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|Petition for Reconsideration - SI RICE NESHAP 8-20-10  
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Attached for your information is a Petition for Reconsideration of the Spark Ignition Reciprocating Internal Combustion Engine August 20, 2010, final rule that was delivered to Administrator Jackson today.

In the petition, NRECA is requesting that EPA relax the restrictions in the final rule regarding the use of emergency RICE for peak shaving and demand reduction programs. The change we are proposing would not result in any additional run-time above the 100 hours of operation that is already provided for in the rule, but would allow owners/operators to use their units without restriction up to 100 hours-per-year for non-emergency operation in ways that best meet their particular circumstances and needs. Under this arrangement, all hours of operation for maintenance, testing, peak shaving, demand

reduction, and all other non-emergency operation would be at the owner/operator discretion – but not to exceed 100 hours-per-year.

I would be happy to respond to any questions you may have regarding the petition.

Bill Wemhoff

Sr. Principal, Environmental Policy

NRECA


ph (703) 907-5824

<<1010petitioncvrf (2).docx>> <<Petition1010.docx>>

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**National Rural Electric  
Cooperative Association**

A Touchstone Energy® Cooperative 

October 19, 2010

**By Hand Delivery**

The Honorable Lisa Jackson  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building (Mail Code 1101)  
1200 Pennsylvania Ave., NW  
Washington, D.C. 20460

**Re: Petition for Reconsideration of Portions of the Final Rule: National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines**

Dear Administrator Jackson:

Please find enclosed the National Rural Electric Cooperative Association's (NRECA) Petition for Reconsideration of portions of the Final National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines promulgated on August 20, 2010, (75 *Fed. Reg.* 51,570) pursuant to Clean Air Act § 307(d)(7)(B). The enclosed Petition for Reconsideration addresses restrictions contained in the final rule that prohibit the use of small emergency generating units for peak shaving programs and demand reduction service beginning May 2013 without the addition of expensive emission reduction technology on units that are 500 horsepower and larger.

Please contact me if you have any questions or require additional information. I can be reached at (703)907-5824 or [bill.wemhoff@nreca.coop](mailto:bill.wemhoff@nreca.coop).

Sincerely,

(original signed)

Bill Wemhoff  
Senior Principal, Environmental Policy  
National Rural Electric Cooperative Association  
4301 Wilson Blvd.  
Arlington, VA 22203

Enclosure

cc: Robert Wayland  
Melanie King  
Kevin Bromberg, SBA



NRECA's members also include approximately 66 generation and transmission ("G&T") cooperatives, which generate and transmit power to 668 of the 846 distribution cooperatives. The G&Ts are owned by the distribution cooperatives they serve. Remaining distribution cooperatives receive power directly from other generation sources within the electric utility sector. Both distribution and G&T cooperatives were formed to provide reliable electric service to their owner-members at the lowest reasonable cost.

#### Grounds for the Reconsideration

Under CAA § 307(d)(7)(B), the Administrator must convene a proceeding for reconsideration if a person raising an objection to a promulgated rule can demonstrate that it was impracticable to raise the objection within the period for public comment, or if the grounds for the objection arose after the period for public comment (but within the time specified for judicial review), and if the objection is of central relevance to the outcome of the rule. In that proceeding, the Administrator is to provide the same procedural rights as would have been afforded had the information been available at the time the rule was proposed. 42 U.S.C. § 7607(d)(7)(B). NRECA's objections meet these criteria and a new rulemaking proceeding should be convened with respect to the issues described in this petition.

EPA has promulgated a variety of New Source Performance Standards ("NSPS") and National Emissions Standards for Hazardous Air Pollutants ("NESHAPs") for RICE on a piecemeal basis, including, at a minimum, the following actions in recent years:

- NESHAPs for engines above 500 horsepower ("HP") at major sources, 69 Fed. Reg. 33,474 (June 15, 2004) (Subpart ZZZZ of 40 C.F.R. Part 63),
- NSPS for compression ignition Internal Compression Engines ("ICE"), 71 Fed. Reg. 39,154 (July 11, 2006) (Subpart III of 40 C.F.R. Part 60),
- NSPS for spark ignition ICE, 73 Fed. Reg. 3,568 (Jan. 18, 2008) (Subpart JJJJ of 40 C.F.R. Part 60),
- NESHAPs for engines below 500 HP at major sources, 73 Fed. Reg. 3,568 (Jan. 18, 2008) (Subpart ZZZZ of 40 C.F.R. Part 63)<sup>1</sup>,
- NESHAPs for compression ignition RICE, 75 Fed. Reg. 9,648 (Mar. 3, 2010) (Subpart ZZZZ of 40 C.F.R. Part 63), and

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<sup>1</sup> The rule promulgated on January 18, 2008, included New Source Performance Standards for ICE and NESHAPs for RICE.

- NESHAPs for spark ignition RICE, 75 Fed. Reg. 51,570 (Aug. 20, 2010) (Subpart ZZZZ of 40 C.F.R. Part 63).

EPA's extended and sporadic rulemaking process has fostered confusion within the regulated community, particularly in regard to owners and operators of small emergency generating units participating in peak shaving programs. Furthermore, there remain inconsistencies in the rules regarding how certain RICE are to be regulated. For example, in EPA's final rule for spark ignition ("SI") RICE, the Agency finalized a subcategory of nonemergency RICE that operate 24 hours or less per year at area sources. (*75 Fed. Reg. 51,572, col. 2; and Table 6, No. 9, 75 Fed. Reg. 51,601, August 20, 2010*). This subcategory is not included in the Agency's final rule for compression ignition ("CI") RICE under Part 63, Subpart ZZZZ. EPA, itself, has recognized and attempted to cure some of the inconsistencies with its current proposal to revise the definition of "emergency stationary internal combustion engine" in its July 2006 NSPS<sup>2</sup>.

Furthermore, as mentioned above, the majority of these small stationary SI and CI engines are not owned by cooperatives, but rather by the consumer-owners they serve. Distribution cooperatives, having no major electric generation facilities of their own, are concerned primarily with distributing electric power to their retail consumers. They simply do not have the resources or a practical reason to keep track of and review the many EPA rulemaking activities under the Clean Air Act to see if one of these rulemakings may have an impact on their operation of delivering electrical power. Without an outreach from EPA, which was absent in these rulemakings, these small entities could not anticipate that the proposed rule for emergency generators would undermine and destroy their very practical and highly successful peak shaving programs.

In addition, because the bulk of the small emergency generating units, which are the subject matter of this petition, are not owned by these cooperatives, it was impractical for them to contemplate that the continued use of these resources in an efficient and productive manner for the benefit of their rural consumer-owners would be wiped out by a Federal Government that professes goals of increased energy efficiency and resource conservation.

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<sup>2</sup> Proposed Revisions to the NSPS for spark ignition stationary RICE (*75 Fed. Reg. 32,612, June 8, 2010*)

Also, the maximum 15 hours-per-year limit for emergency demand reduction operation was not included in the March 2009 proposal, so there was no basis to foresee that EPA would spontaneously issue its final rule with that restriction. The 15 hours limit appeared in the final rule after the comment period, so it was impossible to object to it before EPA indicated that it was considering such a limit. Thus, the grounds for this objection arose after the period for public comments.

NRECA believes the inconsistencies in the rulemakings, the piecemeal way in which EPA has addressed the regulation of RICE, and the significant limitations it placed in the final rule without the opportunity for comment has made it impractical for small distribution electric cooperatives to raise the objections described herein during the public comment period. NRECA further believes that the objections raised in this Petition for Reconsideration are of central relevance to the outcome of the rule. Peak shaving and demand reduction programs are a major use of many of these small emergency generators and the continuation of these programs is a significant consideration for the owners and operators of these units. The Administrator, therefore, must convene a proceeding for reconsideration of the objections raised herein.

### Background

EPA proposed NESHAPs for stationary RICE on March 5, 2009, (*74 Fed. Reg. 9,698*). The Agency promulgated a final rule for stationary CI engines on March 3, 2010, (*75 Fed. Reg. 9,648*), and for SI stationary RICE on August 20, 2010, (*75 Fed. Reg. 51,570*).

Among the engines covered by these rules are small emergency generating units owned and located at residential, commercial, and institutional facilities across rural America. A number of distribution rural electric cooperatives have made arrangements with some owners of these small generating units to use them for peak-shaving and demand reduction purposes and also for system reliability considerations. While these arrangements do not generate income for the cooperative, they do help offset the costs of these units by reducing the cooperative's demand on central station power supplies during periods of very high demand. The resulting reduced costs or economic benefits are in turn shared with the owner of the emergency unit – a win-win situation.

EPA's final RICE NESHAP rules exempt residential, commercial, and institutional emergency generating units located at area sources from rule requirements. The final rules,

however, include a section that defines how emergency stationary RICE can be used. These provisions prohibit the use of emergency units for peak-shaving programs and allows very limited use for other demand reduction purposes. Beginning in 2013, existing emergency units larger than a specified size will not be able to continue to be used in peak shaving programs without being reclassified as “non-emergency” units and adding expensive emission reduction technology on a dollar-per-ton basis in order to meet stringent emission limits. The additional costs of the new requirements will potentially make it economically prohibitive for their continued use in these programs. The result will be increased costs for distribution cooperatives. Being not-for-profit electricity providers, they will be forced to pass these costs along to their consumer-owners.

### Argument

NRECA believes the restrictions on the use of small stationary compression ignition and spark ignition RICE emergency generating units for peak shaving and demand reduction purposes should be eliminated entirely. Alternatively, the restrictions should be minimized so as to not diminish the value of these programs.

EPA’s RICE NESHAP rules allow emergency units to operate up to 100 hours-per-year or more<sup>3</sup> for testing, maintenance, etc., including 50 hours-per-year for non-emergency situations – but specifically not for peak-shaving purposes. Peak shaving programs involve minimal hours of operation, thereby potentially not adding to the allowed 100 annual hours of operation contained in the rules. Continuing the use of peak shaving programs, therefore, would not cause additional public health risks or environmental harm beyond those already contemplated in the final rule. Elimination of peak-shaving programs, however, would require the procurement of additional central station capacity and potentially the addition of transmission and distribution line capacity to service the demand increase.

EPA’s final RICE NESHAP rules also limit the use of small stationary emergency generating units to 15 hours-per-year as a way to prevent system-wide electrical failures,

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<sup>3</sup> The owner or operator may petition the Administrator for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that Federal, State, or local standards require maintenance and testing of emergency RICE beyond 100 hours-per-year. (§63.6640) (75 *Fed. Reg.* 51,591 / Col. 2).



including blackouts. Collapse of the grid system could potentially cause significant environmental impacts, well in excess of the effects of emissions from these units if used to prevent such disasters.

While peak-shaving programs do not generate income for the distribution cooperative, they do produce economic benefits by reducing the level of demand on their electric power suppliers, resulting in reduced demand costs. These reduced costs, in turn, are shared with the owners of these small emergency generating units that participate in peak shaving programs: a win-win arrangement that helps hold down power costs for the owners of these units, as well as for the cooperatives other consumer-owners. Reduced cost of electrical energy is a very important consideration during this time of national economic strain and is of particular importance to rural electric cooperatives as they serve some of the most economically depressed areas in the nation.

NRECA is aware of at least one distribution cooperative that purchased emergency generators and located them at area hospitals and hurricane shelters. These generators provide the necessary full backup service reliability that is needed at these facilities. Without these cooperative-supplied emergency units, the hospitals and emergency shelters would need to buy their own units at a cost of millions of dollars.

To help offset the costs of these units, the cooperative uses them in peak shaving and demand reduction programs. Without the benefits of these programs, however, the cooperative advises that it may be forced to discontinue this service. In that event, these facilities will be forced to purchase their own units with the costs borne by the residents of the cooperative service area – an area of the country already severely economically depressed.

Another restriction contained in the final RICE NESHAP rules is in regard to the limitation of 15 hours-per-year for demand reduction purposes. The final rule restrictions may prevent emergency engines from continued participation in emergency demand reduction programs since the engines may no longer be able to meet Independent System Operator (“ISO”) tariff requirements that specify minimum hours of availability to participate. The result again would be higher costs, the need for replacement capacity, and a potentially less reliable electric grid system that depends upon central station versus distributed generation.

## Conclusion

NRECA supports EPA's efforts to protect public health and the environment from harm caused by the presence of toxic air pollutants. NRECA is very concerned, however, that the Agency has included unnecessary restrictions in this NESHAP rule that will cause economic harm across rural America without providing any meaningful environmental benefit.

In light of the minimal environmental effects but significant benefit from having these small stationary emergency units available, NRECA requests that EPA reconsider the provisions of the final RICE NESHAP rules that restrict the operation of these emergency units for peak-shaving and demand reduction programs.

NRECA believes the restrictions on the use of small stationary compression ignition and spark ignition RICE emergency generating units for peak-shaving and demand reduction purposes should be eliminated entirely. Alternatively, the restrictions should be minimized so as to not diminish the value of these programs.

NRECA suggests that one way that EPA could address this issue for SI RICE is to revise §63.6640 in its August 20, 2010, final rule by simply removing the restrictions on peak shaving and demand reduction service, and the 50 hour limitation on non-emergency service. This change would not result in any additional run-time above the 100 hours of operation that is already provided for in the rule. In other words, the change would allow owners/operators of small stationary emergency generating units to use their units without restriction up to 100 hours-per-year for non-emergency operation in ways that best meet their particular circumstances and needs. All hours of operation for maintenance, testing, peak shaving, demand reduction, and all other non-emergency operation would be at the owner/operators discretion - but not to exceed 100 hours-per-year. Owners/operators with special circumstances that require additional operating hours could petition the Agency for additional hours of non-emergency operation on a case-by-case basis. Upon adequate justification, the additional hours would not be unreasonably denied by the Agency.

Revising the final SI RICE NESHAP rules in this manner would not, and must not, detract in any way from the unlimited hours of operation needed for true emergency service.

NRECA also believes it is necessary and urges EPA to amend the March 2010 CI RICE NESHAP final rule and the July 2006 NSPS rule with conforming changes so all applicable rules are clear and consistent.