



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

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MEMORANDUM

SUBJECT: RICE NESHAP Compliance Extension Requests

FROM: Edward J. Messina *Edward J. Messina*
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TO: EPA Regional Air Enforcement Managers
EPA Regional Air Directors

Some uncertainty has arisen in the Reciprocating Internal Combustion Engines (RICE) NESHAP (subpart ZZZZ) regarding how to process certain facility extension requests. The uncertainty stems from the fact that the EPA published certain amendments to subpart ZZZZ in the Federal Register on January 30, 2013. The EPA published these final rule amendments less than 120 days before the May 3, 2013, compliance date for compression ignition engines subject to subpart ZZZZ. The amendments affect the way emergency engines may operate after the NESHAP compliance date and some sources may have revised their intended uses of these engines following the January 30, 2013, final rule publication.

We understand that some permitting authorities have received requests for compliance extensions from sources that are currently in compliance with the requirements of the RICE NESHAP for emergency engines. Although these sources are currently in compliance with the requirements of the rule, the sources have indicated that they could potentially exceed the maximum hours allowed for non-emergency operation in light of the 2013 amendments. As such, these sources have requested extensions to allow additional time to comply with the requirements for non-emergency compression ignition engines, which, according to the sources, will require the installation of controls. Some permitting authorities have requested guidance on how to handle these compliance extension requests given the unique circumstances at issue here, including the January 30, 2013, final rule amendments and the fact that the sources in question are currently in compliance with the requirements of subpart ZZZZ. This memorandum suggests how to handle these RICE compliance extension requests depending on the circumstances.

Paragraph 63.6(i)(4)(i) of 40 C.F.R. allows facilities to request an extension of the compliance date for the purpose of installing controls. Given the unique facts and circumstances present here, including the January 30, 2013, amendments to subpart ZZZZ and the fact that the sources at issue are currently in compliance with the requirements of subpart ZZZZ, we suggest that the appropriate authority under 40 C.F.R. 63.6(i)(4)(i)(A) and 63.6(i)(9) consider addressing compression ignition RICE compliance extension requests as follows:

1. If the request was submitted before January 3, 2013 (more than 120 days before the compliance date), a compliance extension of up to one year from the compliance date may be granted if the applicant has made the demonstration required by 40 C.F.R. 63.6(i)(4)(i) and 63.6(i)(6)(i).
2. If the request was submitted before May 3, 2013, determine if the need for extension arose in the 120 days before the compliance date (late promulgation of the rule could be a possible cause in the circumstances discussed above). If the applicant has made the demonstration required by 40 C.F.R. 63.6(i)(4)(i) and 63.6(i)(6)(i), a compliance extension of up to one year from the compliance date may be granted.
3. If the request was submitted after May 3, 2013, but the requesting facility is in compliance with the rule on the date of the request, use the same process as in option 2. Meaning, if the applicant has made the demonstration required by 40 C.F.R. 63.6(i)(4)(i) and 63.6(i)(6)(i), a compliance extension of up to one year from the compliance date may be granted.
4. If the request was submitted after May 3, 2013, and the requesting facility is not in compliance with the rule, consult with enforcement personnel on the appropriate next steps.

Please direct any questions or concerns on this plan to Sara Ayres at ayres.sara@epa.gov or (202) 564-5391 or Melanie King at king.melanie@epa.gov or (919) 541-2469.

cc: Michael Horowitz, OGC