

(TTY), or send a FAX to 202-208-2106 with the required accommodations.

All interested persons are permitted to attend.

Magalie R. Salas,
Secretary.

[FR Doc. E5-103 Filed 1-11-05; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2237-013]

Georgia Power Company; Notice of Dispute Resolution Panel Meeting and Technical Conference

January 6, 2005.

On January 5, 2005, Commission staff, in response to the filing of a notice of study dispute by the U.S. Department of the Interior on December 17, 2004, convened a three-person Dispute Resolution Panel pursuant to 18 CFR 5.14(d).

The Panel will hold a technical conference at the time and place noted below. All interested individuals, organizations, and agencies are invited to attend the technical conference. The Panel will provide an opportunity to hear from the disputing agency, potential applicant, and other participants who have an interest in the outcome of the dispute. The Panel may also request information or clarification on written submissions as necessary to understand the matters in dispute. The Panel will limit all input that it receives to the specific studies or information in dispute and will focus on the applicability of such studies or information to the study criteria stipulated in 18 CFR 5.9(b). If the number of participants wishing to speak creates time constraints, the Panel may, at its discretion, limit the speaking time for each participant. A court reporter will be present to provide a written record of the technical conference.

Technical Conference

Date: Wednesday, January 19, 2005.

Time: 9 a.m.–5 p.m. (c.s.t.).

Place: Chattahoochee Nature Center, 9135 Willeo Road, Roswell, Georgia, 30075, phone: (770) 992-2055.

Magalie R. Salas,
Secretary.

[FR Doc. E5-102 Filed 1-11-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-7860-7]

California State Nonroad Engine and Vehicle Pollution Control Standards; Opportunity for Public Hearing and Request for Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of opportunity for public hearing and request for public comment.

SUMMARY: The California Air Resources Board (CARB), has requested EPA authorization, under section 209(e) of the Clean Air Act (Act), for CARB to enforce California's Marine Spark Ignition Engine regulations for outboard marine engines, personal watercraft, and inboard and sterndrive marine engines, and to enforce California's Off-Road Large Spark Ignition Engine regulations. As the Act requires, EPA is announcing the opportunity for a public hearing and requesting public comment on each of these CARB requests.

DATES: EPA has tentatively scheduled a public hearing for the Marine Engine regulations request on February 28, 2005 commencing at 9:30 a.m., and a public hearing for the Large Spark Ignition Engine regulations on February 28, 2005 commencing at 1:30 p.m. EPA will hold each hearing only if a party notifies EPA by February 2, 2005 expressing its interest in presenting oral testimony regarding either (or both) of CARB's requests. By February 2, 2005, any person who plans to attend either hearing should contact Robert M. Doyle (see contact information below) to learn if the hearing will be held. Regardless of whether or not a hearing is held on either request, any party may submit written comments regarding CARB's request by or before March 14, 2005.

ADDRESSES: Parties wishing to present oral testimony at either public hearing should provide written notice to Robert M. Doyle, Attorney-Advisor, Certification and Compliance Division, (6403J), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. If EPA receives a request for a public hearing, EPA will hold the public hearing in the first floor conference room at 1310 L Street, NW., Washington, DC. Parties wishing to send written comments should provide them to Mr. Doyle at the above address. EPA will make available for public inspection at the Air and Radiation Docket all written comments received from interested parties, in addition to any testimony given at the public hearing. The EPA Docket Center

Public Reading Room is open during working hours from 8:30 a.m. to 4:30 p.m. at Room B102, 1301 Constitution Avenue, NW., Washington, DC. The telephone number for the Public Reading Room is (202) 566-1744. The reference number for the Marine Spark Ignition Engines regulations request docket is OAR-2004-0403, and the reference number for the Off-Road Large Spark Ignition Engines regulations request docket is OAR-2004-0404.

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 (U.S. mail), 1310 L Street, NW., Room 340 Washington, DC 20005 (courier mail). Telephone: (202) 343-9258, Fax: (202) 343-2804, e-mail: Doyle.Robert@EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Obtaining Electronic Copies of Documents

EPA makes available an electronic copy of this Notice on the Office of Transportation and Air Quality (OTAQ) homepage (<http://www.epa.gov/OTAQ>). Users can find this document by accessing the OTAQ homepage and looking at the path entitled "Regulations." This service is free of charge, except any cost you already incur for Internet connectivity. Users can also get the official **Federal Register** version of the Notice 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.

Additionally, an electronic version of the public docket is available through EPA's electronic public docket and comment system. You may use EPA dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. 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. Once in the electronic docket system, select "search," then key in the appropriate docket ID number for Docket OAR-2004-0403 (the Marine Spark Ignition Engines regulations request), or Docket OAR-2004-0404 (the Off-Road Large

Spark Ignition Engines regulations request).

II. Background

(A) Nonroad Authorizations

Section 209(e)(1) of the Act addresses the permanent preemption of any State, or political subdivision thereof, from adopting or attempting to enforce any standard or other requirement relating to the control of emissions for certain new nonroad engines or vehicles.¹ Section 209(e)(2) of the Act allows the Administrator to grant California authorization to enforce state standards for new nonroad engines or vehicles which are not listed under section 209(e)(1), subject to certain restrictions. On July 20, 1994, EPA promulgated a regulation that sets forth, among other things, the criteria, as found in section 209(e)(2), by which EPA must consider any California authorization requests for new nonroad engines or vehicle emission standards (section 209(e) rules).²

Section 209(e)(2) requires the Administrator, after notice and opportunity for public hearing, to authorize California to enforce standards and other requirements relating to emissions control of new engines not listed under section 209(e)(1).³ The section 209(e) rule and its codified regulations⁴ formally set forth the criteria, located in section 209(e)(2) of the Act, by which EPA must grant California authorization to enforce its new nonroad emission standards:

40 CFR part 85, subpart Q, § 85.1605 provides:

(a) The Administrator shall grant the authorization if California determines that its standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards.

(b) The authorization shall not be granted if the Administrator finds that:

(1) The determination of California is arbitrary and capricious;

¹ Section 209(e)(1) of the Act provides:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles subject to regulation under this Act—(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower.

(B) New locomotives or new engines used in locomotives. Subsection (b) shall not apply for purposes of this paragraph.

² See 59 FR 36969 (July 20, 1994), and regulations set forth therein, 40 CFR part 85, subpart Q, §§ 85.1601–85.1606.

³ As discussed above, states are permanently preempted from adopting or enforcing standards relating to the control of emissions from new engines listed in section 209(e)(1).

⁴ See 40 CFR part 85, subpart Q, § 85.1605.

(2) California does not need such California standards to meet compelling and extraordinary conditions; or

(3) California standards and accompanying enforcement procedures are not consistent with section 209.

As stated in the preamble to the section 209(e) rule, EPA has interpreted the requirement that EPA cannot find “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.⁵ 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.⁶ California’s nonroad standards and enforcement procedures would be considered inconsistent with section 209 if they applied to the categories of engines or vehicles identified and preempted from State regulation in section 209(e)(1).

Finally, 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

⁵ See 59 FR 36969, 36983 (July 20, 1994).

⁶ Section 209(e)(1) of the Act has been implemented, see 40 CFR part 85, subpart Q §§ 85.1602, 85.1603.

§ 85.1603 provides in applicable part:

(a) For equipment that is used in applications in addition to farming or construction activities, if the equipment is primarily used as farm and/or construction equipment or vehicles, as defined in this subpart, it is considered farm or construction equipment or vehicles. (b) States are preempted from adopting or enforcing standards or other requirements relating to the control of emissions from new engines smaller than 175 horsepower, that are primarily used in farm or construction equipment or vehicles, as defined in this subpart.

§ 85.1602 provides definitions of terms used in § 85.1603 and states in applicable part:

Construction equipment or vehicle means any internal combustion engine-powered machine primarily used in construction and located on commercial construction sites.

Farm Equipment or Vehicle means any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm.

Primarily used means used 51 percent or more.

vehicle waiver if he 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.⁷

With regard to enforcement procedures accompanying standards, EPA must grant the requested authorization unless it finds that 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 213(a), or unless the Federal and California certification test procedures are inconsistent.⁸

Once California has received an authorization for its standards and enforcement procedures for a certain group or class of nonroad equipment engines or vehicles, it may adopt other conditions precedent to the initial retail sale, titling or registration of these engines or vehicles without the necessity of receiving an additional authorization.⁹

If California acts to amend a previously authorized standard or accompanying enforcement procedure, the amendment 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, and raises no new issues

⁷ To be consistent, the California certification procedures need not be identical to the Federal certification procedures. California procedures would be inconsistent, however, if manufacturers would be unable to meet both the state and the Federal requirement with the same test vehicle in the course of the same test. See, e.g., 43 FR 32182 (July 25, 1978).

⁸ See, e.g., *Motor and Equipment Manufacturers Association, Inc. v. EPA*, 627 F.2d 1095, 1111–14 (D.C. Cir. 1979), cert. denied, 446 U.S. 952 (1980) (*MEMA I*); 43 FR 25729 (June 14, 1978).

While inconsistency with section 202(a) includes technological feasibility, lead time, and cost, these aspects are typically relevant only with regard to standards. The aspect of consistency with 202(a) which is of primary applicability to enforcement procedures (especially test procedures) is test procedure consistency.

⁹ See 43 FR 36679, 36680 (August 18, 1978).

affecting EPA's previous authorization determination.¹⁰

(B) The Marine SI Engine Regulations Requests

CARB has submitted to EPA three separate but related requests to authorize various marine SI engine regulations. EPA will consider these requests together in our review of the requests to enforce CARB's marine SI engine emissions regulation program. These requests are summarized in order below.

(1) By letter dated April 4, 2000, CARB requested EPA authorization to enforce California's marine SI regulations affecting outboard marine engines. The CARB regulations set emission standards for these marine engines commencing with model year 2001 for both certification and in-use standards. The first tier of the CARB regulations basically adopted the standards equivalent to the EPA 2006 marine SI engines. CARB also adopted a second tier of outboard engine regulations, commencing in model year 2004 equivalent to 80% of the EPA 2006 standards, and a third tier, commencing in 2008, equivalent to 35% of the EPA 2006 standard. Manufacturers are permitted to meet the standards directly or on a corporate average basis, where some engine families may emit more than the emission standard if they are offset by engines which emit sufficiently less than the standard. To accompany the new standards, CARB also adopted regulations requiring manufacturer production line testing (along with CARB authority to conduct Selective Enforcement Audits), manufacturer demonstration of in-use compliance, emission warranties, permanent emission certification labels for covered engines, and special "hang tags" for consumer/environmental awareness of clean technology engines.¹¹

(2) By letter dated June 5, 2002, CARB extended the earlier authorization request to include regulations for marine SI engines in personal watercraft (PWC)¹² for model year 2002 and beyond. The PWCs are subject to the

same emission standards and requirements as the marine outboard SI engines discussed above. The CARB marine regulations had included both outboards and PWCs from the outset, but PWCs had not been included in the original CARB request because of technical issues raised by PWC manufacturers related to compliance with the CARB standards for model year 2001. The June 5, 2002 CARB request stated that those issues had been resolved, so CARB submitted this extension. In addition, CARB submitted for authorization the marine engine consumer hang tag regulations because the earlier model year applicability issue had been resolved.

(3) By letter dated March 2, 2004, CARB extended the earlier requests by requesting authorization to enforce California's marine SI regulations affecting inboard and sterndrive engines for model years 2003 and beyond.¹³ The first tier of regulations, for model year 2003 through 2008, sets a cap reflecting average emission levels of 16.0 grams per kilowatt hour (g/kW-hr) HC plus NO_x which manufacturers can meet directly by engine family or by corporate average. The second tier of standards sets a level of 5.0 g/kW-hr HC plus NO_x and will phase in beginning with 45% of manufacturers' sales in 2007, 75% in 2008 and 100% in 2009 and beyond. For 2007 and 2008, compliance for the engine is directly with the standard, with no option for sales weighted-averaging. Besides these new standards, other regulations establish requirements for certification, emission test procedures, emissions warranty, and emission certification labels and consumer/environmental awareness hang tag labels. In addition, the inboard/sterndrive regulations require on-board diagnostics for these engines. Finally, as part of the Inboard/Sterndrive rulemaking, CARB adopted some minor amendments to the outboard and PWC regulations to clarify some definitions and labeling requirements made necessary by the adoption of the regulations for Inboard/Sterndrive marine engines.

(C) The Off-Road Large Spark Ignition Engines Regulations Request

By letter dated February 15, 2000, CARB requested EPA authorization to

enforce California's Off-Road Large Spark Ignition Engine (LSI) regulations.¹⁴ The CARB regulations set emission standards for these engines commencing with model year 2001 for certification and with model year 2004 for in-use compliance. There are two sets of standards depending on the size of the engine; one set for LSI engines less than or equal to 1.0 liter displacement, and the other for LSI engines greater than 1.0 liter displacement. For the smaller LSI engines, CARB set standards for HC plus NO_x and for CO at static levels for model year 2002 and beyond, and 100% of a manufacturer's sales must meet the standards each year. For the larger LSI engines, CARB approved two tiers of emission levels. For Tier 1, manufacturers are able to phase-in compliance at certification with 25% of the sales for 2001, 50% for 2003, and 75% for 2003, and manufacturers have no in-use compliance requirement. For Tier 2, beginning with the 2004 model year, manufacturers have to meet the standards at certification with 100% of sales, and are subject to in-use compliance with less stringent standards for model years 2004 through 2006 (with an engine durability period of 3500 hours or 5 years) and full in-use standards for model years 2007 and beyond (with a durability period of 5000 hours or 7 years).

To accompany the new standards, CARB also adopted regulations requiring manufacturer production line testing (along with CARB authority to conduct Selective Enforcement Audits), manufacturer required in-use testing, an in-use emission credit program, permanent emission labels, and emission warranties. CARB also adopted provisions to provide relief to small volume manufacturers (annual production under 2000 engines) basically by delaying the time when they must comply with in-use standards until 2004.

III. Procedures for Public Participation

If a public hearing is held on either request, any party desiring to make an oral statement on the record should file ten (10) copies of its proposed testimony and other relevant material with Robert Doyle at the address listed above no

¹⁰ Decision Document for California Nonroad Engine Regulations Amendments, Dockets A-2000-05 to 08, entry V-B, p. 28.

¹¹ At the time this request was presented to EPA, the California Office of Administrative Law had not approved the section of the regulations dealing with these hang tags because of problems it found with the applicability date of the hang tag requirement. These problems were resolved and the hang tag requirement was included as part of the CARB June 5, 2002 request described below.

¹² Personal watercraft are small watercraft on which the rider sits or stands during operation, such as jet skis and wave runners. CARB Staff Report, October 23, 1998, at p. 9, Docket OAR-2004-0403.

¹³ Inboard engines include a propeller shaft that penetrates the hull of the marine vessel, while the engine and the remainder of the drive unit is internal to the hull of the marine watercraft. In sterndrive engines, the drive unit is external to the hull of the marine watercraft, while the engine is internal to the hull of the marine watercraft. CARB Staff Report, June 8, 2002, at p. 4, Docket OAR-2004-0403.

¹⁴ These engines are often derived from automobile engines, although they have less sophisticated fuel and emission control systems, and are fueled usually by either gasoline or liquified petroleum gas (LPG). Typical applications for these LSI engines are forklifts, portable generators, large turf care equipment, irrigation pumps, welders, air compressors, scrubber/sweepers, and airport service vehicles. CARB Staff Report, September 22, 1998, p. 6, Docket OAR-2004-0404.

later than February 11, 2005. In addition, the party should submit 25 copies, if feasible, of the planned statement to the presiding officer at the time of the hearing.

In recognition that a public hearing is designed to give interested parties an opportunity to participate in this proceeding, there are no adverse parties as such. Statements by participants will not be subject to cross-examination by other participants without special approval by the presiding officer. The presiding officer is authorized to strike from the record statements that he or she deems irrelevant or repetitious and to impose reasonable time limits on the duration of the statement of any participant.

If a hearing is held on either request, the Agency will make a verbatim record of the proceedings. Interested parties may arrange with the reporter at the hearing to obtain a copy of the transcript at their own expense. Regardless of whether a public hearing is held, EPA will keep the record open until March 14, 2005. Upon expiration of the comment period, the Administrator will render a decision on CARB's request based on the record of the public hearing, if any, relevant written submissions, and other information that she deems pertinent. All information will be available for inspection at EPA Air Docket, in Docket OAR-2004-0403 (the Marine Spark Ignition Engines regulations request), and Docket OAR-2004-0404 (the Off-Road Large Spark Ignition Engines regulations request).

Persons with comments containing proprietary information must distinguish such information from other comments to the greatest possible extent and label it as "Confidential Business Information" (CBI). If a person making comments wants EPA to base its decision in part on a submission labeled CBI, then a nonconfidential version of the document that summarizes the key data or information should be submitted for the public docket. To ensure that proprietary information is not inadvertently placed in the docket, submissions containing such information should be sent directly to the contact person listed above and not to the public docket. Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when EPA receives it, EPA will make it available to the public without further notice to the person making comments.

Dated: January 5, 2005.

Jeffrey R. Holmstead,

Assistant Administrator for Air and Radiation.

[FR Doc. 05-628 Filed 1-11-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[OPP-2004-0417; FRL-7692-6]

DLT Solutions, Inc. and Oracle Corp.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to DLT Solutions, Inc. and its subcontractor, Oracle Corp., in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). DLT Solutions, Inc. and its subcontractor, Oracle Corp., have been awarded a contract to perform work for OPP, and access to this information will enable DLT Solutions, Inc. and its subcontractor, Oracle Corp., to fulfill the obligations of the contract.

DATES: DLT Solutions, Inc. and its subcontractor, Oracle Corp., will be given access to this information on or before January 18, 2005.

FOR FURTHER INFORMATION CONTACT: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-0521; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, 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 Copies of this Document and Other Related Information?

1. **Docket.** EPA has established an official public docket for this action under docket identification (ID) number OPP-2004-0417. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. 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. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. **Electronic access.** You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

II. Contractor Requirements

Under Contract No. GS-35F-4543G-4W-0910-NBSX, DLT Solutions, Inc. and its subcontractor, Oracle Corp., shall provide to the Office of Pesticide Programs the following:

- Technical support to upgrade the Oracle Relational Database Management System;
- Develop a project plan that demonstrates their understanding of the statement of work;
- Prepare written procedures for upgrading the OPPIN production server;
- Provide recommendations and analysis of the best practices of the use of the Oracle framework;
- Design, develop and enhancement existing OPPIN database and the OPPIN software;