February 8, 2011

Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mail Code: 6102T
1200 Pennsylvania Ave., NW.
Washington, DC 20460

Transmitted via email: a-and-r-docket@epa.gov

Attention ***Docket ID No.*** EPA-HQ-OAR-2008-0708

Dear EPA Staff:

The National Steering Committee for the national network of state Small Business Ombudsman (SBO) and Small Business Environmental Assistance Programs (SBEAP) thanks you for the opportunity to comment on the proposed ***National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines*** rule, which was published in the *Federal Register* on December 7, 2010 (pages 75937-75941) as Docket ID No. ***EPA–HQ–OAR–2008-0708***. The state Small Business Ombudsman and Small Business Environmental Assistance Programs (SBO/SBEAP) were created under section 507 of the Clean Air Act Amendments of 1990. For more than 15 years, the SBO/SBEAPs have provided extensive, hands-on assistance to small businesses to help them understand and comply with environmental regulations such as the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) and similar standards.

The SBO/SBEAPs have indicated to the U.S. Environmental Protection Agency (EPA), through the small business liaison at Office of Air Quality Planning and Standards (OAQPS), that we are interested in helping to investigate the business impact for as many of the federal rules as we have volunteers with time to participate. Our goal is to help EPA issue regulations that are clear and easy for small businesses to comply with, and are also rules that SBO/SBEAPs and states can implement with their minimal (and in many states, dwindling) resources. The SBO/SBEAPs, through their Air Subcommittee, stand ready to work with EPA to develop rules that small businesses can comply with, and implementation tools and templates that will benefit all affected small businesses. The National Steering Committee also appreciates EPA's recognition of the need to reduce emissions from mobile as well as stationary sources. The Air Subcommittee's members come from across the country and represent the EPA regions and a major percentage of the states. Comments from the National Steering Committee for SBO/SBEAPs reflect a wide range of experience with the efforts of small business to comply with many different standards.

The SBO/SBEAPs understand EPA is requesting comments on its "decision to amend limitations on operation of emergency stationary engines to allow emergency engines to operate for up to 15 hours per year as part of an emergency demand-response program." Following are the SBO/SBEAPs comments on the five specific items EPA has requested.

1. *Should emergency engines in emergency demand response programs be limited to use during periods in which the regional transmission organization and transmission operator directs the implementation of operating procedures for voltage reductions of 5% of normal operating voltage requiring more than 10 minutes to implement, voluntary load curtailments by customers, or automatic or manual load-shedding, in response to, or to prevent the occurrence of, unusually low frequency, equipment overload, capacity or energy deficiency, unacceptable voltage levels, or other such emergency conditions?*

   Comment: As EPA states, these are emergency conditions. We believe for small communities and businesses, these engines should be subject to §63.6640(f)(i), which allows for no time limit on the use of emergency stationary RICE in emergency situations.

2. *Should the limitation on use be for periods in which the regional transmission authority has declared an Energy Emergency Alert Level 2?*

   Comment: There are instances when engines need to be operated to prevent a situation from becoming one that needs to be declared an Energy Emergency Alert Level 2. For example, one rural municipality had to repair a transformer tap changer. To do this, they had to go off the grid for four days to make the repair. Had they waited for the tap changer to explode and the situation to be declared an emergency, it would have taken longer to replace and cost significantly more.

   Recently, a 349 mWh power plant belonging to the regional transmission organization, had equipment (induced-draft fans) failure that required it to ask the 10 small utilities in its system to go on line and support the transmission grid while repairs were being made. Some of the cities operated for up to 22 hours, and all together they supplied a significant amount of electricity, 98 mW per hour, during that time. The utilities were never informed whether this was a Level 2 emergency or not. Are we to assume it was not an emergency, and the utilities should not have operated, if under the new regulations? If they had not responded, then there would likely have been outages. Is this an emergency or a demand response situation?

   We would like to emphasize that for small communities and businesses, these engines should be subject to §63.6640(f)(i), which allows for no time limit on the use of emergency stationary RICE in emergency situations.

3. *Is the operation of these engines in emergency demand response programs needed to ensure the stability of the electric grid?*

   Comment: Definitely! The ability of small power plants to stabilize local voltage and frequency is an integral part of the transmission grid. Without these engines, low-voltage

and frequency problems would cause relays to trip and outages to occur. The current rule is written such that these engines are not considered emergency engines and could not be started to stabilize the system until power was lost. This would result in increased outages and costs to utilities that would be passed on to the customer.

4. *Would the costs for meeting the requirements for non-emergency engines prevent these engines from taking part in emergency demand response programs?*

   Comment: Costs gathered from an engine equipment supplier based on data from 11 states, for engines ranging in Hp between 75 and 500, showed a new engine can cost between $6,800 and $65,000. A rebuilt engine can cost between $2,400 and $48,000. Emissions retrofit costs can range from $6,700 to $13,000, with annual testing costing $1,000 to $3,300. These are initial costs and do not include mandated maintenance which will significantly increase overall annual operating costs. Initial and ongoing costs will be a burden on small businesses and municipalities, and could prevent them from participating in emergency demand-response programs.

   One power plant in a municipality with a population of 6500, calculated the initial cost over five years will require a rate increase on its units of 23.21%. The estimates it has received to date for oxidation catalysts range between $10,000 and $40,000. Testing costs range between $1,000 and $7,000 per unit.

   Rural municipalities have estimated $80,000 to $110,000 per unit to retrofit units. Over time, most of the municipalities have added small units to their plants when they were getting close to being out of compliance with their main energy suppliers' contracts. Now these utilities have several small units to retrofit, which increases the cost of compliance dramatically. Money received for a utility's capacity from demand-response programs allows them to keep their electric rates to taxpayers down, especially with the increased cost of fuels and current hard economic times.

5. *What is the typical frequency and duration of the operation of these engines in emergency demand response programs? Do they tend to occur on high ozone days?*

   Comment: We believe the 15-hour standard is not adequate. There are times when low-frequency voltage support can far exceed 15 hours. Frequency and duration of the operation of engines in emergency demand-response programs varies widely. A rural municipality typically runs engines from four to eight hours at a time for a total of 300 to 400 hours a year in an emergency demand-response program. Basing the demand-response standard on such low engine operating hours is inconsistent with and ignores the public health implications associated with a complete or partial failure of the electric grid.

   Many affected sources are located in rural attainment areas where ozone concentrations are not monitored.

The SBO/SBEAPs understand the importance of reducing hazardous air pollutants through reciprocating internal combustion engines. However, given the recent Executive Order sent to all of the regions dated January 18, 2011, and titled *The President's Regulatory Strategy by President Obama for EPA*, we are also aware the President *requires federal agencies to design cost-effective, evidence-based regulations that are compatible with economic growth, job creation, and competitiveness*. We have some serious concerns that implementation of the RICE rule standards are in conflict with the guiding principles stated by the executive order as follows:

Executive Order Guiding Principles	**Conflict in RICE RULE Standard**
Cost-effective and Cost-justified: Consistent with the law, Agencies must consider costs and benefits and choose the least burdensome path.	The cost justification compared to the environmental benefits is unclear at best, and at worst imposes a regulatory burden that creates unviable businesses. This seems counterintuitive to the principles of the Executive Order. The cost per ton of CO or formaldehyde removed is excessive for small businesses and municipalities.
Transparent: The regulatory process must be transparent and include public participation, with an opportunity for the public to comment	Outreach to sources impacted by this rule did not allow or provide an adequate or reasonable amount of time for affected sources and the appropriate trade associations to fully comment. Additionally, cost estimates developed following the comment period were not made widely available to the sources impacted. Many of these sources are small, located in rural areas, and may not be associated with trade organizations.
Coordinated and simplified: Agencies must attempt to coordinate, simplify, and harmonize regulations to reduce costs and promote certainty for businesses and the public.	The RICE rules are exceedingly difficult for small businesses to understand, as well as increasing costs to small businesses. The rule will significantly increase capital and operating costs to small businesses. This rule will have an adverse impact on small businesses economic vitality. There were insufficient efforts to harmonize and simplify the rules in coordination with the states. EPA's piecemeal approach to regulating engines has resulted in three NSPS and MACT regulations with little coordination amongst them.
Flexible: Agencies must consider approaches that maintain freedom of choice and flexibility, including disclosure of relevant information to the public.	The rule does not provide adequate flexibility. It would be better to provide the regulated community a period of time to replace engines with newer technology over a staggered time period and shift the burden to manufacturers. This would not only limit the impact of the rule on small

	businesses, but would also allow the environmental benefit (small though it may be) to be realized.
Science-driven: Regulations must be guided by objective scientific evidence.	Data used to develop the CO emission rates for RICE do not comply with EPA's MACT-setting criteria. Only two data points were acquired for one class of engines to establish the MACT floor. EPA's MACT-setting process should be based on the 12% best operating sources in the United Sates or based on a minimum of five data points.
Necessary and up-to-date: Existing regulations must be reviewed to determine they are still necessary and crafted effectively to solve current problems. If they are outdated, they must be changed or repealed.	The necessity of controlling these engines that are used mostly in rural unpopulated areas has not been evaluated. The impact of a significant monetary investment to a small rural business, to solve what so far has not been deemed an air pollution "problem," will create an untenable situation for the life of the business. It should be noted the reductions will be ultimately realized in the future without this rule, due to the fact businesses using this equipment will naturally upgrade their engines to utilize the most fuel-efficient engines available.

SBO/SBEAPs are also aware of the extreme burden that will be placed upon state agencies by this new regulation. States will be forced to modify their State Implementation Plans as well as receive all the permit applications while awaiting federal guidance on how to proceed with the permits. Not only will the flow of state agency permits become bottlenecked, but business growth and improvements to our economy will be stymied as businesses await permits to construct new sources or delayed renewal/revision of existing permits. Many states will also be required to modify numerous rules through their state legislatures or governing bodies. As a result, state agencies will need to educate these new sources on the need for a permit, on the permitting process, and on program requirements. Many of these agencies will utilize SBEAP programs to perform this function. We believe the necessary and appropriate outreach, source education, and small business assistance effort will be substantial to ensure effective implementation of the RICE rules. EPA must consider this when assessing resource burdens, administrative necessity, and appropriate emission thresholds, particularly in rural areas.

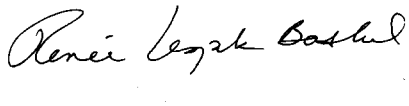
Applicability of this rule to seasonally operated engines is not clearly defined. This standard also affects the definition of peaking, emergency, and other key terms in the rule as they relate to applicability.

We **strongly recommend** this rule be further reviewed, stayed, or rescinded. Precedence has been set in 2004 with the National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines, subpart YYYY. Similar to the RICE 15-hr emergency demand-response reconsideration, further review, a stay, or rescinding of this rule in its entirety is

necessary to avoid wasteful and unwarranted expenditures on installation of emission controls which will not be required if the definition of emergency engines or demand-response hours are expanded. Additionally, further testing is needed in accordance with EPA's MACT floor and in coordination with manufacturers. Determining costs of required equipment and the burden on small area sources needs to be adequately addressed. Also, conflicts with the President's Executive order dated January 18, 2011, need to be resolved.

Please contact Barbara Johnson (785-452-9456), co-chair of the NSC Technical Air Subcommittee, if you need clarification or would like to discuss any of these issues.

Sincerely,



Renee Lesjak Bashel
Chair, National Steering Committee for SBO/SBEAP

cc. Lisa Jackson, USEPA Administrator
Gina McCarthy, USEPA Assistant Administrator for the Office of Air and Radiation
Jan King, USEPA OAQPS
Joan B. Rogers, USEPA Asbestos and Small Business Ombudsman