The Applicant proposes to make no more than two applications of Movento (22.4% spirotetramat) on a maximum of 275 acres of dry bulb onions between July and September in Minnesota. Total amount of pesticide to be used is 2,750 fluid ounces of movento (44 lbs of spirotetramat).

This notice does not constitute a decision by EPA on the application itself but provides an opportunity for public comment on the application. EPA has determined that publication of a notice of receipt of this application for a specific exemption is appropriate, taking into consideration that the registration of the spirotetramat product that is the subject of this emergency exemption request was recently cancelled as a result of the December 23, 2009 decision of the U.S. District Court for the Southern District of New York vacating its registration on procedural grounds. The vacatur decision is available for review at *www.regulations.gov* under Docket ID Number 2010–0178.

The notice provides an opportunity for public comment on the application.

The Agency will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Minnesota Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: July 21, 2010.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2010–18777 Filed 7–29–10; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9183–3]

California State Motor Vehicle Pollution Control Standards; Within-the-Scope Determination for Amendments to California's Low Emission Vehicle Program; Notice of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of within-the-scope determination.

SUMMARY: EPA is confirming that technical amendments promulgated by the California Air Resources Board (CARB) are within-the-scope of existing waivers of preemption for CARB's Low Emission Vehicle (LEV II) program. These technical amendments were adopted by CARB in 2006, and include amendments to California's evaporative emission test procedures, onboard refueling vapor recovery and spitback test procedures, exhaust emission test procedures, and vehicle emission control label requirements. These amendments align each of California's test procedures and label requirements with its federal counterpart, in an effort to streamline and harmonize the California and federal programs. California believes these amendments will reduce manufacturer testing burdens and increase in-use compliance, without compromising the stringency of its numerical LEV II emission standards.

DATES: Any objections to the findings in this notice regarding EPA's determination, that California's amendments are within-the-scope of previous waivers, must be filed by August 30, 2010. Upon receipt of a timely objection, EPA will consider scheduling a public hearing to reconsider these findings, which would be announced in a subsequent **Federal Register** notice. Otherwise, these findings will become final on September 28, 2010.

ADDRESSES: Any objections to the within-the-scope findings in this **Federal Register** notice should be filed with Kristien Knapp at the address noted below. All documents relied upon in making this decision, including those submitted to EPA by CARB, are contained in the public docket.

EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2010–0238. Publicly available docket materials are available either electronically through *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 *www.regulations.gov* Web site, enter EPA HQ–OAR–2010–0238 in the "Enter Keyword or ID" fill-in box to view documents in the record of CARB's LEV II technical amendments within-the-scope waiver 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.

EPA's Office of Transportation and Air Quality also maintains a webpage 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. Background

A. CARB's 2006 Technical Amendments

On April 30, 2007, CARB submitted a request to EPA for confirmation that CARB's 2006 Technical Amendments to California's LEV II program are within-the-scope of previously granted waivers of preemption. CARB's 2006 Technical Amendments generally include amendments to its evaporative emission test procedures, four-wheel drive dynamometer provisions, and vehicle label requirements. Each of these general areas amends previously promulgated—and waived—amendments to CARB's LEV II program.

CARB originally received a waiver of preemption for its LEV II program from EPA on April 22, 2003.[1] The LEV II program itself exists as the result of a series of amendments to California's older LEV I program. The LEV II program set stringent evaporative emission standards and test procedures beginning with the 2004 model year. California subsequently enacted two sets of "follow-up" amendments to its LEV II program. The first set of follow-up amendments established exhaust emission standards and test procedures for light-duty and medium-duty gasoline-fueled vehicles. The following set of follow-up amendments revised

[1] 60 FR 19811 (April 22, 2003).

vehicle labeling provisions and refueling emission standards and test procedures. Both sets of follow-up amendments were determined by EPA to be within-the-scope of previous waivers on April 28, 2005.[2] CARB presents that its 2006 Technical Amendments are within-the-scope of EPA's LEV II waiver, and EPA's within-the-scope confirmation for California's LEV II follow-up amendments.[3]

CARB's 2006 Technical Amendments directly incorporate a direct final rule issued by EPA on December 8, 2005,[4] in order to streamline California's exhaust, evaporative, and refueling test procedures to the corresponding federal procedures. CARB considered and approved the 2006 Technical Amendments at a June 22, 2006 hearing by adopting Resolution 06–20; [5] the technical amendments became effective California state law on February 17, 2007, pending EPA's waiver review. CARB believes its effort to harmonize its procedures with EPA's procedures in the 2006 Technical Amendments will reduce manufacturer testing burdens and compliance requirements without compromising the stringency or efficacy of its numerical emission standards.

CARB's 2006 Technical Amendments affect only evaporative emission test procedures and not the underlying standards. Specifically, the 2006 Technical Amendments: (1) Authorize manufacturers to opt to certify new vehicles to the Two-Day Diurnal plus Hot Soak (2D+HS) test sequence on the basis of an engineering judgment; (2) clarify that when a manufacturer has certified vehicles using an alternative running loss test procedure, CARB may conduct certification confirmatory tests and in-use compliance tests using either the specified procedures or that manufacturer's approved alternative running loss test procedure; (3) provide manufacturers an option to use an alternative canister preconditioning method; (4) clarify that only one evaporative test demonstration is required for all applicable fuel types of each evaporative/refueling family; (5) modify the Onboard Refueling Vapor Recovery (ORVR) requirements to make optional the disconnection of the canister and fuel tank-vent hose assembly when the drain-and-ten-percent-fill step of the refueling test sequence is performed; (6) include several minor, non-substantive amendments to maintain federal harmonization; (7) modify existing test procedures to allow a manufacturer to perform certification emission tests of four-wheel drive (4WD) vehicles on 4WD dynamometers; (8) eliminate the requirement that manufacturers include certain outdated information on their vehicle labels.[6] These changes amend title 13, California Code of Regulations (CCR), sections 1961, 1976, and 1978; [7] these three amended code sections incorporate by reference three contemporaneously amended test procedure documents.[8]

B. Clean Air Act 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 (this is known as California's "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.[9] The Administrator must grant a waiver unless she finds that: (A) California's above-noted "protectiveness determination" is arbitrary and capricious; [10] (B) California does not need such State standards to meet compelling and extraordinary conditions; [11] or (C) California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.[12] 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.[13]

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 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.

II. Discussion

As stated above, EPA can confirm that amended regulations are within-the-scope of a previously granted waiver if three conditions are met. CARB, in its Resolution 06–20, expressly found that its 2006 Technical Amendments met each of these criteria.[14]

A. California's Protectiveness Determination

When granting a waiver for CARB's LEV II amendments, which established the LEV II standards at the heart of the LEV II program, EPA declined to find that California's protectiveness determination was arbitrary and capricious.[15] The protectiveness

[2] 70 FR 22034 (April 28, 2005).

[3] 68 FR 77 (April 22, 2003), 70 FR 22034 (April 28, 2005). *See also* 67 FR 162 (August 21, 2002) (EPA's waiver for California's onboard refueling vapor recovery standards and procedures, which pre-existed and were modified by CARB's second set of LEV II follow-up amendments.).

[4] 70 FR 72917 (December 8, 2005).

[5] CARB, "Resolution 06–20," EPA–HQ–OAR–2010–0238–0006.

[6] CARB, Waiver Support Document, EPA–HQ–OAR–2010–0238–0002 at pp. 4–8.

[7] *See* CARB, "Final Regulation Order," EPA–HQ–OAR–2010–0238–0008.

[8] *See* CARB, Attachment 7, EPA–HQ–OAR–2010–0238–0009.

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

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

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

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

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

[14] CARB, "Resolution 06–20," EPA–HQ–OAR–2010–0238–0006, pp. 4–5.

[15] 68 FR 19812 (April 22, 2003). *See also* EPA's LEV II Waiver Decision Document at pp. 9–11 ("EPA did not receive any comments stating that CARB's LEV II requirement are not, in the aggregate, as stringent as applicable federal standards. Therefore, based on the record before me, I cannot find that CARB's LEV II regulations, as noted, would cause the California motor vehicle emission standards, in the aggregate, to be less protective of

Continued

determination at issue in the original LEV II proceeding was based upon a comparison of California's LEV II emission standards, as amended by the LEV II follow-up amendments, to federal Tier 2 standards. CARB notes that its LEV II-to-Tier 2 comparison showed that LEV II standards were more stringent than the applicable federal Tier 2 standards, particularly taking into account CARB's more stringent NO_X standards for the 2007 through 2010 model years and CARB's more stringent evaporative emission standards.[16] CARB also notes that the LEV II follow-up amendments increased the protectiveness of California's LEV II program by ensuring that federal vehicles that are cleaner than their California counterparts would be certified in California.[17]

CARB's 2006 Technical Amendments do not increase or decrease the stringency of the LEV II standards; they only affect test procedures and label requirements, in an effort to harmonize California compliance requirements with federal compliance requirements. We see no reason to think that application of compliance requirements that mirror federally-promulgated compliance requirements would undermine—rather than reinforce—California's protectiveness determination.

After reviewing the materials submitted by CARB, EPA can confirm that the 2006 Technical Amendments do not undermine California's previous determination that its standards, in the aggregate, are as protective of public health and welfare as applicable federal standards.

B. Consistency With Section 202(a) of the Clean Air Act

EPA has stated in the past that California standards and accompanying test procedures would be inconsistent with section 202(a) of the Clean Air Act if: (1) There is inadequate lead time to permit the development of technology necessary to meet those requirements, giving appropriate consideration to cost of compliance within the lead time provided, or (2) the federal and California test procedures impose inconsistent certification requirements.[18]

The first prong of EPA's inquiry into consistency with section 202(a) of the Act depends upon technological feasibility. This requires EPA to determine whether adequate technology already exists; or if it does not, whether there is adequate time to develop and apply the technology before the standards go into effect. CARB points out that in the course of its rulemaking, no manufacturer raised any lead time concerns.[19] Additionally, CARB notes that these procedures have already been promulgated and applied by EPA. Consequently, EPA cannot identify any lead time issue posed by application of procedures that are already used for federal compliance.[20] We find that adequate technology already exists.

The second prong of EPA's inquiry into consistency with section 202(a) of the Act depends on the compatibility of the federal and California test procedures. CARB points out, again here, that its technical amendments are designed to harmonize its test procedures with federal test procedures.[21] In fact, CARB found that without the technical amendments, inconsistent test procedures would exist.[22] EPA agrees with this analysis; because identical test procedures cannot be incompatible, we cannot find that California's test procedures are inconsistent with our own.

For those reasons, EPA can confirm that the 2006 Technical Amendments are not inconsistent with section 202(a) of the Clean Air Act.

C. New Issues

EPA has stated that if CARB amendments raise "new issues" affecting previously granted waivers, we cannot confirm that those amendments are within-the-scope of previous waivers.[23] Here, CARB determined that there are no new issues presented by CARB's 2006 Technical Amendments.[24] CARB notes that in the course of its rulemaking, it received only two public comments: One comment from a manufacturer in support and one comment unrelated to the rulemaking.[25] After our own review of CARB's 2006 Technical Amendments, EPA is similarly unable to identify any new issues.

III. Decision

CARB's April 30, 2007 letter seeks confirmation from EPA that CARB's 2006 Technical Amendments to California's LEV II program are within-the-scope of previous waivers of preemption that EPA has granted. After evaluating the 2006 Technical Amendments, EPA confirms that CARB meets the three criteria that EPA traditionally uses to determine whether a present request from California is within-the-scope of previous waivers. First, EPA agrees with CARB that the technical amendments do not undermine California's protectiveness determination from its previous LEV II waiver requests. Second, EPA agrees with CARB that its 2006 Technical Amendments are not inconsistent with section 202(a) of the Act. Third, EPA agrees with CARB that its 2006 Technical Amendments do not present any "new issues," which would affect its previous waivers. Therefore, EPA confirms that CARB's 2006 Technical Amendments are within-the-scope of EPA's waivers of preemption for California's LEV II program.

The Administrator has delegated the authority to grant California a section 209(b) waiver of preemption to the Assistant Administrator for Air and Radiation. Having given consideration to all the material submitted for this record, and other relevant information, I find that I cannot make the determinations required for a denial of a waiver pursuant to section 209(b) of the Act. EPA's analysis confirms CARB's finding that these amendments meet the criteria for receiving a within-the-scope determination; therefore, EPA finds that the 2006 Technical Amendments are within-the-scope of previous waivers for California's LEV II program.

Because these amendments are within-the-scope of a previous waiver, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings by August 30, 2010, EPA will consider holding a public hearing to provide interested parties an opportunity to present oral testimony and written evidence to show that there are issues to be addressed through a section 209(b) waiver proceeding and that EPA should reconsider its findings. Otherwise, these findings will become final on September 28, 2010.

My decision will affect not only persons in California, but also manufacturers outside the State who must comply with California's requirements in order to produce engines for sale in California. For this reason, I determine and find that this is a final action of national applicability for purposes of section 307(b)(1) of the Act. Pursuant to section 307(b)(1) of the

public health and welfare than applicable Federal standards.") (citation omitted).

[16] CARB, "Waiver Support Document," EPA–HQ–OAR–2010–0238–0002 at 11.

[17] *Id.*

[18] *See, e.g.,* 75 FR 8056 (February 23, 2010); 70 FR 22034 (April 28, 2005).

[19] CARB, "Waiver Support Document," EPA–HQ–OAR–2010–0238–0002 at 12.

[20] *Id.*

[21] *Id.*

[22] CARB, "Resolution 06–20," EPA–HQ–OAR–2010–0238–0006 at 3.

[23] *See, e.g.,* 75 FR 8056 (February 23, 2010); 70 FR 22034 (April 28, 2005).

[24] CARB, "Waiver Support Document," EPA–HQ–OAR–2010–0238–0002 at 13.

[25] *Id.*

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 September 28, 2010. Judicial review of this final action may not be obtained in subsequent enforcement proceedings, pursuant to section 307(b)(2) of the Act.

As with past authorization and 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.

Further, the Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

Dated: July 22, 2010.

Gina McCarthy,

Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2010–18791 Filed 7–29–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–8991–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–1399 or *http://www.epa.gov/compliance/nepa/.*

Weekly Receipt of Environmental Impact Statements

Filed 07/19/2010 Through 07/23/2010 Pursuant to 40 CFR 1506.9

EIS No. 20100273, Final EIS, BLM, UT, West Tavaputs Plateau Natural Gas Full Field Development Plan, Develop the Natural Gas Resource on Leased and Unleased Lands, Carbon County, UT, *Wait Period Ends:* 08/30/2010, *Contact:* Tyler Ashcraft 435–636–3600.

EIS No. 20100274, Draft EIS, BLM, UT, Kerr-McGee Oil & Gas Onshore LP (KMG), Proposes to Conduit Infill Drilling to Develop the Hydrocarbon Resources Oil and Gas Leases, Application for Permit to Drill and Approval Right-of-Way Grants, Uintah County, UT, *Comment Period Ends:* 09/13/2010, *Contact:* Stephanie Howard 435–781–4400.

EIS No. 20100275, Final EIS, BLM, WY, Wright Area Coal Lease Project, Applications for Leasing Six Tracts of Federal Coal Reserves Adjacent to the Black Thunder, Jacob Ranch, and North Antelope Rochelle Mines, Wyoming Powder River Basin, Campbell County, WY, *Wait Period Ends:* 08/30/2010, *Contact:* Sarah Bucklin 307–261–7541.

EIS No. 20100276, Final EIS, USFS, ID, Clear Prong Project, To Implement Silvicultural Activities, Including Thinning of Sub-Merchantable Trees, Prescribed Fires and Aspen Enhancement on 2,190 Acres, Bois National Forest, Cascade Ranger District, Valley County, ID, *Wait Period Ends:* 08/30/2010, *Contact:* Keith Dimmett 208–382–7400.

EIS No. 20100277, Final EIS, FERC, 00, Apex Expansion Project, Proposal to Expand its Natural Gas Pipeline System, WY, UT and NV, *Wait Period Ends:* 08/30/2010, *Contact:* Mary O'Driscoll 1–866–208–3372.

EIS No. 20100278, Final EIS, BLM, OR, Vegetation Treatments Using Herbicides on Bureau of Land Management (BLM) Lands in Oregon, Implementation, OR, *Wait Period Ends:* 08/30/2010, *Contact:* Todd Thompson 503–808–6326.

EIS No. 20100279, Final EIS, USAF, 00, Southwest Idaho Ecogroup Land and Resource Management Plan, Updated Information to Reanalyze the Effects of Current and Proposed Management on Rock Mountain Bighorn Sheep Viability in the Payette National Forest 2003 FEIS, Boise National Forest, Payette National Forest and Sawtooth National Forest, Forest Plan Revision, Implementation, Several Counties, ID; Malhaur County, OR and Box Elder County, UT, *Wait Period Ends:* 08/30/2010, *Contact:* Sue Dixon 208–634–0796.

EIS No. 20100280, Draft EIS, STB, PA, R.J. Corman Railroad/Pennsylvania Lines Project, Construction, Operation, and Reactivation to Approximately 20 Miles of Railline in Clearfield and Centre Counties, PA, *Comment Period Ends:* 09/28/2010, *Contact:* Danielle Gosselin 202–245–0300.

EIS No. 20100281, Draft EIS, FHWA, IN, I–69 Evansville to Indianapolis Tier 2 Section 4 Project, From U.S. 231 (Crane NSWC) to IN–37 South of Bloomington in Section 4, Greene and Monroe Counties, IN, *Comment Period Ends:* 09/28/2010, *Contact:* Janice Osadczuk 317–226–7486.

EIS No. 20100282, Final EIS, WAPA, SD, South Dakota PrairieWinds Project, Proposes to Construct, Own, Operate, and Maintain a 151.5 megawatt (MW) Nameplate Capacity Wind-Powered Generation Facility, Aurora, Brule, and Jerauld, Tripp Counties, SD, *Wait Period Ends:* 08/30/2010, *Contact:* Liana Reilly 800–336–7288.

Dated: July 27, 2010.

Ken Mittelholtz,

Deputy Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2010–18802 Filed 7–29–10; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2010–0609; FRL–9181–3]

Inquiry To Learn Whether Businesses Assert Business Confidentiality Claims

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) receives from time to time Freedom of Information Act (FOIA) requests for documentation received or issued by EPA or data contained in EPA database systems pertaining to the export and import of Resource Conservation and Recovery Act (RCRA) hazardous waste from/to the United States, the export of cathode ray tubes (CRTs) and Spent Lead Acid Batteries (SLABs) from the United States, and the export and import of RCRA universal waste from/to the United States. These documents and data may identify or reference multiple parties, and describe transactions involving the movement of specified materials in which the parties propose to participate or have participated. The purpose of this notice is to inform "affected businesses" about the documents or data sought by these types of FOIA requests in order to provide the businesses with the opportunity to assert claims that any of the information sought that pertains to them is entitled to treatment as confidential business information (CBI), and to send comments to EPA supporting their claims for such treatment. Certain businesses, however, do not meet the definition of "affected business," and are not covered by today's notice. They consist of any business that actually submitted to EPA any document at issue pursuant to applicable RCRA regulatory requirements and did not assert a CBI claim as to information that pertains to that business in connection with the document at the time of its submission;