

**9. Heard County Power, L.L.C.**

[Docket No. ER01-943-000]

Take notice that on January 12, 2001, Heard County Power, L.L.C. (Heard County), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Tariff No. 1, effective February 15, 2001.

Heard County intends to sell electric power at wholesale at rates, terms, and conditions to be mutually agreed to with the purchasing party. Heard County's tariff provides for the sale of electric energy and capacity at agreed prices.

*Comment date:* February 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**10. Northeast Utilities Service Company**

[Docket No. ER01-945-000]

Take notice that on January 12, 2001, Northeast Utilities Service Company (NUSCO), on behalf of The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire, submitted pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's Regulations, rate schedule changes for sales of electricity to Unifil Power Corp.

NUSCO states that a copy of this filing has been mailed to Unifil Power Corp. and the Public Utilities Commission of New Hampshire.

NUSCO requests that the rate schedule changes become effective on January 15, 2001.

*Comment date:* February 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**11. Doyle I, L.L.C.**

[Docket No. ER01-946-000]

Take notice that on January 12, 2001, pursuant to Section 205 of the Federal Power Act, 16 U.S.C. § 824d (1994), and Sections 35.1(c), 35.13, 385.203, and 385.205 of the Commission's Regulations, 18 CFR 35.1(c), 35.13, 385.203, 385.205, Doyle I, L.L.C. (Doyle), tendered for filing a revised rate

consistent with its FERC Electric Rate Schedule No. 1 (Rate Schedule), which is the Power Purchase and Sale Agreement, as amended (PPSA) executed by Doyle and Oglethorpe Power Corporation (an electric membership corporation) (Oglethorpe) on May 25, 1999.

Copies of the filing were served upon Oglethorpe and on the Georgia Public Service Commission.

*Comment date:* February 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**12. Exelon Generation Company L.L.C.**

[Docket No. ER01-948-000]

Take notice that on January 12, 2001, Exelon Generation Company, L.L.C. (Exelon), tendered for filing power sales agreements under which Exelon will sell power.

Exelon states that a copy of the filing was served on each of the other parties to the agreements.

*Comment date:* February 2, 2001, in accordance with Standard Paragraph E at the end of this notice.

**Standard Paragraphs**

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at <http://www.ferc.fed.us/online/rims.htm> (call 202-208-2222 for assistance).

**David P. Boergers,***Secretary.*

[FR Doc. 01-2294 Filed 1-24-01; 8:45 am]

BILLING CODE 6717-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

[AMS-FRL-6937-2]

**California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption—Notice of Within-the-Scope Determination**

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

**ACTION:** Notice regarding waiver of federal preemption-within-the-scope determination.

**SUMMARY:** On March 26, 1999, EPA published a Notice of Opportunity for Public Hearing and Public Comment (see 64 FR 14715, March 26, 1999), regarding California's request to EPA

that EPA confirm the California Air Resources Board's (CARB's) finding that amendments to its zero-emission vehicle (ZEV) requirements of the low-emission vehicle (LEV) program are within-the-scope of a waiver of federal preemption EPA had previously approved (the earlier LEV waiver can be found at 58 FR 4166, January 13, 1993).

EPA is determining that California's amendments to the ZEV requirements of the LEV program, including the repeal of ZEV sales requirements from 1998 through 2002, are within the scope of previous waivers of Federal preemption granted pursuant to section 209(b) of the Clean Air Act (Act) to adopt and enforce its revised emission standards and accompanying enforcement procedures for 1988 and later model year vehicles and engines. In conjunction with the Notice of Opportunity for Public Hearing and Public Comment noted above, EPA held a hearing on the issues discussed within today's determination, therefore no additional opportunity for hearing is offered.

**ADDRESSES:** At the EPA's Air and Radiation Docket and Information Center, there are copies of the decision document containing an analysis of CARB's within-the-scope waiver request including: Information on standards and procedures and records of documents used in the decision document analysis (Docket A-97-20). The Air Docket Office is open from 8 to 5:30 p.m. Monday through Friday, room M-1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Electronic copies of this Notice and the accompanying Decision Document are available via the Internet on the Office of Transportation and Air Quality (OTAQ) website (<http://www.epa.gov/OMSWWW>). Users can find these documents by accessing the OTAQ website and looking at the path entitled "Regulations." This service is free of charge, except for any cost you already incur for Internet connectivity. The electronic **Federal Register** version of the Notice is made available on the day of publication on the primary website (<http://www.epa.gov/docs/fedrgstr/EPA-AIR>).

Please note that due to differences between the software used to develop the documents and the software into which the documents may be downloaded, changes in format, page length, etc., may occur.

**FOR FURTHER INFORMATION CONTACT:**

David J. Dickinson, Supervisory Attorney, Certification and Compliance Division, U.S. Environmental Protection Agency, Ariel Rios Building (6405J), 1200 Pennsylvania Avenue, NW.,

Washington, DC 20460. Telephone: (202) 564-9256. Fax: (202) 565-2057. E-Mail address: Dickinson.David@epa.gov.

#### SUPPLEMENTARY INFORMATION:

### I. ZEV Amendments Within the Scope Request

#### A. Procedural History

On January 13, 1993, EPA published a Notice Regarding Waiver of Federal Preemption granting California a waiver of federal preemption for the California LEV program. (58 FR 4166). The California LEV waiver included California's original ZEV requirements.

In March 1996, CARB amended the LEV program by eliminating the ZEV sales requirement for model years 1998 through 2002 along with several other modifications noted above.

On February 26, 1997, CARB submitted to the Administrator a request that EPA confirm the CARB Board's determination that the amendments to its regulations are within-the-scope of the existing LEV waiver. CARB also entered into, on March 29, 1996, memoranda of agreement (MOAs) with the seven largest vehicle manufacturers. These MOAs provide for the introduction of a certain number of ZEVs into the California market for calendar years 1998 through 2000 and require CARB to perform certain tasks.

When EPA receives new waiver requests from CARB, EPA publishes a notice of opportunity for public hearing and comment and then publishes a decision in the **Federal Register** following the public comment period. In contrast, when EPA receives within-the-scope waiver requests from CARB, EPA traditionally publishes a decision in the **Federal Register** and concurrently invites public comment if an interested party is opposed to EPA's decision.

Because EPA had already received written comment on this within-the-scope request, EPA held a hearing and invited comment on several issues before issuing today's decision. (See 58 FR 14715, 14716, March 26, 1999). The hearing was held on April 23, 1999. The public comment period closed on May 10, 1999.

Subsequent to the hearing and comment period, the United States Court of Appeals for the First Circuit issued a decision regarding the State of Massachusetts' adoption of California's MOAs as its own regulations, including a ruling on the question of whether the MOAs are federally preempted by section 209(a) of the Act. (See *Association of International Automobile Manufacturers, Inc. v. Commissioner, Massachusetts Department of*

*Environmental Protection*, 208 F.3d 1 (1st Cir. 2000)).

#### B. Scope of Review

EPA may consider CARB's amendments or regulations to be within the scope of a previously granted waiver if the amendment does not undermine California's determination that its standards, in the aggregate, are as protective of public health and welfare as comparable Federal standards, does not affect the consistency of California's requirements with section 202(a) of the Act, and does not raise new issues affecting EPA's previous waiver determination.

#### C. Decision

I have determined that California's ZEV amendments to its LEV regulations as applied in the 1994 model year and beyond are within the scope of previous waivers of Federal preemption granted pursuant to section 209(b) of the Act. The basis for this determination is described in detail in the Decision Document, which can be found in the docket for this action. The ZEV amendments to the LEV requirements which are applicable under California state law to 1998 through 2002 model year passenger cars, light-duty trucks, and medium-duty vehicles require manufacturers to provide the following:

(1) The elimination of the requirement upon manufacturers to certify, produce, and offer for sale in California ZEVs in amounts equal to two percent of their total California sales of passenger cars and light-duty trucks weighing less than 3,750 pounds beginning with the 1998 model year, increasing to five percent in the 2001 model year and ten percent in the 2003 model year (the ten percent ZEV requirement for the 2003 model year has been retained by California);

(2) the creation of multiple ZEV credits for vehicles produced prior to the 2003 model year; and

(3) the creation of test procedures for determining All-Electric Vehicle Range.

In a February 26, 1997 letter to EPA, CARB notified EPA of the above-described ZEV amendments to its LEV regulations affecting 1988 and subsequent model year vehicles, and requested that EPA confirm that the ZEV amendments are within the scope of existing waivers of Federal preemption. The Executive Officer stated that "[t]he Board found that the amendments covered by this letter will not cause California motor vehicle emission standards, in the aggregate, to be less protective of public health and

welfare than applicable Federal standards.\* \* \*<sup>1</sup>

On January 7, 1993, EPA granted a waiver of Federal preemption for California's LEV program.<sup>2</sup> In doing so, EPA found that CARB's protectiveness determination was not arbitrary or capricious. As explained more fully in the Decision Document, EPA finds that CARB's protectiveness determination is not undermined by the ZEV amendments. Despite the elimination of the ZEV sales requirements from 1998 to 2002, CARB's NMOG fleet average standard remains the same and CARB's tiered LEV standards are at least as protective as comparable federal standards.

In addition, EPA finds that CARB's amendments do not affect their consistency with section 202(a) of the Act. The elimination of the ZEV sales requirement places no additional burden on the manufacturers; in fact, the manufacturers now have additional lead time to develop and implement ZEV technology. EPA also finds that the test procedure consistency requirement is not adversely affected by the CARB amendments as manufacturers of ZEVs are only required to test according to CARB's procedures. Finally, the ZEV amendments raise no new issues affecting EPA's previous waiver determination. Thus, these amendments are within the scope of the previous waiver granted on January 13, 1993.

### II. Significance of MOAs

Within the initial **Federal Register** notice regarding CARB's request,<sup>3</sup> EPA sought comment as to "the significance of the MOAs and issues that may arise out of the MOAs and their relevance to the within-the-scope waiver request CARB has submitted to EPA, addressing how the MOAs and related issues affect EPA's consideration either under the within-the-scope or waiver criteria."

As more fully explained in the Decision Document, EPA has determined that the existence of the MOAs does not affect the within-the-scope determination. EPA believes that it has the authority and discretion to examine the MOAs, and similar methodologies and realities in California, to determine whether they have any adverse impact on either the waiver or within-the-scope criteria. As noted in the Decision Document, no such adverse impact was found in today's determination.

My decision will affect not only persons in California but also the

<sup>1</sup> CARB letter at 5.

<sup>2</sup> 58 FR 4166 (January 13, 1993).

<sup>3</sup> 64 FR 14715, 14716 (March 26, 1999).

manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

As with past 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. sec. 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 waivers of Federal preemption under section 209(b) of the Act to the Assistant Administrator for Air and Radiation.

Dated: January 18, 2001.

**Robert Perciasepe,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 01-2174 Filed 1-24-01; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[OPP-34203G; FRL-6764-2]

### Chlorpyrifos; End-Use Products Cancellation Order

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the use deletions and cancellations as requested by the companies that hold the registrations of pesticide end-use products containing the active ingredient chlorpyrifos and accepted by EPA, pursuant to section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This order follows up a November 17, 2000, notice of receipt of requests for amendments to delete uses and receipt of requests for registration cancellations. In that notice, EPA indicated that it would issue an order confirming the voluntary use deletions and registration cancellations. Any distribution, sale, or use of canceled chlorpyrifos products is only permitted in accordance with the terms of the existing stocks provisions of this cancellation order.

**DATES:** The cancellations are effective January 25, 2001.

**FOR FURTHER INFORMATION CONTACT:** Tom Myers, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone number: (703) 308-8589; fax number: (703) 308-8041; e-mail address: myers.tom@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

This action is directed to the public in general. You may be potentially affected by this action if you manufacture, sell, distribute, or use chlorpyrifos products. 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). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "Federal Register—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>. To access information about the risk assessment for chlorpyrifos, go to the Home Page for the Office of Pesticide Programs or go directly <http://www.epa.gov/pesticides/op/chlorpyrifos.htm>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-34203E. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential

Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305-5805.

##### II. Receipt of Requests to Cancel and Amend Registrations to Delete Uses

###### A. Background

In a memorandum of agreement (Agreement) effective June 7, 2000, EPA and the basic manufacturers of the active ingredient chlorpyrifos agreed to several voluntary measures that will reduce the potential exposure to children associated with chlorpyrifos containing products. EPA initiated the negotiations with registrants after finding chlorpyrifos, as currently registered, was an exposure risk especially to children. As a result of the Agreement, registrants that hold the pesticide registrations of end-use products containing chlorpyrifos (who are in large part the customer of these basic manufacturers) have asked EPA to cancel or amend their registrations for these products. Pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA announced the Agency's receipt of these requests from the registrants by a **Federal Register** notice published on November 17, 2000 (65 FR 69518) (FRL-6753-3). With respect to the registration amendments, the registrants have asked EPA to amend end-use product registrations to delete the following uses: all termite control uses (these will be phased out); all residential uses (except for ant and roach baits in child resistant packaging (CRP) and fire ant mound drenches for public health purposes by licensed applicators and mosquito control for public health purposes by public health agencies); all indoor non-residential uses (except ship holds, industrial plants, manufacturing plants, food processing plants, containerized baits in CRP, and processed wood products treated during the manufacturing process at the manufacturing site or at the mill); all outdoor non-residential