

Bryan W. Shaw, Ph.D., *Chairman*
Toby Baker, *Commissioner*
Zak Covar, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

October 31, 2013

Air and Radiation Docket Center
U.S. Environmental Protection Agency
Mailcode 2822T
1200 Pennsylvania Ave. NW.
Washington, DC 20460
Attn: Docket ID Number EPA-HQ-OAR-2008-0708

Melanie King, Energy Strategies Group
Sector Policies and Programs Division (D243-01)
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711

Re: Title 40 Code of Federal Regulations (CFR) Parts 60 and 63. National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines.

Dear Sir or Madam:

The Texas Commission on Environmental Quality (TCEQ) appreciates the opportunity to respond to the U.S. Environmental Protection Agency's notice published in the September 5, 2013, issue of the *Federal Register* entitled: "National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines; New Source Performance Standards for Stationary Internal Combustion Engines."

Enclosed, please find the TCEQ's comments relating to the rulemaking referenced above. If you have any questions concerning the enclosed comments, please contact Mr. Michael Wilson, P.E., Director, Air Permits Division, Office of Air, (512) 239-1922, or at mike.wilson@tceq.texas.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Zak Covar", with a long horizontal flourish extending to the right.

Zak Covar
Executive Director

Enclosure

**Texas Commission on Environmental Quality Comments on
National Emission Standards for Hazardous Air Pollutants for
Reciprocating Internal Combustion Engines; New Source Performance
Standards for Stationary Internal Combustion Engines; Reconsideration of
Final Rule**

Docket ID Number EPA-HQ-OAR-2008-0708

Background

The U.S. Environmental Protection Agency (EPA) published final amendments to the national emission standards for hazardous air pollutants (NESHAP) for stationary reciprocating internal combustion engines (RICE) and the new source performance standards (NSPS) for stationary internal combustion engines on January 30, 2013 (78 FR 6674). Subsequently, EPA received three petitions for reconsideration of the final rule, and EPA reopened the NESHAP and NSPS on September 5, 2013 (78 FR 54606) to request public comment on three issues raised in the petitions for reconsideration. The specific subject areas for which EPA is accepting comments are: (A) Timing for Compliance with the Ultra Low Sulfur Diesel (ULSD) Fuel Requirement for Emergency Engines; (B) Timing and Required Information for the Reporting Requirement for Emergency Engines; and (C) Criteria for Operation for Up to 50 Hours per Year for Non-Emergency Situations. The Texas Commission on Environmental Quality (TCEQ) is commenting on the criteria related to subject area (C) above. TCEQ's comments relate concerns that the conditions associated with these provisions allowing for engine operation in non-emergency situations were too broad and would be difficult to enforce.

TCEQ Comments

Criteria for Operation for Up to 50 Hours per Year for Non-Emergency Situations

EPA's reconsideration of 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 nonemergency situations as part of a financial arrangement with another entity ('the exception') is unnecessary. The conditions and restrictions associated with the exception are already sufficient and appropriate, and attempting to further define or limit when this exception may be used could render the exception so restrictive that it becomes impractical to use. First, one of the exception's conditions requires the engine dispatcher to follow reliability, emergency operation, or similar protocols that follow specific North American Electric Reliability Corporation (NERC), regional, state, public utility commission, or local standards or guidelines. The owner or operator using the exception is also required to keep a record of what entity dispatched the engine and what specific standard or guideline was followed. A regulatory agency would be able to review this record and determine if the use was valid. EPA can also provide guidance on acceptable uses of the exception. These conditions and requirements, in addition to guidance from EPA if necessary, provide sufficient mechanisms to ensure that the exception is used appropriately and is enforceable.

Another requirement of the exception is that the engine must be dispatched by the local balancing authority or local transmission and distribution system operator. The Electric Reliability Council of Texas (ERCOT) is the sole balancing authority and transmission and distribution system operator for most of the State of Texas. Given the additional cost of paying for the capacity provided by these generators and the cost of the power itself, the local balancing authority or local transmission and distribution system operator has an inherent incentive to limit the dispatch of these engines to times when power demands are threatening system stability. Additionally, the condition requiring that 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, relates to the decision making of the system operator. This determination should be left to the system operator's expertise, which the current rules properly allow. Tying the exception to a specific event like an "alert," presumably a grid-wide declaration like an Energy Emergency Alert, is not suitable for localized power disruptions.

With regard to the term "dispatch", ERCOT specifically defines dispatch as "the act of issuing dispatch instructions" and has detailed rules on when and how a resource is dispatched. Accordingly, there is an existing and accepted definition already in place. This rule consistently uses other terms such as reliability and emergency that occur in ERCOT's protocols. Also, the 50 hours mentioned in the exception are part of the 100 hours of non-emergency operation already allowed by the rule prior to amendment and are not additional hours of uncontrolled operation. The problems associated with power outages are more significant than the minor emissions associated with operating these units for short periods of time.

In summary, EPA appropriately used terms and conditions in 40 CFR §§60.4211(f)(3)(i), 60.4243(d)(3)(i), and 63.6640(f)(4)(ii) as amended January 30, 2013. These provisions allow the local balancing authority or local transmission and distribution system operator to determine when a generator should be dispatched based on the technical judgment of the system operator whose primary motive is to maintain system stability. EPA included appropriate record keeping that will allow the public and regulatory agencies to assure compliance with the rules.