



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MEMORANDUM

Subject: Response to Public Comments on Notice of Reconsideration of National Emission Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines and New Source Performance Standards for Stationary Internal Combustion Engines (“Response to Comments Document”)
From: Melanie King, Energy Strategies Group
To: EPA Docket EPA-HQ-OAR-2008-0708
Date: June 16, 2014

On January 30, 2013, the U.S. Environmental Protection Agency finalized amendments to the national emission standards for hazardous air pollutants (NESHAP) for stationary reciprocating internal combustion engines (RICE) in 40 CFR part 63, subpart ZZZZ and the New Source Performance Standards (NSPS) for Stationary Internal Combustion Engines in 40 CFR part 60, subparts IIII and JJJJ (78 FR 6674). Subsequently, the EPA received three petitions for reconsideration of the final rule. On September 5, 2013, the EPA announced reconsideration of, and requested public comment on, three issues raised in the petitions for reconsideration. The three issues are as follows:

- 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) [emergency demand response] and (iii) [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 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.

The purpose of this document is to present a summary of the public comments on the September 5, 2013, notice of reconsideration and the EPA’s responses to those comments. This summary of comments and responses discusses the basis for the EPA’s decision not to propose any changes to the regulations at this time for these three issues. The EPA received 33 public comments on the notice of reconsideration. A listing of all organizations submitting comments, their affiliation and the Document ID for their comments is presented in Table 1. All comments can be obtained online from the Federal Docket Management System at <http://www.regulations.gov>. The docket number for this rulemaking is EPA-HQ-OAR-2008-0708. In this document, commenters are identified by the last four digits of the Document ID of their comments.

Table 1: List of Commenters on the Notice of Reconsideration of the NESHAP and NSPS for Stationary RICE

Document ID	Commenter	Affiliation
EPA-HQ-OAR-2008-0708-1512	Michael DiMauro, Environmental Engineer	Massachusetts Municipal Wholesale Electric Company
EPA-HQ-OAR-2008-0708-1513	David J. Shaw, Director, Division of Air Resources	New York State Department of Environmental Conservation
EPA-HQ-OAR-2008-0708-1514	Zak Covar, Executive Director	Texas Commission on Environmental Quality
EPA-HQ-OAR-2008-0708-1515	David R. Baez, Chair, FCG Air Subcommittee	Florida Electric Power Coordinating Group
EPA-HQ-OAR-2008-0708-1516	Jacob G. Smeltz, President	Electric Power Generation Association
EPA-HQ-OAR-2008-0708-1517	Floyd Gilzow, Vice President of Governmental and Environmental Affairs	Missouri Public Utility Alliance
EPA-HQ-OAR-2008-0708-1518	T. Ted Cromwell, Senior Principal, Environmental Policy	National Rural Electric Cooperative Association
EPA-HQ-OAR-2008-0708-1519	Mike Roddy, Director, Environmental Affairs	Seminole Electric Cooperative, Inc.
EPA-HQ-OAR-2008-0708-1520	Arthur N. Marin, Executive Director	Northeast States for Coordinated Air Use Management
EPA-HQ-OAR-2008-0708-1521	John E. Shelk, President and CEO and Nancy Bagot, Vice President of Regulatory Affairs	Electric Power Supply Association
EPA-HQ-OAR-2008-0708-1522	Barbara Patton, Chair	Environmental, Health & Safety Communication Panel
EPA-HQ-OAR-2008-0708-1523	Ali Mirzakhilili, Director, Division of Air Quality	Delaware Department of Natural Resources & Environmental Control
EPA-HQ-OAR-2008-0708-1525	Charlie Vig, Tribal Chairman	Shakopee Mdewakanton Sioux Community
EPA-HQ-OAR-2008-0708-1526	Chris M. Hobson, Chief Environmental Officer, Senior Vice President, Research and Environmental Affairs	Southern Company
EPA-HQ-OAR-2008-0708-1527	Julia M. Blankenship, Director, Energy Policy and Sustainability	American Municipal Power, Inc.
EPA-HQ-OAR-2008-0708-1528	Donald C. DiCristofaro, President	Blue Sky Environmental LLC
EPA-HQ-OAR-2008-0708-1529	Joseph Otis Minott, Executive Director Caitlin Peale Mark Kresowik, Deputy Director, Eastern Region Christina E. Simeone, Director, PennFuture Energy Center Tomás Carbonell Jackson D. Morris, Director of Strategic Engagement Peggy Shepard, Executive Director	Clean Air Council Conservation Law Foundation Sierra Club Citizens for Pennsylvania's Future Environmental Defense Fund Pace Energy & Climate Center West Harlem Environmental Action, Inc.
EPA-HQ-OAR-2008-0708-1530	Richard H. Counihan, Vice President, Government Affairs	EnerNOC Inc. on behalf of EnergyConnect, Inc. and Innoventive Power, LLC
EPA-HQ-OAR-2008-0708-1532	Theresa Pugh, Director, Environmental Services and Alex Hofmann, Manager, Energy & Environmental Services	American Public Power Association
EPA-HQ-OAR-2008-0708-1533	Keith M. Krom, Vice President and General Counsel	AT&T Services, Inc.
EPA-HQ-OAR-2008-0708-1534	George S. Aburn, Jr., Director, Air and Radiation Management Administration	Maryland Department of the Environment

Document ID	Commenter	Affiliation
EPA-HQ-OAR-2008-0708-1535	Jeffrey Jaeckels, Director, Safety and Environmental Affairs	Madison Gas and Electric Company
EPA-HQ-OAR-2008-0708-1536	Vincent J. Brisini, Deputy Secretary	Pennsylvania Department of Environmental Protection
EPA-HQ-OAR-2008-0708-1537	G. Vinson Hellwig and Robert H. Colby, Co-Chairs, Air Toxics Committee	National Association of Clean Air Agencies
EPA-HQ-OAR-2008-0708-1538	J. Wick Havens, Interim Executive Director	Ozone Transport Commission
EPA-HQ-OAR-2008-0708-1539	Anonymous	
EPA-HQ-OAR-2008-0708-1540	Cari Boyce, Vice President, Environmental and Energy Policy	Duke Energy
EPA-HQ-OAR-2008-0708-1541	Raymond L. Evans, Vice President, Environmental	FirstEnergy
EPA-HQ-OAR-2008-0708-1542 EPA-HQ-OAR-2008-0708-1548	Lisa G. Dowden and Melissa E. Birchard, Counsel	Spiegel & McDiarmid LLP on behalf of Kansas Power Pool
EPA-HQ-OAR-2008-0708-1543	Elysia Treanor, Environmental Specialist	Portland General Electric
EPA-HQ-OAR-2008-0708-1544	John A. Paul, Administrator	Regional Air Pollution Control Agency
EPA-HQ-OAR-2008-0708-1545	Kevin Poloncarz and David W. DeBruin	Attorneys for Calpine Corporation and PSEG Services Corporation
EPA-HQ-OAR-2008-0708-1546	Michael Hale, General Manager	Shrewsbury Electric and Cable Operations

1.0 Ultra Low Sulfur Diesel Fuel

1.1 Comment: Fourteen commenters (1515, 1517, 1518, 1519, 1522, 1526, 1527, 1528, 1530, 1532, 1533, 1536, 1539, 1540) supported retaining the current timing of January 1, 2015, for compliance with the ULSD fuel requirement. Commenters agreed with the EPA that the current timing was appropriate so that facilities can institute any required changes and make any physical adjustments to engines and tanks. Commenter 1527 noted that one of the differences with ULSD is lubricity; owners and operators of existing engines need time to develop operation and maintenance strategies to counteract possible negative impacts to the engines from the required fuel switch. Commenter 1532 believed there are still a large number of sites that are not currently using ULSD. Commenter 1540 noted that the EPA's final determination on the reconsideration would not likely be published until 2014, less than one year before the current compliance deadline.

Eight commenters (1513, 1520, 1523, 1529, 1534, 1537, 1538, 1544) recommended that the EPA accelerate the timing for the ULSD requirement. Commenters 1523 and 1534 recommended that the EPA amend the January 1, 2015, implementation date for ULSD to be 60 days after an expeditious amendment to the rule, which could be as early as January 1, 2014. Commenters believed that ULSD was widely available and the use of ULSD is already widespread, and that the ULSD fuel requirement should be applicable as soon as possible. Commenters indicated that technical feasibility does not appear to have been an area of concern in the development of state ULSD fuel requirements for engines. Commenters also stated that a major insurance company recommends as best safety practice replacing unused diesel fuel in tanks at least annually.

Response: As stated in the notice requesting public comment on this issue, the EPA added this fuel requirement in the January 30, 2013, final amendments to the RICE NESHAP and gave sources until January 2015 to meet the requirement. The EPA provided sources until January 2015 to comply to ensure that sources had sufficient lead time to implement the new requirements and 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, that may be necessitated by these new requirements. Information in the rulemaking docket indicated that physical 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, information from the Energy Information Administration (EIA)¹ indicated that a significant percentage of diesel fuel being purchased is not ULSD, and so it is reasonable to expect that source may also need to make physical adjustments and adjustments to contracts. Thus, the record supports that the lead time provided was appropriate for facilities to come into compliance with the ULSD requirement.

Several commenters indicated that a number of facilities are not currently using ULSD and agreed with the EPA that the current timing of January 1, 2015, was appropriate to allow physical adjustments and changes to operation and maintenance strategies. Other commenters disagreed and recommended that the requirement to use ULSD begin earlier than January 1, 2015; however, these commenters did not provide convincing evidence that additional lead time is not warranted. For example, commenter 1523

¹ 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. Referenced at 78 FR 6680 (January 30, 2013).

believed that the EPA incorrectly analyzed the EIA data, and that the data show that ULSD is widely available across the nation. The commenter believed that the EPA should look at the No. 2 distillate fuel data only, which showed that ULSD accounted for 65 percent of sales in the commercial sector in 2011. While the EPA does not necessarily agree with the commenter, and the commenter did not present specific information showing what fuel is actually being used in emergency engines across the country, the EPA notes that analyzing the data in the way suggested by the commenter shows that one-third of the fuel was not ULSD, which demonstrates that there are still a significant number of sources that could be using non-ULSD. Thus, even if analyzed as the commenter suggests, the information supports the conclusion that it is appropriate to provide lead time for implementation of ULSD. Commenters who also cited experience with ULSD transition in local areas did not provide information to show the ease of transition in a local area would be the same for a nationwide transition, given the potential for differing regional availability and current usage practices for ULSD.

1.2 Comment: Four commenters (1515, 1519, 1522, 1533) supported the decision to make January 1, 2015 a first-purchase date, rather than a first-use date. According to the commenters, it would be uneconomical to require facilities to drain and dispose of non-ULSD from thousands of tanks across the country. The non-compliant fuel would likely either be disposed of, increasing waste, or resold and combusted at other nearby sources, negating any air quality benefits.

Commenter 1529 opposed the provision allowing depletion of existing fuel and recommended that the EPA “sunset” the depletion provision by requiring that all stationary CI engines fully transition to ULSD fuel by no later than 12 months after the deadline for the ULSD fuel requirement; alternatively, the EPA could require that all fuel purchased after the effective date of the final reconsideration rule be ULSD, which would limit the depletion provision by ensuring that only non-ULSD fuel actually purchased prior to the date of reconsideration could be used after the date of the ULSD fuel requirement. Commenter 1541 stated that the use of non-ULSD fuel should not be allowed after January 1, 2015, and expressed concern that the provision could be interpreted to allow hoarding.

Response: As indicated by public commenters and discussed above, the lead time provided before requiring use and purchase of ULSD is reasonable so that facilities can make adjustments to fuel purchase contracts, as a number of facilities are not currently using ULSD. In addition, information from owners and operators of stationary emergency engines that the EPA has received in the past indicates that they typically only operate the engines for a few hours each year, and that it may take a period of years to use up the existing fuel in their tanks, since they keep a supply of fuel on hand that would be adequate for the engines in the event of an emergency (76 FR 37961, June 28, 2011). As noted by the commenters, if facilities do not have the ability to use up existing fuel, they will have to drain their tanks and dispose of the non-ULSD fuel in some manner, or operate their engines beyond normal practice in order to use up their existing supply. These options are not desirable from an environmental or cost perspective. Thus, the EPA determined that it is appropriate to retain the provision allowing the depletion of existing fuel. Commenters concerns regarding hoarding are speculative and a source’s ability to hoard would be limited by its extra fuel storage capacity.

In any event, the EPA notes that it is not possible to revise the provision allowing sources to use ULSD purchased before January 1, 2015, in a manner that would give sources sufficient notice of the change. Such a revision would require notice and comment rulemaking as our notice of reconsideration on September 5, 2013, did not propose such a change.

2.0 Reporting

2.1 Comment: Nine commenters (1515, 1517, 1518, 1519, 1522, 1526, 1527, 1533, 1540) supported retaining the current timing for reporting the operation of emergency engines for emergency demand response and local reliability operation. The January 2013 final rule specified that the first report should document operation for calendar year 2015 and should be submitted no later than March 31, 2016. Commenters opposed requiring the reporting to begin earlier than 2016 due to the lead time necessary to put the reporting infrastructure in place. Commenters indicated that implementing the reporting procedures will take significant coordination among the various key entities involved. Commenters stated that in many cases, in order to reduce the burden on the individual facilities and increase efficiency of reporting, the dispatching entity may choose to report the required information to the EPA on behalf of the owner. Therefore, the coordination of this reporting will not be straightforward, and ample time is needed to compile all of the information that is required in the annual report, according to the commenters. The commenters stated that this information must be gathered from each individual owner, which means procedures on communications between owners and dispatching entities must be developed and implemented, and new software or hardware capabilities may need to be developed and installed to facilitate these communications and ensure compliance. According to the commenters, this coordination requires a significant amount of time and planning and it would be unreasonable for the EPA to require these procedures to be fully implemented in just a few months. Commenters also noted that the EPA also needs lead time to develop the electronic reporting tool that will be used by facilities to report the information.

Three commenters (1528, 1530, 1532) requested that the March 31, 2016, submittal deadline be extended by six months to September 30, 2016. According to the commenters, the compilation and submittal of data for each site can be burdensome, complicated and time-consuming, and sufficient lead time is essential to allow utilities to institute the necessary infrastructure to record the required data and to compile the information to submit electronically to the EPA. In addition, commenters indicated that beta tests and user training will be a prerequisite to ensure that the reporting tool is useful and of high quality.

Ten commenters (1513, 1520, 1523, 1529, 1534, 1536, 1537, 1538, 1541, 1544) recommended that the EPA accelerate the timing of the reporting requirement. Commenter 1534 recommended that, after an expeditious amendment to the rule, which could be as early as January 1, 2014, reporting could be required by March 31, 2015, for the 2014 calendar year activity. According to the commenter, submittal could be via paper or electronically. Commenter 1520 made similar recommendations. Other commenters stated that reporting should include all operating data from the 2013 compliance date onward. Commenter 1523 recommended that the first report be submitted no later than 3 months after January 1, 2014, for the 2013 calendar year.

Response: After considering the comments for and against requiring reporting earlier than 2015 and requiring reporting for calendar years 2013 and 2014, the EPA has determined that it will not make any changes to the current rule. It would not be reasonable to amend the regulations now to require the 2016 report to include information on 2013 and 2014 operations because facilities have not been put on notice that they should have collected such information. In addition, as noted in the January 30, 2013, final rule and the September 5, 2013, notice of reconsideration, requiring submission of the first report earlier than March 31, 2016, is not practical as the EPA needs time to develop the electronic reporting tool that facilities will use to report the information required by the regulations and stakeholders will use to view the submitted information. Commenter 1523 stated that in the interim before the electronic tool is developed, the EPA could quickly create an electronic form, and staff could then manually enter the

information into a database if a hard copy is submitted, or alternatively, import into a database if submitted electronically. The suggestion to manually enter the information from hard copies or import information from an electronic form is not a feasible alternative for a reporting requirement that applies to such a large universe of sources nationwide. The commenters who suggested that the March 31, 2016, deadline be extended by six months did not provide convincing support that the current deadline was unreasonable, given the lead time of over three years that is already built into the rule.

2.2 Comment: Twelve commenters (1515, 1517, 1518, 1519, 1522, 1526, 1527, 1528, 1530, 1532, 1533, 1540) indicated that the report should not include the type and amount of diesel fuel used in the engine, because of the burden that would place on affected facilities. Commenters said that a requirement to report the amount of fuel would impose a financial burden on operators to install fuel meters and conduct fuel sampling, and the cost and time burden to collect and report these low fuel usages is high. Facilities would also have to develop new procedures for periodic sampling of the fuel in the tanks and establish new contracts with laboratories to have the samples analyzed. One commenter indicated that for many facilities, the collective cost for sampling, laboratory analyses and flow meters could be a substantial portion of their existing budget.

Four commenters (1513, 1536, 1537, 1538) stated that the report should include information about the amount and type of fuel used to enhance the EPA's ability to assess the health impacts of the emissions from the engines.

Response: As noted in the September 5, 2013, notice of reconsideration and request for public comment, a requirement to report the type and amount of diesel fuel used in an engine would be highly burdensome for 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 would likely need to install equipment such as fuel flow meters in order to determine the amount of diesel fuel used in their engines. The majority of commenters agreed with the EPA that a requirement to report the type and amount of fuel used would be very burdensome. The commenters who indicated that the information should be reported did not provide any evidence to refute the EPA's position that such a requirement would be unduly burdensome for facilities. Thus, the EPA found that there was not sufficient justification to include such a reporting requirement in the rule. Further, facilities are already required to keep records of emergency and non-emergency hours of operation (40 CFR 6655(f)) and such records can be used to estimate emissions impacts. Any additional benefit from also requiring reporting of the type and amount of fuel used is not justified in light of the additional burden requiring such reporting would impose.

2.3 Comment: Two commenters (1523, 1534) requested that the EPA require the following information to be included in the report:

- the name and address of each participating engine and/or engine owner, and the telephone number and name of a contact person;
- the identification of each participating engine at a facility, including:
 - the serial number, rated engine capacity (in horsepower) and standby power rating (in kilowatts, if engine is part of a generator set), of each engine;
 - the manufacturer, model and model year;
 - the installation date;
 - the type of fuel used in each generator;

- the name, address and telephone number of the curtailment service provider which the engine is contracting with, as well as a contact name if the curtailment service provider is an organization or company;
- the name and description of the emergency demand response program, voluntary demand reduction program or other interruptible power supply arrangement for each participating engine, that is, the name of program and the company or organization operating the program in which the engine will be participating;
- the dates upon which each engine was requested to operate during the year and the hours of operation on each date, including:
 - the reason for operation (as in, whether the operation was for emergency, testing or maintenance);
 - the reason for operating the engine such as if it was operated as part of an emergency demand response program, voluntary demand-reduction program or other interruptible power supply arrangement;
 - the starting and ending times when each engine was operated (or requested to operate as part of any program);
 - the total power (horsepower or kilowatt) generated during each operation for an emergency demand response program, voluntary demand-reduction program or other interruptible power supply arrangement.

Commenter 1523 also said that the reporting should include the date on which any and all contracts are signed relating to demand response or emergency usage, and the records and contracts should be retained for at least 5 years.

Commenter 1529 said that the EPA should consider adding a requirement to report hours of operation, along with date, start and end time, and a description of the circumstances under which the unit operated, pursuant to 40 CFR 63.6640(f)(1), which would enable the EPA to determine incremental pollution impacts from emergency events, and will also assist in compliance efforts.

Response: The purpose of the reporting requirement is to provide information that would assist stakeholders and the EPA in assessing the impacts of the emissions from the engines and determining whether the engines are operating in compliance with the regulation. To that end, the current rule already requires engine owners and operators to report the dates and times that an engine operates for emergency demand response, and the number of hours the engine is contractually obligated to be available. The rule also requires the owner/operator to report the dates and times that an engine operates in a financial arrangement to mitigate local transmission and distribution limitations to avert voltage collapse or line overloads that could lead to the interruption of power in a local area, as well as the entity that dispatched the engine and the situation that necessitated the dispatch. The facility name and address and the engine's site rating, model year, latitude and longitude must also be reported.

Much of the additional information that the commenters suggested should be reported appears to be beyond what is necessary to assess the emissions impacts and determine compliance. For example, it is not clear to the EPA how the name and address of the curtailment service provider or the date on which contracts are signed relating to demand response would further stakeholder's understanding of the emissions impacts from these engines or compliance with the rule. The same is true of information on total power generated during operation, and such information may be difficult for some facilities to determine; for example, a facility may have to install a fuel flow meter to assist in estimating the engine load in order to determine the power produced by the engine. With respect to the comment that the

owner/operator should report dates and hours of operation for all emergency and non-emergency situations beyond reporting already required by 40 CFR 63.6650, the owner/operator is required to keep records of hours of operation for emergency and non-emergency use (40 CFR 63.6655(f)), and such records can be used to determine compliance and emissions impacts. Any additional benefit from also requiring reporting of the detailed information suggested by the commenter is not justified in light of the additional burden requiring such reporting would impose. A survey of stationary emergency engines conducted by the California Air Resources Board² found that the engines operated for an average of seven hours per year for emergency situations and 22 hours per year for maintenance and testing, so the emissions impact from their operation is not likely to be significant enough to outweigh the reporting burden. Further, the rule does not limit operation during emergency situations, so reporting hours of such operation would not aid in determining compliance. For these reasons, the EPA determined that no additional changes to the reporting requirement are necessary.

2.4 Comment: Commenter 1529 stated that, in order to capture data on the full universe of potential emissions sources, the EPA should consider requiring all emergency stationary RICE units over 100 horsepower—not just those that self-identify as contractually obligated to be available for more than 15 hours per year—to register periodically with the agency, in order to supply basic information on location, unit information, contact information and other data. According to the commenter, this could be done in a low cost method, such as through a postcard that can be supplied by the manufacturer or downloaded from the EPA's website.

Response: The method of gathering information suggested by the commenter is not practical given the large population of stationary emergency engines. The EPA estimated that as of 2008, there were more than 800,000 stationary emergency engines in the U.S.³ It is not practicable for the EPA to process potentially hundreds of thousands of postcards and enter them into an electronic format that would enable the information to be used by the EPA and other stakeholders. The EPA is not prepared to institute such a reporting requirement without the ability to capture the information so that it can be used in a meaningful way.

2.5 Comment: Commenter 1529 said that in order for the EPA to determine compliance with the 100 hour allowance provision, the EPA could work with grid operators who have comprehensive data on the location of distributed energy resources serving the electrical grid through demand response programs. The commenter stated that the EPA could compare the data it receives through RICE NESHAP registration and reporting to the data supplied by the grid operators, enabling the agency to identify units that are participating in programs but not submitting registration and reporting information.

Response: Grid operators such as PJM have indicated that they do not currently have site-specific data on participants in their emergency demand response programs, so they may not be able to provide that information for comparison with the data reported to the EPA. As future resources allow, the EPA may consider coordinating with grid operators to compare the reported information with any data the grid operators have available, such as the dates and times they used emergency demand response resources.

² California Air Resources Board Staff Report: Initial Statement of Reasons for Proposed Rulemaking. Airborne Toxic Control Measure for Stationary Compression Ignition Engines. Stationary Source Division, Emissions Assessment Branch. September 2003.

³ Memorandum from Tanya Parise, Alpha-Gamma Technologies Inc. to Jaime Pagán, EPA. Existing Population of Stationary RICE. June 26, 2008. EPA-HQ-OAR-2008-0708-0014.

2.6 Comment: Commenter 1525 urged the EPA to wait until 2015 for the increased reporting requirements to take effect. According to the commenter, the notice forms required to be filed in 2013 presented major problems for many in Indian Country. The commenter stated that the calculators provided on the web site were inaccurate or inoperative until very near the end of the reporting period. The commenter believed it would be preferable for the EPA to postpone the enhanced requirements and spend the time to create a clear and well defined process with proper forms and reporting chains rather than rushing and having to repeat the process.

Response: The commenter appears to be referring to a different reporting requirement than the reporting that is the subject of the September 5, 2013, notice. As discussed in the response to comment 2.1, the EPA is not instituting the reporting for emergency engines used in financial arrangements until 2015.

3.0 Conditions for Operation for up to 50 Hours per Year in Non-Emergency Situations

3.1 Comment: Fourteen commenters (1514, 1515, 1517, 1518, 1519, 1522, 1526, 1527, 1532, 1533, 1535, 1540, 1542, 1543) supported the limited operations provided in the rule. Commenters believed these limited operations are essential and the flexibility provided in the Final Rule is necessary. Commenters stated that the regulation is clear as to the limited circumstances that an emergency engine may be dispatched for non-emergency purposes. Commenters urged the EPA not to put further constraints on the ability of local balancing authorities or local transmission and distribution operators to dispatch emergency engines to avert potential voltage collapse or line overloads. Furthermore, according to commenters, the regulations require compliance with North American Electric Reliability Corporation (NERC), regional, state, public utility commission or local standards or guidelines for dispatching an engine, and so utilities are not at liberty to devise and apply different criteria on a case-by-case basis. Commenters indicated that concerns about the enforceability are misplaced given the engine owner/operator must identify and record the dispatch and the specific standard and protocol being followed, all of which must be reported. Commenters stated that this documentation of the standard or guidelines will provide sufficient evidence of the need 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.

Commenter 1514 noted that the local power authority has inherent incentive not to limit the dispatch of these engines to times when power demands are threatening system stability, given the cost of paying for their use. Commenter 1514 also stated that it is appropriate to allow the local system operator to make decisions regarding the use of emergency engines to prevent local power interruption, given the local system operator's expertise with localized power disruptions. The commenter noted that the Electric Reliability Council of Texas has detailed rules on when resources are dispatched.

Commenter 1540 stated that "making the conditions more prescriptive and more restrictive," as requested by the petitioners, "unnecessarily reduces needed operational flexibility and substitutes regulatory language for the expertise of system operators in unique case-by-case situations." The commenter "urges the EPA not to make this portion of the rule more specific and restrictive."

Commenters 1515 and 1519 stated "the local control authority's day-to-day management of the localized load reductions caused by the loss of a line or substation due to bad weather, cars hitting poles, and other actions that take one or multiple facilities out of service is crucial to providing reliable service

in the more rural areas. These types of voltage issues are localized in nature and do not create cascading effects to the bulk electric system. In reality, it is the day-to-day actions of the local control authority to maintain local reliability that is at the heart of avoiding the FRCC [Florida Reliability Coordinating Council] from declaring emergency alert levels.” They also added that “sudden events, such as the loss of a baseload generating unit, may not rise to a Level 2 emergency alert being declared, but standby diesel generation may still be needed temporarily to maintain reliability. The occasional, temporary use of standby generation capacity is a key reliability tool that should not be restricted unnecessarily.”

Commenter 1518 stated that in many instances “reliability issues occur at a sub-regional level and the reliability planning activities and execution would not be detectable at the transmission levels of the bulk electric system level.” Commenter 1518 noted that this is a particular challenge for those who serve rural communities: “These rural systems have fewer backup options and often, only a single distribution line available to some of their customers. With distances stretching for as many as 50 or more miles from the nearest substation, emergency action to support the local grid often affords limited choices, one of which includes the use of RICE generators. In these situations, the RICE units can help mitigate a local emergency by supporting the grid’s reliability.”

Commenter 1527 stated that emergency engines “are often outside the direct control of an RTO [Regional Transmission Organization] (or equivalent balancing authority) and the North American Electric Reliability Corp.,” but “they are often critical to the safe and reliable operation of *local* electric systems, which in turn support larger regional systems.” Commenter 1527 also stated that a “broadly defined use category will maintain the flexibility for local system operators to quickly deal with emergency reliability issues to avoid sudden local power outages that may damage customer and utility-owned equipment, threatening critical infrastructure and public health. At the same time, limiting the use of this category to area sources, limiting its use to no more than 50 hours per year, and requiring the dispatch decision to follow reliability, emergency operation or similar protocols that follow specific NERC, regional, state, public utility commission or local standards or guidelines all serve to limit the possible misuse of this category.”

Commenter 1542 noted that RTOs, or transmission providers in areas without RTOs, monitor their systems continuously, but they do not necessarily track small, localized concerns, and it is at those levels that state and local regulatory agencies and load serving utilities have always played crucial roles in both setting standards and maintaining reliable supply to customers. The commenter stated that the EPA has created a set of requirements that appropriately recognizes that those responsibilities are often divided up in different ways depending on the location and configuration of individual systems. According to the commenter, the transmission grid is not the same everywhere, nor do operators maintain the same visibility into every level of operations. There are important differences between the way the grid is monitored in a rural, highly dispersed system such as the electric and transmission system in Kansas and the more redundant grids of New Jersey or Delaware. The commenter noted that its members would face blackouts if the rule lacked contingencies under which RICE could be operated to address voltage drops that occur infrequently but with some degree of regularity (e.g., once every year or two, during severe weather events), where it is not feasible (or even environmentally preferable) to address those voltage drops either through transmission expansion or redundancy, or through new full-scale power plants. The commenter stated that the condition that “NERC, regional, state public utility commission or local standards or guidelines” must underlie the decision to dispatch the units ensures that reliability standards imposed by all levels of the transmission and distribution system can be implemented to avoid blackouts and other impingements on service. According to the commenter, while appropriately broad in scope, this condition cannot be interpreted to be vague or poorly targeted – it permits the operation of the units only for reliability purposes pursuant to established reliability guidelines. The commenter indicated that the rule as currently written reasonably gives space only within the scope of reliability practices that

follow “specific...standards or guidelines” as implemented by a “local balancing authority or local transmission and distribution system operator.” The commenter stated that the petitioners’ concerns are not warranted and contain no on-the-ground facts contrary to those presented in these comments. According to the commenter, the EPA should also reject the suggestion from petitioners that this provision should include a self-limiting termination date because the petitioners have presented no evidence that the provisions would result in uncontrolled or excessive dispatch of RICE units, particularly where the units are expensive to run and unlikely to be dispatched unless they are the only option. The commenter stated that the EPA has, however, directed that such dispatches be recorded and reported, which should be sufficient to allow the EPA to identify any issues with dispatch of RICE units under these rules, should any arise that would warrant further action by the Agency.

Six commenters (1513, 1520, 1521, 1523, 1534, 1538) indicated that the provision for emergency engines to operate for up to 50 hours per year for the non-emergency situation specified in 40 CFR 60.4211(f)(3)(i), 60.4243(d)(3)(i) and 63.6640(f)(4)(ii) should be removed. Commenters stated that engines participating in demand response programs or other financial arrangements should be required to meet strict emission limits equivalent to the NSPS non-emergency engine requirements. Commenter 1534 recommended the definition of emergency include only “true emergencies” and be defined as “Emergency” means (1) an electric power outage due to: a failure of the electrical grid; on-site disaster; local equipment failure; or public service emergencies such as flood, fire, natural disaster or severe weather conditions (e.g., hurricane, tornado, blizzard etc.); or (2) when there is a deviation of voltage or frequency from the electric public utility to the premises of three percent or greater above, or five percent or greater below, standard voltage or frequency with no other RTO allowances. According to the commenter, the capacity value of these engines should not be allowed to be used to meet planning reliability requirements. The commenter indicated that limiting the use of uncontrolled engines, especially older dirty diesel engines, will limit the amount of harmful pollutants emitted and reduce public exposure to prevent adverse health impacts.

Commenter 1516 stated that engines operating for-profit should not receive any exemption from environmental standards imposed upon other stationary generators who are subjected to strict requirements to operate. According to the commenter, there is nothing unique or special about these units that necessitates preferential treatment for the control of the emissions that will result, and the EPA need not accept the false assumption that without these engines, the reliability of the bulk power system would be jeopardized. Commenter 1521 expressed similar comments. Commenter 1516 stated that the EPA should not grant a pollution exemption without sufficient, credible and verifiable data on the impact that the pollution exemption will have on the environment and human health.

Commenter 1537 stated that uncontrolled RICE should not be used for demand response unless there is a bona fide emergency, and the EPA should include specific guidance about the situations that constitute an emergency. The commenter also asked that the EPA recognize that some agencies may have existing requirements that forbid the use of emergency generators in non-emergency situations (other than routine testing for operational capability) and ensure that the RICE regulations not preclude these more stringent programs.

Commenter 1529 urged the EPA to sunset the 50-hour provision by January 1, 2015, which would allow local system operators adequate lead time to make any changes necessary to ensure future reliability. Commenter 1529 also requested that the EPA narrow the circumstances under which engines can operate for local transmission and distribution issues to address concerns regarding the enforceability of the rule. The commenter recommended that the EPA amend 40 CFR 60.4211(f)(3)(i)(B),

60.4243(d)(3)(i)(B) and 63.6640(f)(4)(ii)(B) to replace the word “intended” with “necessary” and remove the word “potential.” Commenter 1548 disagreed that the language should be modified as commenter 1529 suggested. According to commenter 1548, the word “necessary” in condition (B) would be superfluous because condition (C) already requires that any dispatch must be pursuant to established reliability protocols and standards. Commenter 1548 opposed the removal of the word “potential” because it is unclear what value such a change would add; according to the commenter, local reliability use of RICE is generally triggered automatically when the line and equipment readings reach levels of engineering concern, making “potential” a relatively meaningless addition to the language.

Commenter 1529 also requested that the EPA amend 40 CFR 60.4211(f)(3)(i)(A), 60.4243(d)(3)(i)(A) and 63.6640(f)(4)(ii)(A) to clearly define that the provision applies only to RICE in areas with the particular transmission and distribution constraints for which this provision was designed. One approach suggested by the commenter is to limit the allowance to “area source emergency RICE in areas served by only one transmission line and with no alternative means to transmit power into the local distribution system.” Commenter 1548 disagreed that an eligibility test based on system configuration would be universally workable because all systems are not built the same.

Commenter 1545 indicated that it believed the current criteria are too indistinct and could allow uncontrolled RICE to operate in many situations where electric reliability is not truly threatened. The commenter said that the final rule states that the exempt dispatch must follow “reliability...protocols,” but does not place any parameters on what rules would satisfy this element of the exemption. Additionally, the uncontrolled RICE must provide power to the facility where it is located or “to support the local transmission and distribution system;” the commenter believed it is unclear what “support” means with respect to this criterion. The commenter argued that earning money for the local transmission system operator through participation in energy or capacity markets could constitute such “support.” The commenter also stated that the final rule also fails to provide any guidance for how either the local transmission and distribution system operator or the EPA can determine whether any particular dispatch of RICE 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.” According to the commenter, by introducing intent into the determination of whether the provision in 40 CFR 63.6640(f)(4)(ii) applies and using such an attenuated formulation of the conditions that such dispatch is intended to mitigate—local transmission or distribution constraints that might result in voltage collapse or line overloads, which could, in turn, result in interruption of power in a localized area—this exemption could very easily swallow the rule and allow the operation of uncontrolled RICE in circumstances where the alleged threat to the electricity system is indiscernible. The commenter stated that potential reliability problems for a subset of rural distribution systems does not justify an exemption for all emergency RICE regardless of where they are located, and suggested that the following additional criteria based on low customer density should be added: “The local balancing authority or local transmission and distribution system operator dispatching the engine has fewer than 14 customers per mile of electric distribution line, averaged over the respective local balancing authority’s balancing area or local transmission and distribution system operator’s service territory.” Commenter 1523 expressed similar concerns that engine owners could misinterpret the EPA’s language and engines could be “dispatched” without their operation meeting the intent of the EPA’s allowance. The commenter provided a hypothetical scenario where an electric cooperative would attempt to use the 50 hours to operate engines in a peak shaving program for financial gain. Commenter 1548 disagreed with the recommendation to add an eligibility test based on population density. The commenter stated that in the rural areas across Kansas and other states, one often finds that populations cluster in small groups remote from other populations; these population clusters are like islands that may be quite small in size

and far from the next island, but there is no guarantee that the density of these population clusters does not exceed the density cutoff that commenter 1545 would like to impose.

Commenter 1536 stated that the EPA should consult with RTOs regarding the appropriate base level amount of hours necessary to accommodate real emergency demand response needs. Commenter 1541 stated that the operation should be restricted to “localized situations” that mirror the definition of an Energy Emergency Alert (EEA) Level 2, and recommended that the EPA consult with RTOs to coordinate efforts on the definition and understanding the necessary criteria for the increased hours of non-emergency situations.

Response: Public commenters on the June 7, 2012, proposed amendments to the RICE NESHAP indicated that the proposed provision for operation of engines for emergency demand response did not address situations where the local balancing authority or transmission operator has determined that there are conditions that could lead to a blackout for the local system, and used emergency engines to prevent local system failures. The commenters indicated that many of these systems do not operate under the governance of RTOs or independent system operators (ISOs); RTO and ISO alerts are triggered based on regional problems with the grid and do not usually cover smaller transmission and distribution lines. The EPA agreed with the commenters that it would be appropriate to 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 conditions under which an engine could operate needed to encompass the varying emergency operating procedures for local systems all over the U.S., and the EPA could not identify a specific criterion for local systems like an EEA Level 2 that would be applicable nationwide for local transmission and distribution system operators. Through consultation with the local transmission and distribution system operators, the EPA developed criteria for the conditions under which the engines could be used for up to 50 hours per year in local grid emergency situations. The EPA specified in the January 30, 2013, final rule that existing emergency stationary RICE at area sources could be used for up to 50 hours per year if the following conditions are met: (1) the engine is dispatched by the local balancing authority or local transmission and distribution system operator; (2) 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; (3) the dispatch follows reliability, emergency operation or similar protocols that follow specific NERC, regional, state, public utility commission or local standards or guidelines; (4) the power is provided only to the facility itself or to support the local transmission and distribution system; and (5) 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 has determined that the provision in the current rule for operation up to 50 hours per year 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 should be retained. The majority of public commenters on the September 5, 2013, notice of reconsideration said that a provision for limited operation of emergency engines when there are conditions that could lead to a blackout for the local area is appropriate. The EPA agrees with these commenters. The EPA does not agree with the commenters who indicated that the provision should be removed, or sunset by January 1, 2015. Dating back to the original RICE NESHAP in 2004, the EPA has a long history of regulating emergency engines as a separate subcategory in the NESHAP and NSPS for stationary engines, and establishing different standards for emergency engines. The EPA has done so based on significant considerations, including, for area sources of HAP, the high cost of add-on controls, given the amount

of time emergency engines operate, concerns that emergency engines may not operate long enough for a catalyst to reach the temperature needed to reduce emissions, the impracticability of operating the engine to test emissions when the engines operate so infrequently and at unpredictable times, the need for these engines to be operated with little time for startup and the possibility that add-on controls could inhibit the ability of emergency engines to accomplish their time-critical functions. The commenters who indicated that the provision for limited operation for engines at area sources of HAP should be removed, or that requested the provision be sunset by January 1, 2015, did not present any information to show that the considerations would not apply to emergency engines used in very limited circumstances when the local transmission and distribution system operator has determined that there are conditions that could lead to a blackout for the local area. The broader issues raised by some commenters regarding operation of emergency engines in general outside of blackout conditions were discussed fully in the context of the rulemaking and are beyond the limited issue raised in the Federal Register regarding the EPA's allowance of 50 hours of annual operation for those limited circumstances, and the conditions the EPA required for such operations.

Regarding the comments that engines operating for-profit should be treated as non-emergency engines, the EPA evaluated the cost effectiveness of add-on controls for emergency engines that are used a very limited number of hours per year for emergency situations and required maintenance and testing. Because these engines are typically used only a few hours per year, the costs of add-on emission control are not warranted when compared to the emission reductions that would be achieved. The few hours per year historically required for local reliability situations does not change this analysis, which indicates very high costs per ton of emissions reduced. The EPA does not agree that the revenue generated from the operation of the source should be subtracted from the cost of add-on controls and other compliance requirements when evaluating the cost-effectiveness of the control. The payments that units get for being available for local reliability situations for a limited number of hours per year are separate from the question of the cost of the controls per ton of pollutant reduced. The EPA does not subtract the money an owner or operator may make from the use of a source, either directly or indirectly, from its calculation of costs per ton of pollution reduced, as both the regulated and unregulated scenarios presume that the source does operate and earns the funds resulting from such operation. (Obviously, no pollution source would ever operate were there not some benefit to such operation for the owner or operator.) Inclusion of such funds in this calculation, aside from introducing an element that is not directly relevant to the question of cost-effectiveness of the emission control, would subject these owners and operators to cost effectiveness tests never required for other sources, including those sources that are competitors with these sources. The commenters did not provide information to show that add-on controls are generally available and widely used for stationary emergency engines, or that they would be effective given the limited operation of the engines.

Regarding comments noting that some state or local areas have more stringent requirements for use of emergency engines, the EPA's stationary source regulations do not act to preempt more stringent state or local measures (see Clean Air Act section 116, 42 USC 7416). States that believe it is appropriate to regulate the use of stationary emergency engines more stringently than the EPA are free to do so. The EPA's regulations under section 111 and 112 apply nationally, so it is appropriate that areas with more serious pollution concerns regulate in a more stringent manner than what may be appropriate nationally.

Some commenters were concerned that the current criteria are too indistinct, and that owners/operators would use the provision to operate engines in situations where electric reliability is not actually threatened. However, the provision is specifically limited to situations where 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. In addition, as

other commenters noted, the rule clearly indicates that the dispatch must follow reliability, emergency operation or similar protocols that follow specific NERC, regional, state, public utility commission or local standards or guidelines. Thus, the current regulations already require that the operation must be pursuant to established standards or guidelines, and the owner/operator must document the entity that dispatched the engine and the specific standard or guideline that was followed. See 40 CFR 63.6640(f)(4)(ii)(C) [“The dispatch follows reliability, emergency operation or similar protocols that follow specific NERC, regional, state, public utility commission or local standards or guidelines”] and 63.6640(f)(4)(ii)(E) [“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 and the state or local air pollution control agencies that are implementing and enforcing the rule will be able to verify whether or not the engines operated in situations where reliability was threatened. For example, a commenter indicated that the Electric Reliability Council of Texas (ERCOT), the sole balancing authority and transmission operator for Texas, specifically defines “dispatch” and has detailed rules on when and how a resource is dispatched. The implementing and enforcing authority for a unit dispatched in Texas could use the facility’s records to verify whether the dispatch followed the ERCOT standards. In addition, the reporting requirements of the final rule allow the EPA to receive information regarding the use of these engines for local reliability; the EPA can monitor whether the circumstances for use of this provision need to be further clarified in the future.

The EPA does not agree with the commenters that the provision could be used to operate in situations where reliability is not threatened. Commenter 1523 provided an example of an electric cooperative that would seek to use the 50 hours for a peak shaving program that is designed to reduce costs and electric rates, which would clearly not meet the criteria of mitigating local limitations to avert voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region. The EPA agrees with commenter 1548 that the wording changes suggested by commenter 1529 are not necessary for the reasons stated by commenter 1548. While some commenters suggested possible wording changes, the EPA believes that it is important to ensure that dispatch be available to avoid potential voltage collapse or line overloads and does not believe it is appropriate for the language to be too restrictive for effective dispatch. The EPA believes that the existing language already indicates that this provision should only be used where electric reliability is threatened and where the local balancing authority or system operator believes dispatch of RICE to be the most reasonable alternative. As a result of the reporting requirements in the final regulations, the EPA will receive information regarding the use of these engines for local reliability and can monitor whether the circumstances for use of this provision need to be clarified in the future.

Some commenters suggested that the operation should be limited to areas with particular transmission or distribution constraints or low population density. The commenters who suggested a limitation to these areas did not provide any information to show that the considerations that justified the subcategory for emergency engines were limited to engines in areas with transmission or distribution constraints or a low population density. The EPA believes that there may be no reasonable way to distinguish the particular areas that may be in the greatest need for this provision from those that have greater redundancy in their connections. In any case, while this provision is generally intended for less well-served areas, it was not solely intended to be used only in those areas. Consequently, the EPA determined that it would not be appropriate to define the subcategory based on population density.

3.2 Comment: Five commenters (1517, 1518, 1528, 1530, 1532) recommended that the condition in 40 CFR 60.4211(f)(3)(i)(B), 60.4243(d)(3)(i)(B) and 63.6640(f)(4)(ii)(B) be expanded to include NERC

EEA Level 1 language without referring to EEA Level 1 to cover sources that do not operate under NERC standards. The commenter recommended the inclusion of additional text to condition (B) as follows:

(B) (i) The dispatch is intended to mitigate local transmission and/or distribution limitations to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region or (ii) *the Balancing Authority, Reserve Sharing Group, or Load Serving Entity foresees or is experiencing conditions where all available resources are committed to meet firm load, firm transactions, and reserve commitments, and is concerned about sustaining its required Operating Reserves, and non-firm wholesale energy sales (other than those that are recallable to meet reserve requirements) have been curtailed.*

According to the commenters, the additional conditions would ensure that the commenter's members maintain their ability to run their RICE for distribution voltage support and when their third party transmission provider cannot provide an adequate voltage level.

Response: The EPA does not agree that EEA Level 1 is the appropriate trigger for operation of these engines for grid emergencies at the local system level. The intent of the rule is that the engines should be operated for grid emergencies when a blackout is imminent, and the commenters did not provide information to show that an EEA Level 1 alert corresponded with an imminent blackout or that the current regulations are not adequate to meet the limited intent of the provision.

3.3 Comment: Two commenters (1512, 1546) said that the EPA should not place any restrictions on the operation for up to 50 hours per year in non-emergency situations as part of a financial arrangement. According to the commenters, emergency units are normally only called on for a very limited number of non-emergency hours each year for enhancing system reliability. The commenters stated that the narrowly defined "non-emergency" circumstances in 63.6640(f)(4)(ii) equate to a near collapse of the electrical system, which is not consistent with a "non-emergency." The commenters said that these circumstances do not necessarily account for situations where the local balancing authority or transmission operator for the local electric system has determined that electric reliability is in jeopardy or, where the local distribution system operator (such as a municipal light department) has determined that there are conditions that could lead to a blackout for the local area. According to the commenters, since every possible scenario cannot be foreseen or listed, and since each regional independent system operator may have slightly different dispatch rules and definitions, it is not reasonable to attempt to narrowly define the 50 hours under which these engines can operate.

Commenter 1512 believed that, as written, the rule does not allow for the operation of an emergency engine to self-supply power to a facility that has a switchyard temporarily out of service for maintenance. For example, the Stony Brook Energy Center receives its power through a 345 kV line from a substation owned by the local utility. When switchyard maintenance for NERC and FERC requirements is conducted on either the local utility switchyard or the Stony Brook switchyard, normal power is not available. According to the commenter, because this is not an "emergency" under the rule, Stony Brook cannot use its relatively clean and efficient Tier 2 emergency engines, but must bring in temporary, portable diesels which may have higher emission rates. The commenter indicated that this does not make any sense from an environmental or economic viewpoint.

Response: The EPA does not agree with the commenters that emergency engines should operate for 50 hours per year in financial arrangements for any purpose. The commenters did not provide detailed

information about what the additional uses of the engines would be for those hours and whether they would appropriately be considered emergency use of the engine. The EPA has carefully circumscribed the uses of emergency engines such that their use is related to emergency situations or to the required testing and maintenance of the engines, and, where financial arrangements are involved, operation in situations where grid reliability is in danger, and we also circumscribed the amount of time that the engines could be used for those purposes. If an operator wishes their engines to be generally available for non-emergency purposes, they can do so as long as they meet the requirements for non-emergency engines. Regarding the comment that the Stony Brook facility would be forced to bring in portable engines, the EPA notes that the facility could specify that portable engines brought on-site are Tier 2 or better.

3.4 Comment: Commenter 1518 recommended that the EPA add language in 40 CFR 63.6640(f)(4)(ii), 40 CFR 60.4211(f)(3)(i), and 40 CFR 60.4243(d)(3)(i) to state that 50 hours currently allocated for “non-emergency situations” are allocated for either “non-emergency situations”, or “emergency situations” to address local grid reliability.

Response: The commenter did not provide a justification as to why the current wording is inappropriate, and furthermore, the change recommended by the commenter would potentially introduce confusion between the situation described in 40 CFR 63.6640(f)(4)(ii) versus the situation described in 40 CFR 63.6640(f)(1), and the corresponding provisions in the NSPS.

3.5 Comment: Two commenters (1517, 1532) believed that the EPA cannot set limitations on financial arrangements for existing RICE units. The commenters do not believe the Clean Air Act provides any authority to the EPA to alter or govern business contracts.

Response: The EPA is not setting limitations on financial arrangements for engines. Rather, the EPA is distinguishing among classes and types of engines when establishing NESHAP and NSPS, as allowed under sections 111 and 112 of the Clean Air Act. The EPA is defining the subcategory of emergency engines. The NESHAP and NSPS for stationary engines do not set limitations on financial arrangements; they merely specify the applicable emission standards for engines.

3.6 Comment: Commenter 1543 requested that the EPA clarify that emergency generators owned by utilities can be used consistent with the requirements of 40 CFR 60.4211(f)(3) and 63.6640(f)(3) to avert voltage collapse and line overload.

Response: On January 9, 2014, the EPA issued a letter responding to a request for clarification of this issue from this commenter. In the letter, the EPA indicated that the language in subpart ZZZZ regarding emergency engines dispatched under a financial arrangement with another entity was not intended to prohibit utilities from dispatching engines that they own and operate for the 50-hour non-emergency operation provision. That response letter provides the further clarification requested.

3.7 Comment: Commenter 1544 recommended that use of emergency generators for peak shaving be prohibited, unless the generator is fully permitted and equipped with BACT-level controls for HAP, PM and NOx.

Response: As extensively discussed in the summary of public comments and responses for the June 7, 2012, amendments to the RICE NESHAP, which can be found in the rulemaking docket at document

number EPA-HQ-OAR-2008-0708-1491, the EPA determined that engines used for peak shaving are classified as non-emergency engines, and must meet the emission standards for non-emergency engines.

3.8 Comment: One commenter (1539) said that more needs to be done to include other technologically available means to prevent electrical power interruptions to critical areas of our nation's infrastructure that have direct impacts on the public's immediate health and safety, or that of the environment. The commenter said that areas such as air traffic control, emergency communication centers, hospitals, water treatment and public water supply systems and wastewater treatment and disposal facilities should take preemptive early actions based on the advanced early warnings available for severe weather events that often occur just prior to any voltage and frequency variations. According to the commenter, in areas of the nation subjected to severe weather and lightning storms, unless some revisions are allowed for these critical areas to use the best technologically available information in taking preemptive actions to ensure the public's immediate health and welfare, and environment, the 100 hour per year operational threshold currently allowed in the rule should be raised to 150 or 200 hours to account for any local preemptive actions that need to be taken.

Response: The comment that more should be done to prevent electrical power interruptions to critical infrastructure is outside the scope of this reconsideration. The commenter did not provide any information to justify raising the threshold from 100 hours. The rationale for setting the threshold at 100 hours was extensively discussed in the summary of public comments and responses for the June 7, 2012, amendments to the RICE NESHAP, which can be found in the rulemaking docket at document number EPA-HQ-OAR-2008-0708-1491.

4.0 Other

4.1 Comment: Commenter 1525 urged the EPA to clarify that there is no limit on use of emergency generators in emergency situations.

Response: The regulations already specify that there is no time limit on the use of emergency stationary RICE in emergency situations. See 40 CFR 60.4211(f)(1), 60.4243(d)(1) and 63.6640(f)(1).

4.2 Comment: Commenter 1525 urged the EPA to allow the use of emergency generators for up to 100 hours per year for any combination of maintenance and load sharing operations. Commenter 1526 stated that the hours provided for non-emergency situations as part of a financial arrangement should be not be capped at 50 and should be not be curtailed below the 100 hours allowed for non-emergency situations.

Response: This comment is outside the scope of this reconsideration. The EPA already addressed similar comments in the summary of public comments and responses for the June 7, 2012, amendments to the RICE NESHAP. The summary of public comments and the EPA's responses can be found in the rulemaking docket at document number EPA-HQ-OAR-2008-0708-1491.