

electronically and posted on the world-wide web.

Comment date: November 22, 2000, 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).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00-29549 Filed 11-17-00; 8:45 am]

BILLING CODE 6717-01-U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1162 002]

Kacie Lake Hydro, Inc., Notice of Surrender of Preliminary Permit

November 8, 2000.

Take notice that Kacie Lake Hydro, Inc., permittee for the proposed Kacie Lake Hydroelectric Project, has requested that its preliminary permit be terminated. The permit was issued on March 23, 1999, and would have expired on February 28, 2002. The project would have been located on an unnamed stream, near the city of Unalaska, Alaska.

The permittee filed the request on October 3, 2000, and the preliminary permit for Project No. 11620 shall remain in effect through the thirtieth day after issuance of this notice unless that day is Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent

provided for under 18 CFR Part 4, may be filed on the next business day.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00-29588 Filed 11-17-00; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-6902-9]

California State Nonroad Engine and Vehicle Pollution Control Standards; Notice of Within the Scope Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice Regarding Within the Scope Determinations.

SUMMARY: EPA today has determined that certain amendments to the California regulations for standards and test procedures for; utility and lawn and garden engines (ULGE Rule); heavy-duty non-road engines and vehicles (HDNR Rule); and nonroad recreational vehicles and engines (NRRV Rule), are within the scope of the previous authorizations of Federal preemption granted to California for its three nonroad rules pursuant to section 209(e) of the Act.

DATES: Any objections to the findings in this notice regarding EPA's determination that California's amendments to its regulations for test procedures for nonroad engines and vehicles are within the scope of previous authorizations must be filed by December 20, 2000. Otherwise, at the end of this 30-day period, these findings will become final. Upon receipt of any timely objection, EPA will consider scheduling a public hearing to reconsider these findings in a subsequent **Federal Register** notice.

ADDRESSES: Any objections to the within the scope findings described above should be filed with Robert Doyle at the address noted below. The Agency's decisions as well as all documents relied upon in reaching these decisions, including those submitted by the California Air Resources Board (CARB), are available for public inspection in the Air and Radiation Docket and Information Center during the working hours of 8:00 a.m. to 4:00 p.m. at the Environmental Protection Agency, Air Docket (6102), Room M-1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460, Tel. (202) 260-7549. The Dockets included in these determinations are as follows: Docket A-2000-05—ULGE Rule—

Certification and Implementation Amendments; Docket A-2000-06—ULGE Rule and HDNR Rule—Military/Tactical Vehicles and Engines Exemptions Amendments; Docket A-2000-07—ULGE Rule—CO Standards Revisions Amendments; Docket A-2000-08—ULGE Rule—Snowthrowers & Ice Augers Certification Options Amendments; NRRV Rule—Specialty Vehicle CO Standards Revision Amendments.

Copies of the Decision Document for these determinations can be obtained by contacting Robert Doyle as noted below, or can be accessed on the EPA Office of Mobile Sources Internet Home Page, also noted below.

FOR FURTHER INFORMATION CONTACT:

Robert M. Doyle, Attorney-Advisor, Certification and Compliance Division (6403J), U.S. Environmental Protection Agency, 1200 Pennsylvania, NW., Washington, DC 20460. Telephone: (202) 564-9258, FAX:(202) 565-2057, E-Mail: Doyle.Robert@EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Obtaining Electronic Copies of Documents

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

II. Within the Scope Determinations for Amendments to Previously Authorized Nonroad Standards and Procedures

As noted above, CARB has requested that EPA confirm its determinations that the various amendments contained in its requests are within the scope of the authorizations previously granted by EPA for the various CARB nonroad rules. This within the scope determination concept originated in EPA's historical procedures for review of CARB onroad standards waiver requests. Early in the history of the

motor vehicle waiver program, CARB submitted to the Agency amendments to standards and regulations which had already received a waiver. Because these amendments did not fundamentally alter the standards which had received the waiver, EPA determined that the amendments did not have to be treated as a request for a new waiver, and therefore, EPA did not have to offer the opportunity for a public hearing before its review of the request (as section 209(b) requires for new waiver requests). Rather, EPA reviewed the amendments, found them to be covered by the previous waiver and issued a determination to that effect.¹ Subsequently, EPA formulated a within the scope standard of review as follows:

If California acts to amend a previously waived standard or accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it 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 requirement with section 202(a) of the (Act), and raises no new issues affecting the Administrator's previous waiver determination.²

Although CARB has received authorizations for various sets of its nonroad standards on three separate occasions, the requests covered in this Notice are the first ones submitted by CARB for EPA to consider under a WIS approach. For these nonroad WIS requests, CARB has recommended that "(f)or reasons of consistency and administrative efficiency, the U.S. EPA should similarly find that amendments to California nonroad regulations, for which authorizations have previously been granted, can be found to be within the scope of the existing authorizations. That is, if the criteria referenced in (the excerpt above) are satisfied as they relate to amendments of nonroad regulations, the Administrator should find the nonroad amendments to be within the scope of existing

authorizations." CARB also noted that, for nonroad within the scope requests, the findings that CARB must make, and the analysis EPA must perform on these findings, is not significantly different than the CARB and EPA tasks in the nonroad authorization process.³

Regarding EPA's oversight role for nonroad WIS requests, EPA's regulations which implement section 209(e) do not specifically cover situations in which CARB requests approval for amendments to its authorized standards for nonroad engines. EPA has declared previously, however, that it would interpret section 209(b) (onroad waiver requests) and section 209(e) (nonroad authorization requests) similarly where the language is similar.⁴ EPA finds that the appropriate procedure for analysis and review of nonroad amendments WIS requests would be the same basic review and analysis and review used for onroad amendments WIS requests. Accordingly, EPA will use the within the scope criteria analysis currently used in the motor vehicle waiver program for application to requests from California regarding amendments to previously authorized nonroad standards and requirements. Specifically, if California acts to amend a previously authorized standard or accompanying enforcement procedure, the amendments may be considered within the scope of a previously granted authorization provided that it does not undermine California's determination that its standards in the aggregate are as protective of public health and welfare as applicable Federal standards, does not affect the consistency with section 209 of the Act,⁵ and raises no new

³ See, e.g., letter from James D. Boyd, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated March 27, 1996, Docket A-2000-05, Entry II-D-1.

⁴ This position was expressed in the Preamble to the publication of the final regulations implementing section 209(e) of the Act. See Air Pollution Control; Preemption of State Regulation for Nonroad Engine and Vehicle Standards, 59 Fed. Reg. 36969, 36982 (July 20, 1994).

⁵ EPA has interpreted the requirement regarding whether "California standards and accompanying enforcement procedures are not consistent with section 209" to mean that California standards and accompanying enforcement procedures must be consistent with section 209(a), section 209(e)(1), and section 209(b)(1)(C), as EPA has interpreted that subsection in the context of motor vehicle waivers. In Order to be consistent with section 209(a), California's nonroad standards and enforcement procedures must not apply to new motor vehicles or new motor vehicle engines. Secondly, California's nonroad standards and enforcement procedures must be consistent with section 209(e)(1), which identifies the categories permanently preempted from state regulation. California's nonroad standards and enforcement procedures would be considered inconsistent with section 209 if they applied to the categories of

issues affecting EPA's previous authorization determination.

III. The California Requests

I have determined that certain amendments to the California regulations for standards and test procedures for 1) utility and lawn and garden engines (ULGE Rule), 2) heavy-duty non-road engines and vehicles (HDNR Rule), and 3) nonroad recreational vehicles and engines (NRRV Rule), are within the scope of the previous authorization of Federal preemption granted to California for its three nonroad rules pursuant to section 209(e) of the Act. These amendments, which are in four separate requests from California, and are described below, address various implementation and certification concerns that had arisen since California adopted these rules.

(A) CARB Nonroad Certification and Implementation Amendments

By letter dated March 27, 1996, CARB notified EPA that it has adopted numerous amendments to its ULGE Rule which were first approved by CARB at a public hearing on July 28, 1994. These amendments specifically addressed some implementation and certification concerns and also served to align CARB's Rule with the EPA Small Nonroad Engine Rule and with the utility engine practices adopted by international standards organizations. Some of these amendments which pertained to petroleum-based certification fuels were adopted expeditiously, on August 29, 1994, at the request of manufacturers who wanted to certify their test engines with the alternative Phase II fuel for 1995 calendar year production. The remaining amendments in this package were adopted by CARB on May 26, 1995.

These amendments, according to CARB, sprang from communications

engines or vehicles identified and preempted from State regulation in section 209(e)(1). Finally, and most importantly in terms of application to nonroad within the scope requests such as these, because California's nonroad standards and enforcement procedures must be consistent with section 209(b)(1)(C), EPA will review nonroad authorization requests under the same "consistency" criteria that are applied to motor vehicle waiver requests. Under section 209(b)(1)(C), the Administrator shall not grant California a motor vehicle waiver if she finds that California "standards and accompanying enforcement procedures are not consistent with section 202(a)" of the Act. As previous decisions granting waivers of Federal preemption for motor vehicles have explained, State standards are inconsistent with section 202(a) if there is inadequate lead time to permit the development of the necessary technology giving appropriate consideration to the cost of compliance within that time period or if the Federal and State test procedures impose inconsistent certification requirements.

¹ The first "within the scope" determination resulted from EPA placing a condition on the original waiver granted for California's Assembly Line Testing on August 31, 1971. EPA stated that the "waiver shall not prohibit California from adopting modifications of the presently proposed assembly line test and associated numerical standards where such modifications are designed to improve correlation with certification standards and test procedures or where California determines that the objectives of the assembly line test requirement can be satisfied at reduced cost to the consumer." In CARB's follow-up request, EPA determined that the condition it had placed on the earlier waiver had been satisfied and thus found California's amendments to "exist within the meaning and intent of the (earlier) waiver." 37 Fed. Reg. 14831 (July 25, 1972).

² 51 FR 12391 (April 10, 1986).

between CARB staff and the regulated industries which identified areas in both the enforcement provisions and the test procedures that needed clarification. Additionally, CARB notes, the amendments serve to modify test procedures to better reflect industry practice and to be more consistent with Federal and international procedures.

These amendments to the regulations accomplish the following:

- The definition of “engine family” was revised and new definitions were adopted for “basic engine,” “engine model,” and some related terms to provide manufacturers with greater flexibility in identifying engine families for certification testing.
- The regulations regarding emission control labels for these engines were revised to clarify who must attach the initial label and the supplemental label (which is required only if the initial label is obscured when installed in or on equipment), and the regulation requiring a fuel label on these engines was repealed because it was deemed unnecessary.
- The regulations regarding emission warranties were revised to make clear the warranty responsibility remains with the engine manufacturer even when the engine is labeled with the equipment manufacturer’s name or trademark.
- The regulations regarding Assembly-Line Quality-Audit (ALQA) test procedures, which were originally based on the on-road program, were amended to better suit utility engine production practices, such as establishing new procedures for dealing with low-volume productions more typical to the utility engine production.
- The regulations regarding new engine compliance procedures, which allow CARB to perform emission testing on new engines at any point in the manufacturer’s distribution process (including at retail stores), were based on the on-road program. The amendments to these regulations are designed to address properly the circumstances unique to utility engines.
- The regulations regarding manufacturer penalties were amended to clarify the specific liabilities of engine manufacturers and equipment manufacturers to be enjoined from the sale of noncomplying products. This will cover situations where an engine manufacturer sells an incomplete engine to an equipment manufacturer who uses inappropriate components in assembling the finished engine and thus produces a noncomplying engine.
- The regulations regarding test procedures generally serve to bring the California test procedures into closer conformity with the EPA Small Engine Rule test procedures, and also offer manufacturers some flexible options relative to alternative fueled engine certification, gasoline certification test fuels, and diesel-cycle engine family categorization. Finally, amendments were added regarding tamper resistance of adjustable engine parameters based on the

corresponding regulations in the on-road program.

CARB has requested that EPA “confirm the ARB’s determination that these amendments fall within the scope of the Clean Air Act section 209(e)(2) authorization for the adoption of the Utility Regulations that was granted by (EPA) on July 5, 1995.”⁶

(B) CARB Nonroad Military Tactical Vehicle Exemptions Amendments

By letter dated October 7, 1996, CARB notified EPA that it has adopted amendments to its ULGE Rule and HDNR Rule which were first approved by CARB at a public hearing on December 14, 1995. CARB amended Title 13, California Code of Regulations, sections 2400 and 2420 to exempt engines used in off-road military tactical vehicles and equipment from the applicable standards and regulations contained in (respectively) the ULGE Rule and the HDNR Rule. CARB took this step to align the California regulations with the corresponding Federal regulations.

Specifically, CARB exempted from the ULGE Rule and HDNR Rule any engines used in off-road military vehicles or equipment which have been exempted from EPA regulation under a “national security exemption (NSE).” Under the EPA rules applicable to small spark-ignition engines and large nonroad diesel engines, an NSE is available to a manufacturer of nonroad engines used in military applications.⁷ CARB also exempted from the ULGE Rule and HDNR Rule any nonroad military tactical vehicles or equipment which has received a Federal certificate of conformity under the EPA Small Engine Rule. CARB took this step to cover certain vehicles or equipment which may be commercially available with Federal certification, but fall within CARB’s definition of “military tactical vehicles or equipment.” This step, CARB states, will further ensure that the military will not be required to create a separate California fleet.

CARB has requested that EPA “confirm the ARB’s determination that the adopted provisions fall within the scope of the * * * previous authorizations that have been granted for off-road vehicles and equipment under 209(e)(2) of the CAA.”⁸

⁶ Letter from James D. Boyd, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated March 27, 1996, Docket A-2000-05, Entry II-D-1.

⁷ See, respectively, 40 CFR § 90.908 (1998) and 40 CFR § 89.908 (1998).

⁸ Letter from Michael P. Kenny, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated October 7, 1996, (“CARB request letter”)

(C) CARB Nonroad Tier I Carbon Monoxide Standard Revision for Class 1 and 2 Engines

By letter dated October 9, 1996, CARB notified EPA that it has amended its regulations setting the Tier I carbon monoxide (CO) standard for class 1 and 2 nonroad engines, by revising the standard from 300 grams per brake horsepower-hour (g\bhp-hr) to 350 g\bhp-hr. This amendment was adopted by CARB in January 1996 after CARB received a July 1995 petition from the Briggs & Stratton Corporation (B&S) asking for this change. The company, a manufacturer of small engines used primarily in lawnmowers, requested that CARB relax its original CO standard because of technical difficulties in two of its largest engine models with in-use performance when the engines of these families were calibrated to comply with the 300 g\bhp-hr standard. B&S had indicated to CARB that, in fact, because of potential warranty claim liability and damage to its corporate reputation, the company would not certify these two models under the original standard. If this occurred, CARB noted that the low cost, high volume segment of the utility engine market would not be available to California buyers.⁹

The petition requested that the CARB standard for CO for the class 1 and 2 engines be relaxed to 350 g\bhp-hr to be equivalent to the corresponding Federal standard of 350 g\bhp-hr. CARB admitted that this step would result in the CARB standard being less stringent than the Federal standard because CARB allows manufacturers to choose certification fuel which is differently formulated than the EPA-required certification fuel. CARB found, nevertheless, that its ULGE regulations overall, even with the relaxation of the Tier One CO standard, continue to be, in the aggregate, more protective of public health and welfare than the applicable Federal regulations.

CARB has requested that EPA “confirm the ARB’s determination that the adopted (CO standard) amendment falls within the scope of the previous authorization for utility engines granted

Docket A-2000-06, Entry II-D-1. This WIS request from CARB also asked EPA to confirm its determination that some amendments dealing with national security exemptions for on-road motor vehicles are within the scope of previous waivers granted under section 209(b). This particular request will be addressed in a forthcoming proceeding.

⁹ Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Docket A-2000-07, Entry II-D-2, p. 4.

under section 209(e)(2) of the Federal Clean Air Act.”¹⁰

(D) CARB Snowthrower & Ice Auger Optional HC and NO_x Standards, and Specialty Vehicle CO Standard Revision

By letter dated April 8, 1997, CARB notified EPA of two new sets of rule amendments. First, CARB stated that it has amended its ULGE regulations to provide manufacturers of engines used in snowthrowers and ice augers the option of not having to certify to the HC and NO_x standards. Second, CARB stated that it amended the NRRV Rule to increase the carbon monoxide standard from 300 g/bhp-hr to 350 g/bhp-hr for engines used in specialty vehicles¹¹ that are under 25 hp and manufactured after the effective date of the amendments through calendar year 1998.

Under the ULGE Rule as initially adopted by CARB in 1990, snowthrowers and ice augers were included in the Rule's coverage and thus were treated no differently than all other utility, lawn and garden equipment. In contrast, the EPA small engine rule, issued in 1995, exempted wintertime equipment from HC and NO_x standards. EPA noted that because snowthrowers and ice augers were clearly used only during the winter, it would not be reasonable to subject them to stringent control requirements aimed at addressing summertime ozone nonattainment problems.¹²

In March, 1996, the Tecumseh Products Company and the Toro Products Company, along with several servicing dealers, petitioned CARB to exempt snowthrowers and ice augers from HC and NO_x standards. The industry petition noted that the emissions contribution from this type of winter-time equipment was very small, and that the requested change also

would harmonize California and Federal treatment of this equipment.¹³ CARB granted this petition by adopting the requested changes. In its request letter to EPA, CARB acknowledged that because this step removes a mandatory standard for a class of utility equipment, it reduces the overall stringency of the CARB ULGE Rule. CARB found, nevertheless, that its ULGE regulations overall, even with the exemption of snowthrowers and ice augers from HC and NO_x standards, continue to be, in the aggregate, more protective of public health and welfare than the applicable Federal regulations.

The CARB NRRV Rule, as adopted in 1994, applies to various types of small nonroad vehicles including specialty vehicles under 25 hp. Because the engines used in the under 25 hp specialty vehicles were generally the same engines used in small utility equipment (Class 1 and 2 engines), CARB adopted emission standards for these vehicles that paralleled the emission standards for the small engines covered by the ULGE Rule. As discussed above, in response to an industry petition, in January 1996 CARB amended its ULGE Rule setting the Tier I carbon monoxide (CO) standard for class 1 and 2 nonroad engines, by revising the standard from 300 g/bhp-hr to 350 g/bhp-hr. Because the under 25 hp specialty vehicles use the Class 1 and 2 small nonroad engines now under the relaxed CO standard in the ULGE Rule, CARB amended the NRRV Rule to correspond with the revised CO standard of 350 g/bhp-hr.

CARB has requested that EPA “confirm the ARB's determination that the adopted amendments fall within the scope of the previous authorizations that * * * EPA has granted under section 209(e)(2) of the CAA for utility engines and recreational vehicles (citations omitted).”¹⁴

In the letters for these requests, CARB stated that the various amendments will not cause the California nonroad standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. Regarding consistency with section 209, CARB stated that the amendments (1) apply only to nonroad engines and vehicles and not to motor vehicles or engines, (2) apply only to those nonroad engines and vehicles which are not included in the preempted categories,

and (3) do not raise any concerns of inadequate leadtime or technological feasibility or impose any inconsistent certification requirements (compared to the Federal requirements). Finally, CARB stated that the amendments raise no new issues affecting the prior EPA authorization determinations.

EPA agrees with all CARB findings with regard to the provisions listed above. Thus, EPA finds that these amendments are within the scope of previous authorizations. A full explanation of EPA's decision is contained in a Decision Document which may be obtained from EPA as noted above.

Because these amendments are within the scope of previous authorizations, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings by December 20, 2000, EPA will consider holding a public hearing to provide interested parties an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(e) authorization determination and that EPA should reconsider its findings. Otherwise, these findings shall become final on December 20, 2000.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce nonroad engines and vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the 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 January 19, 2001. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

EPA's determination that these California regulations are within the scope of prior authorizations by EPA does not constitute a significant regulatory action under the terms of Executive Order 12866 and this action is therefore not subject to Office of Management and Budget review.

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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

¹⁰ Letter from Michael P. Kenny, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated October 9, 1996, (“CARB request letter”) Docket A-2000-07, Entry II-D-1.

¹¹ CARB defines “specialty vehicles” as “any vehicle powered by an internal combustion engine having not less than three wheels in contact with the ground, having an unladen weight generally less than 2000 pounds, which is typically operated between 10 and 35 miles per hour. * * * Specialty vehicles are mainly used off of highways and residential streets. Applications of such vehicles include, but are not limited to, carrying passengers, hauling light loads, grounds keeping and maintenance, resort or hotel areas, airports, etc.” 13 CCR 2411(a)(19).

¹² EPA explained that “on a national level, ozone nonattainment is primarily a seasonal problem that occurs during warm sunny weather. Regulating HC and emissions from products used exclusively in the winter, such as snowthrowers (and ice augers), will not advance the Agency's mission to correct this seasonal problem.” 60 FR 34582, 34591 (July 3, 1995), 40 CFR 90.103(a)(5)(1998).

¹³ Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Docket A-2000-08, Entry II-D-2, p. 3, and Attachment A (Industry petition).

¹⁴ Letter from Michael P. Kenny, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated April 8, 1997, (“CARB request letter”) Docket A-2000-08, Entry II-D-1.

Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3).

Finally, the Administrator has delegated the authority to make determinations regarding authorizations under section 209(e) of the Act to the Assistant Administrator for Air and Radiation.

Dated: November 9, 2000.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 00-29500 Filed 11-17-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-6903-3]

California State Nonroad Engine and Vehicle Pollution Control Standards; Notice of Within the Scope Determinations for Amendments to California's Small Off-Road Engine Regulations

AGENCY: Environmental Protection Agency.

ACTION: Notice Regarding Within the Scope Determinations.

SUMMARY: The California Air Resources Board (CARB), by letter dated October 4, 1999, requested that EPA confirm CARB's finding that amendments to its Small Off-Road Engine (SORE) Regulations are within-the-scope of a prior authorization under section 209(e) of the Clean Air Act (Act), 42 U.S.C. 7543(b), granted by EPA for CARB's original SORE Regulations in July 1995. EPA in this notice has made the requested confirmation for many of the amendments in the CARB request. EPA has also determined that other amendments in this CARB request were not within the scope of the prior authorization because these amendments are new standards, and will announce the opportunity for a public hearing on these specific amendments.

DATES: Any objections to the findings in this notice regarding EPA's determination that California's amendments to its regulations for test procedures for nonroad engines and vehicles are within the scope of previous authorizations must be filed by December 20, 2000. Otherwise, at the end of this 30-day period, these findings will become final. Upon receipt of any timely objection, EPA will consider scheduling a public hearing to reconsider these findings in a subsequent **Federal Register** notice.

ADDRESSES: Any objections to the within the scope findings in this notice should be filed with Robert Doyle at the address noted below. The Agency's decisions as well as all documents relied upon in reaching these decisions, including those submitted by the California Air Resources Board (CARB), are available for public inspection in the Air and Radiation Docket and Information Center during the working hours of 8:00 a.m. to 4:00 p.m. at the Environmental Protection Agency, Air Docket (6102), Room M-1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. The Docket for this matter is Docket A-2000-09. Copies of the Decision Document for these determinations can be obtained by contacting Robert Doyle as noted below, or can be accessed on the EPA Office of Mobile Sources Internet Home Page, also noted below.

FOR FURTHER INFORMATION CONTACT:

Robert M. Doyle, Attorney-Advisor, Certification and Compliance Division, (6403J), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Telephone: (202) 564-9258, FAX: (202) 565-2057, E-Mail: Doyle.Robert@EPA.GOV.

SUPPLEMENTARY INFORMATION:

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II. Amendments to the SORE Regulations

We have determined that certain amendments to the CARB SORE ¹

¹ These amendments, among other things, renamed the regulations from the Utility, Lawn and Garden Engine Regulations (ULGE Rule) to the Small Off-Road Engine Regulations (SORE Rule).

Regulations are within the scope of a prior authorization under section 209(e) of the Clean Air Act (Act), 42 U.S.C. 7543(b), granted by EPA to CARB's original SORE Regulations by decision of the Administrator dated July 5, 1995.² The SORE regulations apply to all gasoline, diesel, and other fueled utility and lawn and garden equipment engines 25 horsepower and under, with certain exceptions. Under the original authorization, the SORE regulations established two "tiers" of exhaust emission standards for these engines (Tier 1 from 1995 through 1998 model years, and Tier 2 for model year 1999 and beyond), as well as numerous other requirements. The amendments to the regulations, outlined in CARB's request letter,³ and fully described CARB's submissions, accomplish the following:

- The descriptive terms "handheld" and nonhandheld" have been dropped in favor of describing covered engines by engine displacement categories. The former handheld engines are now called "less than or equal to 65 cubic centimeters (cc)," or "0-65cc," and the former nonhandheld engines are now called "greater than 65 cc." CARB stated that the former categories were picked to ensure that multi-positional equipment supported solely by the operator could use the lighter (but dirtier) handheld engines, which are usually two-stroke engines. Because of manufacturer difficulty with the engine definitions, CARB chose engine displacement to define category choices.

- CARB has changed both the previously authorized Tier 2 standards and the authorized implementation dates for those standards. For the 0-65cc engines, CARB extended the Tier 1 standards for one more year, through model year 1999, so Tier 2 standards do not begin for these engines until the model year 2000. CARB also changed the Tier 2 standards, by relaxing the CO and PM standards, and changing the format of the HC and NO_x standards to allow manufacturers more flexibility. For the Over 65 cc engines, CARB extended the Tier i standards two additional years, through calendar year 2001 for most engines in this category. The extension is longer in some special cases: through 2002 for engines equal to or greater than 225cc and horizontal

² 60 FR 37440 (July 20, 1995). The CARB small engine emission regulations were then called the Utility, Lawn and Garden Engine (ULGE) regulations. The new amendments, among other things, renamed the ULGE regulations as the SORE regulations.

³ Letter from Micahel P. Kenney, Executive Officer, CARB, to Carol M. Browner, Administrator, EPA, dated October 4, 1999, Docket A-2000-09, entry II-B-1.