alternative program, EPA believes it is appropriate to initiate an expedited rulemaking process on the conventional car portion of a LEV-equivalent program, as described below. Although EPA cannot act unilaterally to impose a LEV-equivalent program, EPA believes that, in light of the parties' continuing efforts to reach agreement, it is time to start to develop the regulatory structure that the parties have discussed to implement an agreement. EPA intends to propose and take comment on the voluntary new motor vehicle emission program described below. EPA also intends to propose that the entire alternative program is environmentally superior to OTC LEV because the alternative is at least environmentally equivalent to OTC LEV in the OTR and it has additional environmental benefits for the rest of the nation.

Before issuing such a proposal, EPA will seek the advice and recommendations of the Clean Air Act Advisory Committee and Subcommittee that have been addressing these issues. Although many of these issues, particularly those that would be raised by the conventional car portion of the program, have already been discussed in numerous Federal Register notices and public meetings, EPA believes it is important to allow people and states who have not participated in this process to date an opportunity to be heard on the specific provisions of a potential new, nationwide motor vehicle emission program.

The LEV-equivalent program under discussion has two major components—a cleaner car to be sold nationwide and advanced motor vehicle pollution control technology. In the following subsections, EPA describes the nationwide cleaner car, the advanced technology program currently under discussion, the possible methods for enforcing a LEV-equivalent program, the criteria for finding that such a program would be an acceptable alternative for OTC LEV, and how an acceptable LEV-equivalent program would affect a state's obligations under today's action.

1. Cleaner Conventional Cars and Light-Duty Trucks

The first component of a LEV-equivalent program would be requirements for cleaner conventional cars and light-duty trucks that ultimately would result in nationwide sales of cleaner new motor vehicles. Starting with the 2001 model year, all new cars and light-duty trucks sold outside California would meet the California Low Emission Vehicle (LEV) standard. These vehicles would have up to 66% lower in-use VOC and 73%

lower in-use NO_X tailpipe emissions than vehicles meeting the federal Tier I Standards. Prior to the nationwide introduction of this vehicle, auto manufacturers would phase in cleaner cars and light-duty trucks in the OTR according to a schedule that would accomplish emission reductions in the OTR equivalent to the following schedule:

40% TLEVS ⁴ for model years 1997– 2000 30% LEVs for model year 1999 60% LEVs for model year 2000 100% LEVs for model years 2001 and later

EPA cannot promulgate regulations requiring manufacturers to meet these standards prior to model year 2004 (see section 202(b)(1)(C) of the Act). Nonetheless, EPA can establish a voluntary program that would not apply to manufacturers until they opted into the program; then, once an auto manufacturer opted in, the voluntary standards would be implemented in a way that would be indistinguishable from mandatory standards.

In establishing such a program, several issues need to be addressed other than the tailpipe standards and phase-in schedule. EPA will seek comment on how to establish a banking and trading program, what exemptions should apply to small volume manufacturers, the extent to which federal standards (other than tailpipe standards) can be harmonized with California standards to reduce testing and design costs, how to incorporate California's on-board diagnostics system requirements, what process and timing are appropriate for allowing auto manufacturers to opt in, and other issues that would arise under the voluntary program.

2. Advanced Technology Vehicles

In the second component, auto manufacturers, utilities, and state and federal governments would commit to work together to further the development of advanced technology to control motor vehicle emissions. Representatives of the states and auto companies have been meeting independently and as a working group of a Subcommittee of the Clean Air Act Advisory Committee to develop an advanced technology component of a LEV-equivalent program. At this point in the discussions, they do not anticipate that EPA would take regulatory action to adopt the advanced technology component. Attachment A to this preamble is a current draft discussion paper of their ideas on the Advanced Technology Vehicle (ATV) component of a LEV-equivalent program. The parties have not yet reached agreement on this component.

3. Enforcement of a LEV-Equivalent Program

Given constraints imposed by Congress in the Clean Air Act, a LEVequivalent program cannot be instituted without the consent of the auto manufacturers and the OTC states. The auto manufacturers must agree to any tailpipe regulations other than the current federal program or the California program. EPA is precluded by section 202(b)(1)(C) from modifying the mandatory tailpipe standards prior to model year 2004. States are precluded by sections 177 and 209 from adopting any program other than the California program. Thus, the only route left to a LEV-equivalent program is one in which the auto manufacturers voluntarily agree to additional regulation. The auto manufacturers have said that, in principle, they could agree to a voluntary program if it avoided the need to comply with OTC LEV in the OTC states. The OTC states, therefore, would have to agree not to require compliance with OTC LEV if the auto manufacturers were complying with a voluntary federal program.

EPA has suggested that a combination of EPA regulations, consent decree(s), and a memorandum of understanding could be used in combination to create an enforceable LEV-equivalent program. EPA anticipates that a memorandum of understanding may be necessary or appropriate to outline the general structure and some specifics of the LEVequivalent program. EPA intends to propose that the cleaner conventional car component would be embodied in EPA regulations that would be issued after an expedited notice-and-comment rulemaking was completed. EPA suggests that the regulations be supplemented by a consent decree addressing obligations not in the regulations and providing additional assurance that the regulatory obligations will remain in effect. The states and automakers have discussed embodying the advanced technology vehicle component in a memorandum of understanding and a consent decree.

EPA intends to propose that it has statutory authority to promulgate the voluntary standards under sections 202(a) and 301(a) of the Clean Air Act. Section 202(a)(1) directs the Administrator to prescribe standards for control of air pollutant emissions from motor vehicles. EPA's prescription of

⁴ TLEV stands for transitional low emissions vehicle, which is cleaner than cars required by federal law