



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA-HQ-OAR-2008-0708, FRL-9900-76-OA]

RIN 2060-AR90

National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reconsideration of final rule; request for public comment.

SUMMARY: On January 30, 2013, the EPA finalized amendments to the national emission standards for hazardous air pollutants for stationary reciprocating internal combustion engines and the standards of performance for stationary internal combustion engines. Subsequently, the EPA received three petitions for reconsideration of the final rule. The EPA is announcing reconsideration of and requesting public comment on three issues raised in the petitions for reconsideration, as detailed in the Supplementary Information section of this notice of reconsideration. The EPA plans to issue a final decision on these issues as expeditiously as possible. The EPA is seeking comment only on the three issues. The EPA will not respond to any comments addressing any other issues or any other provisions

of the final rule or any other rule. The EPA is not proposing any changes to its regulations in this notice of reconsideration.

DATES: Comments. Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], or 30 days after date of public hearing if later.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by [INSERT DATE 20 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], a public hearing will be held on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If you are interested in attending the public hearing, contact Ms. Pamela Garrett at (919) 541-7966 to verify that a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0708, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- Email: a-and-r-docket@epa.gov.
- Fax: (202) 566-1741.
- Mail: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please include a total of two copies. The EPA requests a separate copy also be sent to the contact person identified below (see

FOR FURTHER INFORMATION CONTACT) .

- Hand Delivery: Air and Radiation Docket and Information Center, U.S. EPA, Room 3334, 1301 Constitution Avenue, NW, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0708. The EPA's policy is that all comments received will be included in the public docket without change and may be made available on-line at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA

recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Public Hearing: If a public hearing is held, it will be held at the EPA's campus located at 109 T.W. Alexander Drive in Research Triangle Park, NC or an alternate site nearby.

Docket: All documents in the docket are listed in the www.regulations.gov index. The EPA also relies on documents in Docket ID Nos. EPA-HQ-OAR-2002-0059, EPA-HQ-OAR-2005-0029, EPA-HQ-OAR-2005-0030, and EPA-HQ-OAR-2010-0295, and incorporated those dockets into the record for this action. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Ms. Melanie King, Energy Strategies Group, Sector Policies and Programs Division (D243-01), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-2469; facsimile number: (919) 541-5450; email address: king.melanie@epa.gov.

SUPPLEMENTARY INFORMATION: Organization of this Document. The following outline is provided to aid in locating information in the preamble.

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I. General Information

A. What is the source of authority for the reconsideration action?

The statutory authority for this action is provided by sections 112 and 307(d)(7)(B) of the Clean Air Act (CAA) as amended (42 U.S.C. 7412 and 7607(d)(7)(B)).

B. What entities are potentially affected by the reconsideration action?

Categories and entities potentially regulated by this action include:

Category	NAICS ¹	Examples of regulated entities
Any industry using a stationary reciprocating internal combustion engine.	2211	Electric power generation, transmission, or distribution.

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your engine is regulated by this action, you should examine the applicability criteria in 40 CFR 63.6585, 40 CFR 60.4200, and 40 CFR 60.4230. If you have any

questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

C. What should I consider as I prepare my comments for the EPA?

Submitting CBI. Do not submit this information to the EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to the EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket.

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. Send or deliver information identified as CBI to only the following address: Ms. Melanie King, c/o OAQPS Document Control Officer (Room C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. EPA-HQ-OAR-2008-0708.

Docket. The docket number for this notice of reconsideration is Docket ID No. EPA-HQ-OAR-2008-0708.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this notice of reconsideration

will be posted on the WWW through the Technology Transfer Network Website (TTN Web). Following signature, the EPA will post a copy of this notice of reconsideration on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

II. Background

On January 30, 2013, the EPA promulgated amendments to the national emission standards for hazardous air pollutants (NESHAP) for stationary reciprocating internal combustion engines (RICE) and the standards of performance ("NSPS") for stationary internal combustion engines (ICE) (78 FR 6674). Following promulgation of the January 30, 2013, final rule, the EPA received three petitions for reconsideration pursuant to section 307(d)(7)(B) of the CAA. The EPA received a petition dated March 29, 2013, from Calpine Corporation and PSEG Power LLC. The EPA received a petition dated April 1, 2013, from the Delaware Department of Natural Resources and Environmental Control (DE DNREC). Finally, the EPA received a petition dated April 1, 2013, from Clean Air Council, Citizens for Pennsylvania's Future, Conservation Law Foundation, Environmental Defense Fund, Natural Resources Defense Council, Pace Energy and Climate Center, Sierra Club and West Harlem

Environmental Action, Inc. (Clean Air Council et al.). The petitions are available for review in the rulemaking docket, see document numbers EPA-HQ-OAR-2008-0708-1505, EPA-HQ-OAR-2008-0708-1506 and EPA-HQ-OAR-2008-0708-1507. On June 28, 2013, the EPA issued letters to the petitioners granting reconsideration on three specific issues raised in the petitions for reconsideration and indicating that the agency would issue a Federal Register notice regarding the reconsideration process. This action requests comment on the three issues for which the EPA granted reconsideration.

III. Discussion of the Issues under Reconsideration

The EPA finalized the NESHAP for several subcategories of existing stationary RICE on March 3, 2010, (75 FR 9648) and August 20, 2010 (75 FR 51570). The EPA received petitions for reconsideration and judicial review of the 2010 RICE NESHAP rulemakings. The EPA finalized amendments to the RICE NESHAP on January 30, 2013, (78 FR 6674) to address certain issues raised in the petitions for reconsideration and judicial review of the 2010 RICE NESHAP, and also revised the NSPS for stationary ICE for consistency with the RICE NESHAP.

The January 30, 2013, amendments established, among other things, fuel and reporting requirements for certain emergency engines used for emergency demand response and system reliability. The amendments also established conditions under

which emergency engines could be used for up to 50 hours per calendar year in situations where the engine is dispatched by the local transmission and distribution system operator to mitigate local transmission and/or distribution limitations so as to avert potential voltage collapse or line overload that could lead to the interruption of power supply in a local area or region. The EPA received petitions for reconsideration of certain aspects of these requirements, and granted reconsideration of the following three issues to provide an additional opportunity for public comment:

- Timing for compliance with the ultra low sulfur diesel (ULSD) fuel requirement for emergency compression ignition (CI) engines that operate or are contractually obligated to be available for more than 15 hours per calendar year for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii) (emergency demand response and deviations of voltage or frequency of 5 percent or more), or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii) (local system reliability).
- Timing and required information for the reporting requirement for emergency engines that operate or are contractually obligated to be available for more than 15 hours per calendar year for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii), or that operate for the

purpose specified in 40 CFR 63.6640(f)(4)(ii), and the timing and required information for the analogous reporting requirement in the ICE NSPS.

- Conditions in 40 CFR 60.4211(f)(3)(i), 60.4243(d)(3)(i) and 63.6640(f)(4)(ii) for operation for up to 50 hours per calendar year in non-emergency situations as part of a financial arrangement with another entity.

These issues are discussed in more detail in the following sections.

A. Timing for Compliance with the ULSD Fuel Requirement for Emergency Engines

The January 30, 2013, final rule included provisions that require existing stationary emergency CI RICE with a site rating of more than 100 brake horsepower (HP) and a displacement of less than 30 liters per cylinder that operate or are contractually obligated to be available for more than 15 hours per year (up to a maximum of 100 hours per year) for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii) (emergency demand response and deviations of voltage or frequency of 5 percent or more), or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii) (local system reliability), to use diesel fuel meeting the specifications of 40 CFR 80.510(b) beginning January 1, 2015, except that any existing diesel fuel purchased (or otherwise obtained) prior to

January 1, 2015, may be used until depleted. The specifications of 40 CFR 80.510(b) require that diesel fuel have a maximum sulfur content of 15 parts per million and either a minimum cetane index of 40 or a maximum aromatic content of 35 volume percent; this fuel is referred to as ULSD fuel. The EPA included the ULSD fuel requirement in the final rule in response to public comments expressing concerns about the emissions from emergency engines. As indicated in the January 30, 2013, final rule, the EPA believes that requiring cleaner fuel for these stationary emergency CI engines will significantly limit or reduce the emissions of regulated air pollutants emitted from these engines, further protecting public health and the environment. Information provided to the EPA by commenters¹ showed that the use of ULSD will significantly reduce emissions of air toxics, including metallic hazardous air pollutants (HAP) (e.g., nickel, zinc, lead) and benzene.

The EPA added this fuel requirement beginning in January 2015, rather than upon initial implementation of the NESHAP for existing CI engines in May 2013, to provide sources with appropriate lead time to institute these new requirements and make any physical adjustments to engines (including fuel seals) and other facilities like tanks or other containment structures,

¹ See document number EPA-HQ-OAR-2008-0708-1459 in the rulemaking docket.

as well as any needed adjustments to contracts and other business activities, that may be necessitated by these new requirements. If these sources had been required to comply with the ULSD fuel requirement by their May 3, 2013, initial compliance date, they would have had only three months of lead time between promulgation and compliance. Although the EPA does not have information specifying the percentage of existing stationary emergency CI engines currently using residual fuel oil or non-ULSD distillate fuel, the most recent U.S. Energy Information Administration data available for sales of distillate and residual fuel oil to end users² show that significant amounts of non-ULSD are still being purchased by end users that typically operate stationary combustion sources, including stationary emergency CI engines. For the reasons indicated above, the EPA determined that additional lead time was warranted for these engines.

The petitions for reconsideration from the DE DNREC and Clean Air Council *et al.* requested that the requirement to use ULSD fuel for certain emergency engines take effect beginning on the May 3, 2013, compliance date. The DE DNREC indicated in the petition that ULSD is already widely available and is likely the only diesel fuel available in most areas. The petition for

² U.S. Energy Information Administration. Distillate Fuel Oil and Kerosene Sales by End Use. Available at http://www.eia.gov/dnav/pet/pet_cons_821use_dcu_nus_a.htm.

reconsideration from Clean Air Council *et al.* disagreed with the EPA that significant lead time is needed for facilities to come into compliance with the ULSD fuel requirement and indicated that the EPA had offered no evidence that adjustments would be necessary to operate engines on ULSD.

The EPA does not agree with the petitioners that there was no evidence in the record that adjustments may be necessary. According to the memo in the rulemaking docket titled, "Summary of Ultra Low Sulfur Diesel Issues with Stationary Internal Combustion Engines" (document number EPA-HQ-OAR-2008-0708-0003), experience with the transition to ULSD for mobile CI engines showed that differences in the aromatic content of ULSD may require replacement of gaskets and seals to prevent fuel system leaks. Also, as discussed previously, information from the Energy Information Administration indicated that a significant percentage of diesel fuel being purchased is not ULSD. Thus, the record does reflect that significant lead time is necessary for facilities to come into compliance with the ULSD requirement.

In addition, because the EPA included the requirement to use ULSD in the final rule in response to comments, the EPA believed it was appropriate to provide regulated parties sufficient time to conform to it, and the EPA did not believe that the 3 months advocated by petitioners was appropriate given the record information described above. Therefore, the EPA does

not at this time agree that delaying the start of the ULSD fuel requirement until 2015 is inappropriate.

However, in consideration of the fact that the public lacked the opportunity to comment on the timing of the ULSD fuel requirement, the EPA has granted reconsideration to provide an opportunity for public comment on the timing for compliance with the ULSD fuel requirement for emergency CI engines that operate or are contractually obligated to be available for more than 15 hours per calendar year for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii) (emergency demand response and deviations of voltage or frequency of 5 percent or more), or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii) (local system reliability). The EPA specifically solicits comment on whether it would be reasonable to implement the requirement to use ULSD fuel earlier than January 1, 2015. The EPA requests comment on whether the use of ULSD is already widespread and whether facilities will need to make any physical adjustments to engines (including fuel seals) and other facilities like tanks or other containment structures, as well as any needed adjustments to contracts and other business activities, to comply with these new requirements.

B. Timing and Required Information for the Reporting Requirement for Emergency Engines

The January 30, 2013, final rule added a new provision to the RICE NESHAP that requires stationary emergency RICE with a site rating of more than 100 brake HP and a displacement of less than 30 liters per cylinder that operate or are contractually obligated to be available for more than 15 hours per year (up to a maximum of 100 hours per year) for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii) (emergency demand response and deviations of voltage or frequency of 5 percent or more), or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii) (local system reliability), to report the following information annually to the EPA, beginning with operation during the 2015 calendar year:

- Company name and address where the engine is located.
- Date of the report and beginning and ending dates of the reporting period.
- Engine site rating and model year.
- Latitude and longitude of the engine in decimal degrees reported to the fifth decimal place.
- Hours operated for emergency demand response and deviations of voltage or frequency of 5 percent or greater below standard, including the date, start time, and end time for engine operation for those purposes.
- Number of hours the engine is contractually obligated to be

available for emergency demand response and deviations of voltage or frequency of 5 percent or greater below standard.

- Hours spent for operation for local system reliability, including the date, start time and end time for engine operation for that purpose, the entity that dispatched the engine and the situation that necessitated the dispatch of the engine.
- If there were no deviations from the fuel requirements (if any) that apply to the engine, a statement that there were no deviations from the fuel requirements during the reporting period.
- If there were deviations from the fuel requirements that apply to the engine (if any), information on the number, duration, and cause of deviations, and the corrective action taken.

A similar reporting requirement was also added to the ICE NSPS. This information is necessary to determine whether these engines are operating in compliance with the regulations and will assist the EPA and other interested stakeholders in assessing the impacts of the emissions from these engines. We included this reporting requirement in the final rule in response to public comments expressing concerns about the impacts of emissions from emergency engines. The EPA specified in the final rule that the

first report must cover the calendar year 2015 and must be submitted no later than March 31, 2016. Subsequent annual reports for each calendar year must be submitted no later than March 31 of the following calendar year. The EPA did not require reporting of operation prior to 2015 for two reasons: (1) to give the EPA time to develop the electronic reporting tool that facilities will use to submit this information and stakeholders will use to view the submitted information; and (2) to give facilities sufficient lead time to institute the necessary infrastructure to record and compile the information so that it can be submitted electronically to the EPA in the correct format. The petition for reconsideration from Clean Air Council *et al.* requested that the reporting requirement begin with the 2013 calendar year, with the first report due in early 2014. Alternatively, Clean Air Council *et al.* requested that if the first report is not submitted until 2016, the report should include information on operation in 2013 and 2014, in addition to the information for 2015 that is already required. The petitioners also requested that the report include the type and amount of diesel fuel used in the engine. The petitioners indicated that collecting this information would enhance the EPA's ability to assess the health impacts of the emissions from the engines.

The EPA does not believe the petitioners have provided sufficient justification for the revisions in lead time provided in their request, and the EPA continues to believe that a lead time until the 2015 calendar year is appropriate, for the reasons stated above. The EPA also does not agree with the petitioners that the report should include the type and amount of diesel fuel used in the engine, because of the burden that would place on affected facilities. The sulfur content of the fuel in the tanks would be changing over time as the existing higher sulfur fuel is replaced with ULSD, and a facility would have to periodically sample its fuel tanks in order to determine the current sulfur content of the fuel. Facilities may need to install equipment such as fuel flow meters in order to determine the amount of diesel fuel used in their engines.

However, in consideration of the fact that the public lacked the opportunity to comment on the timing and required information for the reporting requirement, the EPA has granted reconsideration to provide an opportunity for public comment on the timing and required information for the reporting requirement for emergency engines that operate or are contractually obligated to be available for more than 15 hours per calendar year for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii), or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii). The EPA requests comment

on whether owners and operators of these engines should be required to report operation for the period between the compliance date and January 2015, and when it would be reasonable to submit the report. The EPA also solicits comment on whether the rule should require reporting of the amount and type of diesel fuel used in the engine. The EPA requests information on whether such a requirement would place an unreasonable burden on affected facilities.

C. Criteria for Operation for up to 50 Hours per Year for Non-Emergency Situations

The proposed amendments to the RICE NESHAP and ICE NSPS (June 7, 2012; 77 FR 33812) specified two situations under which emergency engines could be used for up to 100 hours per calendar year in non-emergency situations as part of a financial arrangement with another entity. The EPA proposed that owners and operators of stationary emergency engines could operate the engines when the Reliability Coordinator has declared an Energy Emergency Alert (EEA) Level 2 as defined in the North American Electric Reliability Corporation (NERC) Reliability Standard EOP-002-3, Capacity and Energy Emergencies, or during periods where there is a deviation of voltage or frequency of 5 percent or more below standard voltage or frequency. Public commenters indicated that the proposed EEA Level 2 and 5 percent voltage or frequency deviation triggers did not account for situations when

the local balancing authority or transmission operator for the local electric system has determined that electric reliability is in jeopardy, and recommended that the EPA include additional situations where the local transmission and distribution system operator has determined that there are conditions that could lead to a blackout for the local area. The comments indicated that rural distribution lines are not configured in a typical grid pattern, but instead have distribution lines that can run well over 50 miles from a substation and regularly extend 15 miles or longer. During periods of exceptionally heavy stress within the region or sub-region, electricity from regional power generators may not be available because of transmission constraints, according to the commenter. The comments indicated that in many cases, there may be only one transmission line that feeds the rural distribution system, and no alternative means to transmit power into the local system. In response to those comments and in recognition of the unique challenges faced by the local transmission and distribution system operators in rural areas, the revisions to the RICE NESHAP and ICE NSPS finalized on January 30, 2013, specified limited circumstances under which stationary emergency engines located at area sources of HAP could operate for up to 50 hours per year in non-emergency situations as part of a financial arrangement with another entity. The final amendments specified that up to 50

hours per calendar year can be used for non-emergency situations to supply power as part of a financial arrangement with another entity if all of the following conditions are met:

- the engine is located at an area source of HAP;
- the engine is dispatched by the local balancing authority or local transmission and distribution system operator;
- the dispatch is intended to mitigate local transmission and/or distribution limitations so as to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region;
- the dispatch follows reliability, emergency operation or similar protocols that follow specific NERC, regional, state, public utility commission or local standards or guidelines;
- the power is provided only to the facility itself or to support the local transmission and distribution system; and
- the owner or operator identifies and records the entity that dispatches the engine and the specific NERC, regional, state, public utility commission or local standards or guidelines that are being followed for dispatching the engine.

The EPA added these provisions to the final RICE NESHAP and ICE NSPS in response to public comments on situations where the

local transmission and distribution system operator has determined that there are conditions that could lead to a blackout for the local area where the ready availability of emergency engines is critical to system reliability.

The petitions for reconsideration from Clean Air Council *et al.* and from Calpine and PSEG expressed concern that the conditions specified in the final rule for operation in non-emergency situations to supply power as part of a financial arrangement with another entity were too indistinct and expansive and would be difficult to enforce, which could lead to engines operating when there is no discernible threat to the grid. The petition from Calpine and PSEG expressed concern that the final rule did not provide any guidance for determining whether the dispatch of an engine is intended to mitigate local transmission and/or distribution limitations so as to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region. The petition from Clean Air Council *et al.* recommended that the EPA more clearly delineate the situations under which the engines could run to ensure that the engines are only dispatched during genuine grid emergencies, while still allowing local grid operators to address legitimate reliability concerns. The petitions did not provide suggestions as to what criteria the petitioners believe would be appropriate.

Due to the public's inability to comment on this issue, the EPA has granted reconsideration of the conditions in 40 CFR 60.4211(f)(3)(i), 60.4243(d)(3)(i) and 63.6640(f)(4)(ii) for operation for up to 50 hours per calendar year in non-emergency situations as part of a financial arrangement with another entity, as well as the corresponding provisions in the ICE NSPS. The EPA welcomes comments on these provisions, including whether the provisions are necessary or appropriate and also whether the specific provisions delineating the situations where such use is permitted are appropriate as finalized or should be revised. If a commenter suggests revisions to the provisions, the commenter should provide detailed information supporting any such revision.

IV. Solicitation of Public Comment and Participation

The EPA seeks full public participation in arriving at its final decisions. At this time, the EPA is not proposing any specific revisions to the final RICE NESHAP or the ICE NSPS. However, the EPA requests public comment on the three issues under reconsideration. The EPA is seeking comment only on the three issues. The EPA will not respond to any comments addressing any other issues or any other provisions of the final rule or any other rule.

Specifically, the EPA requests comment on the timing for compliance with the ULSD fuel requirement for existing emergency

CI engines that operate or are contractually obligated to be available for more than 15 hours per calendar year for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii) (emergency demand response and deviations of voltage or frequency of 5 percent or more, or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii) (local system reliability). The EPA requests comment on whether affected engines should be required to comply with the ULSD fuel requirement earlier than January 1, 2015. In particular, the EPA invites comment on whether the lead time for a January 15, 2015, implementation date is unreasonably long, or conversely, if the lead time for an implementation date prior to January 1, 2015, would be unreasonably short.

The EPA requests comment on the timing and required information for the reporting requirement for emergency engines that operate or are contractually obligated to be available for more than 15 hours per calendar year for the purposes specified in 40 CFR 63.6640(f)(2)(ii) and (iii), or that operate for the purpose specified in 40 CFR 63.6640(f)(4)(ii), and the timing and required information for the analogous reporting requirement in the ICE NSPS. The EPA requests comment on whether the reporting should begin with operation in the 2015 calendar year, and whether the rule should require reporting of the amount and type of diesel fuel used in the engine.

Finally, the EPA requests comment on the conditions in 40 CFR 60.4211(f)(3)(i), 60.4243(d)(3)(i) and 63.6640(f)(4)(ii) for operation for up to 50 hours per calendar year in non-emergency situations as part of a financial arrangement with another entity. The EPA is particularly seeking comment on whether the criteria could be more clearly defined to eliminate any ambiguity regarding the situations under which engines can operate and to further limit the operation to situations where the reliability of the local system is threatened.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose any new information collection burden. The EPA is not proposing any new information collection activities (e.g., monitoring, reporting, recordkeeping) as part of this action. With this action, the EPA is seeking additional comments on three aspects of the final NESHAP and NSPS for stationary RICE (78 FR 6674, January 30, 2013). The Office of

Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0548. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action will not impose any new requirements. This action seeks comment on three aspects of the final NESHAP and NSPS for stationary RICE without proposing any changes to the rules. We continue to be interested in the potential impacts of this action on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for state, local, or tribal governments or the private sector. The action imposes no enforceable duty on any state, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This action requests comment on three aspects of the final NESHAP and NSPS for stationary RICE without proposing any changes to the rules.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action seeks comment on three aspects of the final NESHAP and NSPS for stationary RICE without proposing any changes to the rule. Thus, Executive Order 13132 does not apply to this action.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on tribal governments, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required

under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based solely on technology performance and not on health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104-113, Section 12(d), 15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by VCS bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the agency does not use available and applicable VCS.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions to Address

Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action seeks comment on three aspects of the final NESHAP and NSPS for stationary RICE without proposing any changes to the rule.

List of Subjects

40 CFR Part 60

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

40 CFR Part 63

Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 29, 2013.

Gina McCarthy,
Administrator.

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