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Arthur N. Marin, Executive Director

November 4, 2013

Gina McCarthy, Administrator
U.S. Environmental Protection Agency
Air and Radiation Docket and Information Center
Mailcode: 2822T
1200 Pennsylvania Ave. NW.
Washington, DC 20460
VIA EMAIL: a-and-r-docket@epa.gov
Attention: Docket ID No. EPA–HQ–OAR–2008–0708

Re: National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines – Notice of reconsideration of final rule; request for public comment

Dear Administrator McCarthy:

The Northeast States for Coordinated Air Use Management (NESCAUM) offer the following comments on the U.S. Environmental Protection Agency's (EPA's) notice of reconsideration of the final rule entitled *National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines* (hereinafter "RICE NESHAP") and request for public comment, published in the Federal Register on September 5, 2013 (78 Fed. Reg. 54606-54612). NESCAUM is the regional association of air pollution control agencies representing Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

EPA issued final amendments to the RICE NESHAP on January 30, 2013 (78 Fed. Reg. 6674). EPA received petitions for and granted reconsideration of three specific requirements established in the January 30, 2013 RICE NESHAP rule. The following sections provide background information and comments on each of the issues that EPA is reconsidering.

(1) Timing for compliance with the ultra-low sulfur diesel (ULSD) fuel requirement for emergency engines

Background

In the January 30, 2013 rule, EPA specified that engines would be required to operate using ULSD fuel by January 1, 2015. Petitioners argued that the requirement should not be delayed and should be implemented as early as May 2013 (i.e., as soon as possible). In granting reconsideration on this issue, EPA is taking comment on whether it would be reasonable to implement the requirement for ULSD fuel earlier than January 1, 2015, whether the use of

ULSD is already widespread, and whether facilities would need to physically alter engines and associated devices or contracts to comply with the requirement.

Comment

Most of the NESCAUM states require the use of ULSD in emergency backup engines. As such, the use of ULSD fuel is already the standard practice in this region, and ULSD fuel is widely available, even in states that do not yet require its use in all engines. ULSD fuel has been available nationally as a transportation fuel since late 2006, and has been the only diesel fuel available for transportation fuel since late 2010.

In the development of state ULSD fuel requirements for engines, technical feasibility does not appear to have been an area of concern for facilities. Synthetic additives are available to alleviate the potential increase in wear for older engines resulting from the lubricity change between higher sulfur diesel and ULSD fuels.[1] Our states have not received notice of the use of ULSD fuel resulting in any physical alterations to engines, storage tanks, or fuel seals.

The recent experience of New York in requiring ULSD fuel in the residential heating market has shown that it is feasible to transition over a relatively short timeframe from higher sulfur to ULSD fuel for significantly sized markets. The fuel volume targeted by the New York ULSD requirements was significantly larger than what is needed for refueling emergency generators across the entire NESCAUM region. Based on an emergency generator population of 11,386 engines[2] and an assumption of an average tank capacity of 500 gallons, we estimate that to meet the annual demand for emergency generator fuel in the Northeast region, approximately 6 million gallons of additional ULSD fuel is required. For comparison, the annual consumption of distillate oil consumed for residential use in New York was 739.4 million gallons in 2011.[3] Therefore, we expect to encounter no significant supply issues as a result of these requirements becoming applicable earlier than 2015.

We also note that because stored diesel fuel oxidizes over time, a major insurance company recommends as best safety practice replacing unused diesel fuel in tanks at least annually.[4] Therefore, requiring ULSD earlier than January 1, 2015 can be readily accomplished in a manner consistent with best practices that should already be followed by owners of emergency diesel engines.

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[1] "Ultra-Low Sulfur Diesel: Anything to Worry About?" *Seaworthy* (October 2011). Available at http://www.boatus.com/seaworthy/assets/pdf/SeaworthyOct2011.pdf (accessed September 25, 2013).

[2] NESCAUM. 2003. Stationary Diesel Engines in the Northeast: An Initial Assessment of the Regional Population, Control Technology Options and Air Quality Policy Issues. Available at www.nescaum.org/documents/rpt030612dieselgenerators.pdf.

[3] Energy Information Administration. 2013. "Sales of Distillate Fuel Oil by End Use, New York". Available at http://www.eia.gov/dnav/pet/pet_cons_821dst_dcu_SNY_a.htm.

[4] "Maintaining Diesel Engines for Reliable Operation," Hartford Steam Boiler Inspection and Insurance Company (a subsidiary of Munich Re), Maintenance Fact Sheet #449 (revised June 2008) (stating that diesel fuel "must never be kept in storage for more than 12 months."). Available at http://www.hsb.com/HSBGroup/Maintenance_Fact_Sheets.aspx (accessed September 27, 2012).

NESCAUM supports an earlier implementation timeframe for the requirement of ULSD fuel in emergency engines.

(2) Timing and required information for the reporting requirement for emergency engines

Background

The January 30, 2013 rule set a requirement for facilities to electronically report information about operations for the 2015 calendar year by March 31, 2016, and annually thereafter about subsequent operations. According to EPA, this reporting requirement is necessary to determine compliance with the RICE NESHAP rule. Information to be reported includes basic information about the engine, company, hours of operation, and assurances about compliance with fuel requirements. EPA stated that it set the timeframe for reporting to give EPA time to develop the electronic reporting tool and to give facilities time to compile and format the information for submittal. EPA has granted reconsideration about whether reporting should be required for compliance years prior to 2015 (i.e., 2013 and 2014), and if so, by what date reporting should be required, and whether the amount and type of fuel should be included in the reporting or whether such a requirement would be burdensome on affected facilities.

Comment

As we have stated previously, NESCAUM supports a reporting requirement that includes information about fuel use and operation activity. Given EPA's stated rationale that the reporting requirements are necessary to determine compliance, reporting should be mandatory for all future calendar years, including 2014. Having such information as soon as possible will also assist states in their air quality planning by providing a more robust emission inventory resource spanning a longer period of time for evaluating episodic pollution events when emergency backup engines may be operating. If the electronic system is not ready for earlier compliance year submissions, we suggest that EPA either require the 2014 annual report to be submitted on paper or via email (e.g., scanned pdf attachment) by March 31, 2015, or electronically by March 31, 2016 (alongside the 2015 annual report).

(3) Conditions for non-emergency operation of emergency engines for up to 50 hours per year as part of a financial arrangement with another entity

Background

Under EPA's final rule, emergency engines are allowed to operate up to 50 hours per calendar year for non-emergency use as part of a financial arrangement under certain conditions according to the January 30, 2013 final rule. Commenters raised concerns that the language was too broad and would be difficult to enforce. EPA is reconsidering whether non-emergency operation as described in the rule should be allowed or whether (and how) the rule should be revised.

Comment

NESCAUM reiterates its previous comment on the June 7, 2012 RICE NESHAP proposal (77 Fed. Reg. 33812-33857) that EPA not provide a temporary allowance for uncontrolled emergency RICE to participate in non-emergency demand response.[5]

Diesel engines operating under non-emergency conditions should not be considered emergency backup generators. Owners of backup diesel generators earning revenue as electric generators in non-emergency demand response programs should be required to install appropriate pollution controls, taking into account population exposure, revenues received, control costs, and any other relevant factors. Requiring pollution controls on backup generators as a condition for participating in non-emergency demand response programs is not without precedent. For example, Celerity Energy Partners San Diego, LLC, a subsidiary of EnerNOC, Inc., has a contractual arrangement with San Diego Gas & Electric under which it has installed and maintained pollution control equipment on existing backup diesel generators that allows the units to be used as demand response resources and for other ancillary purposes.[6]

If you have any questions regarding the issues raised in these comments, please contact Leiran Biton of NESCAUM at 617-259-2027.

Sincerely,

Arthur N. Marin
Executive Director

cc: NESCAUM directors
Melanie King, EPA OAQPS
David Conroy, EPA Region 1
John Filippelli, EPA Region 2
Richard Ruvo, EPA Region 2
Michael Moltzen, EPA Region 2
Wick Havens, Ozone Transport Commission

[5] NESCAUM. Comments to EPA on Proposed Rule - *National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines*. Docket ID No. EPA–HQ–OAR–2008–0708 (submitted to EPA August 9, 2012).
[6] EnerNOC, Inc., *Annual Report 2011*, Boston, MA (2012). Available at http://investor.enernoc.com/annual-proxy.cfm (accessed September 25, 2013); Peltier, R., "Aggregated backup generators help support San Diego grid," *Power Magazine* (February 15, 2008). Available at http://www.powermag.com/business/Aggregated-backup-generators-help-support-San-Diego-grid_92.html (accessed September 25, 2013).