

OHIO E.P.A.

APR 30 2013

ENTERED DIRECTOR'S JOURNAL
In the matter of:

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

Using Emergency Generators : **Director's Final Findings**
For Peak Shaving as Allowed : **and Orders**
Under U.S. EPA's RICE NESHAP :

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

By: Mike Lassiter Date: 4-30-13

These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3745.01, and 3704.03.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondents and Ohio EPA, and their successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

All of the Findings necessary for the issuance of these Orders have been made by the Director, not the Respondents, and are outlined below.

The Director of Ohio EPA has determined the following findings:

1. United States Environmental Protection Agency's Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutant (NESHAP) is codified at 40 C.F.R. Part 63, Subpart ZZZZ. These rules require the use of state-of-the-art controls or emission limitations designed to minimize air pollution emissions from RICEs.
2. The most recent revisions to the RICE NESHAP were finalized January 30, 2013 at 78 Fed. Reg. 6674 et seq. (January 30, 2013 Revisions).
3. Owners or operators of emergency electrical generators that utilize reciprocating internal combustion engines larger than 50 horsepower are required to apply for

and obtain installation and operating permits under Ohio Administrative Code (OAC) Chapter 31.

4. Some owners or operators have chosen to apply for and obtain permit approval under Ohio EPA's permit-by-rule (PBR) for emergency electrical generators (Emergency Generator PBR) found at OAC paragraph 3745-31-03(A)(4)(b).
5. Effective August 26, 2010, Ohio EPA modified OAC rule 3745-31-03, in part, by adding paragraph 3745-31-03(A)(4)(a)(viii) which described several definitions for terms used in the Emergency Generator PBR. To date, Ohio EPA has not submitted the revised 31-03 rule to U.S. EPA for inclusion into the State Implementation Plan (SIP). This means that the revised language is current state-only enforceable, not federally enforceable.
6. One definition used by the Emergency Generator PBR is the definition of "Emergency Internal Combustion Engine". One part of this definition excludes the use of the engine for "peaking power" or "non-emergency assistance program". The Director inserted this exclusion into the definition under the belief that U.S. EPA would require such an exclusion.
7. On January 30, 2013, U.S. EPA revised the RICE NESHAP at 78 Fed. Reg. 6674 et seq. (January 30, 2013 Revisions). The January 30, 2013 Revisions made changes to 40 C.F.R. 63.6640(f)(4) to allow emergency stationary RICE located at area sources of hazardous air pollutants to operate for up to 50 hours for the purposes of peak shaving, until May 3, 2014. See 78 Fed. Reg. 6705.
8. The RICE NESHAP requires owners or operators of RICEs to continue to comply with all applicable emissions limitations and control requirements contained within the RICE NESHAP even during the allowed peak shaving period. Therefore, the Director finds that these engines will be controlled during peak shaving periods.
9. Respondents are owners or operators of RICE that have obtained approval to be covered under Ohio EPA's Emergency Generator PBR and qualify under the RICE NESHAP to be able to operate the RICE for up to 50 hours for the purposes of peak shaving. (collectively, Respondents).

V. ORDERS

The Director hereby issues the following Orders:

1. If a Respondent's engine is operating under the Emergency Engine PBR, and the engine qualifies under the RICE NESHAP to be able to operate up to 50 hours

per year for peak shaving purposes, then Ohio EPA will not consider the peak shaving operations complying with the restrictions in the RICE NESHAP to be a violation of the Emergency Generator PBR; and

- a. The Director hereby orders that Respondents are not required to apply for and obtain a revised permit to allow for peak shaving operation.
- b. The Director hereby orders all Respondents who choose to operate their RICEs for the peak shaving allowed under the RICE NESHAP to maintain all records required under the RICE NESHAP for peak shaving operation.
- c. Any Respondent that does operate an Emergency Engine for peak shaving shall submit a copy of the records required by the RICE NESHAP to Ohio EPA by May 15, 2014.

VI. TERMINATION

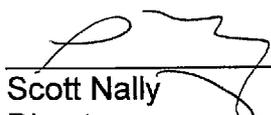
These Orders will self-terminate on May 31, 2014.

VIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Scott Nally
Director

Date

4/29/13
