amendments, which apply to 1994 and later model year passenger cars, light-duty trucks, and medium-duty vehicles require the monitoring of essentially all emission control systems, and emission related components. In addition, it addresses deficiencies in the OBD I requirements that have become apparent since their adoption, and establishes new testing protocol and standardization procedures.

OBD II provides for new monitoring requirements covering: catalyst system condition, engine misfire detection, evaporative control system operation, supplementary air system function, the exhaust gas recirculation (EGR) system flow rate, chloroflourocarbon loss (air conditioning refrigerant), and monitoring of other components and systems controlled by the on-board engine control computer. In general the California OBD II regulations require that a deteriorated component or system be detected as malfunctioning by the time its lack of performance causes vehicle emissions to exceed 1.5 times any of the standards to which the vehicle is certified or when a component is completely nonfunctioning. Therefore, permissible emission increases are a function of the standards to which the vehicle is

A number of changes to requirements initially established under OBD I were made to increase the effectiveness of the monitoring systems in detecting emission-related malfunctions. These requirements include tampering deterrence features, as well as, improvements to the malfunction detection effectiveness of the fuel system, oxygen sensor, EGR system, other emission-related electronic components.

Manufacturers are required to perform emission tests on a durability demonstration vehicle equipped with deteriorated emission-critical parts and show that the on-board diagnostic system will identify when an emission standard is exceeded by 1.5 times the applicable standard.

In order to facilitate vehicle repairs and assist Inspection and Maintenance Programs in utilizing the OBD system, CARB has required standardized vehicle communication systems that interface with a relatively low-cost, hand-held, universal diagnostic tool. The tool will be able to read specific diagnostic information such as fault codes which lead service personnel to the likely area of any malfunctions, and will provide continuously updated engine parameter data that will further help to isolate fault codes and ensure proper repairs.

In response to a Petition from Ford Motor Company, dated March 29, 1993, CARB modified its OBD II regulations to give the Executive Officer, upon request from a manufacturer, the authority to waive one or more of the OBD II requirements for vehicle models or engine families introduced prior to April 1, 1994. In making this determination the Executive Officer would consider, among other things, the overall extent to which the OBD II requirements will be met, and whether the manufacturer made good-faith efforts to comply with the regulation. For 1995 model year vehicles for which production begins after March 31, 1994, per vehicle penalties in increments of \$25 or \$50 per vehicle for the third and subsequently identified deficiency not to exceed \$500 per vehicle are possible.

On December 8, 1994, CARB approved amendments which addressed manufacturer concerns with developing fully compliant monitoring systems by the 1996 model year. Specifically, these amendments give additional compliance flexibility for manufacturers having difficulty creating enhanced diagnostic systems which monitor catalysts used in low-emission vehicles (LEV) and adequate misfire detection. In addition, the amendments also address monitoring requirements for evaporative system leaks and for the monitoring of diesel and alternate fuel vehicles.

In its request letter dated, June 14, 1995, California has stated that regardless of whether the EPA views the subject regulation as accompanying enforcement procedures or new standards, the requisite findings to support a grant of a waiver of federal preemption have been made. That is, as accompanying enforcement procedures, the regulations do not endanger the protectiveness finding that the ARE has made for previously granted waiver determinations and the regulations are consistent with the intent of section 202(a) of the federal CAA. In the alternative, if the OBD II regulations are viewed as new emission standards, a waiver should be granted because the regulations (as amended) are, in the aggregate, at least as stringent as the comparable federal OBD regulations, California needs its own motor vehicle program to meet compelling and extraordinary conditions in the state, and the regulations are consistent with section 202(a) of the CAA. Section 202(a) requires that the procedures provide sufficient lead time to permit the development and application of requisite technology, giving appropriate consideration to the cost of compliance within such period. In addition, the Agency has held that to avoid

inconsistency with section 202(a), California's procedures may not impose inconsistent certification requirements such that manufacturers would be unable to meet both the California and Federal requirements with the same test vehicle.

Once California has been granted waiver of Federal preemption for a set of standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to the initial retail sale, titling or registration of the subject class of vehicles without having to receive a further waiver of Federal preemption.

California's request will be considered according to the procedures for a waiver decision, which includes providing the opportunity for a public hearing. Any party wishing to present testimony at the hearing should address the following issues:

(1) Whether California's OBD II regulations are appropriately considered accompanying enforcement procedures or new emission standards;

(2) If CARB's regulations are accompanying enforcement procedures, address (A) whether these procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards promulgated pursuant to section 202(a), and (B) whether the California and Federal certification test procedures are inconsistent.

(3) If CARB's regulations are standards, address (A) whether California's determination that the amended standards are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious; (B) whether California needs separate standards to meet compelling and extraordinary conditions; and, (C) whether California's standards and accompanying enforcement procedures are consistent with section 202(a) of the Act.

II. Procedures for Public Participation

Any person desiring to make an oral statement on the record should file ten (10) copies of their proposed testimony and other relevant material with the Director of EPA's Manufacturers Operations Division at the Director's address listed above not later than October 13, 1995. In addition, that person should submit 25 copies, if feasible, of the planned statement to the presiding officer at the time of the hearing.

Because a public hearing is designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such.