Protection Agency

§ 85.1701

which the locomotive or engine becomes new, those standards or other requirements which are preempted include, but are not limited to, the following: emission standards, mandatory fleet average standards, certification requirements, aftermarket equipment requirements, and nonfederal in-use testing requirements. The standards and other requirements specified in the preceding sentence are preempted whether applicable to new or other locomotives or locomotive engines.

(d) No state or any political subdivisions thereof shall enforce any standards or other requirements relating to the control of emissions from nonroad engines or vehicles except as provided for in this subpart.

[59 FR 36987, July 20, 1994, as amended at 62 FR 67736, Dec. 30, 1997; 63 FR 18998, Apr. 16, 1998]

§ 85.1604 Procedures for California nonroad authorization requests.

(a) California shall request authorization to enforce its adopted standards and other requirements relating to the control of emissions from nonroad vehicles or engines that are otherwise not preempted by § 85.1603(b) or § 85.1603(c) from the Administrator of EPA and provide the record on which the state rulemaking was based.

(b) After receipt of the authorization request, the Administrator shall provide notice and opportunity for a public hearing regarding such requests.

[59 FR 36987, July 20, 1994, as amended at 62 FR 67736, Dec. 30, 1997]

§ 85.1605 Criteria for granting authorization.

(a) The Administrator shall grant the authorization if California determines that California 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.

§ 85.1606 Adoption of California standards by other states.

Any state other than California which has plan provisions approved under Part D of Title I of the Clean Air Act may adopt and enforce emission standards for any period, for nonroad vehicles and engines subject to the following requirements:

(a) The state must provide notice to the Administrator that it has adopted such standards.

(b) Such standards shall not apply to new engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower or to new locomotives or new engines used in locomotives.

(c) Such standards and implementation and enforcement shall be identical, for the period concerned, to the California standards authorized by the Administrator.

(d) The state shall adopt such standards at least two years before commencement of the period for which the standards take effect.

(e) California shall have adopted such standards two years before commencement of the period for which the standards take effect in the state that is adopting under section 209(e)(2)(B).

[59 FR 36987, July 20, 1994, as amended at 62 FR 67736, Dec. 30, 1997]

Subpart R—Exclusion and Exemption of Motor Vehicles and Motor Vehicle Engines

AUTHORITY: Secs. 208(b)(1), 216(2), and 301, Clean Air Act (42 U.S.C. 7522, 7550, and 7061).

SOURCE: 39 FR 32611, Sept. 10, 1974, unless otherwise noted.

§ 85.1701 General applicability.

(a) The provisions of this subpart regarding exemption are applicable to new and in-use motor vehicles and motor vehicle engines.

(b) The provisions of this subpart regarding exclusion are applicable after the effective date of these regulations.