



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

APR 19 2012

Mr. James Richmond
GenAcc
60 State Street, Suite 101
Peoria, Illinois 61602

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Dear Mr. Richmond:

We are writing to follow up on a call that you had with several members of our staff on February 27, 2012, regarding the New Source Performance Standards for Stationary Compression Ignition (CI) Internal Combustion Engines. Those standards were published on July 11, 2006, 71 Fed. Reg. 39,154, and revised on June 28, 2011, 76 Fed. Reg. 37,954. They can be found at 40 C.F.R. part 60, subpart IIII. During the call and in previous communications with our staff, you raised a number of concerns and claims related to the provisions in subpart IIII that require engine manufacturers to obtain certification that their new stationary CI engines meet applicable emission standards and that require owners and operators of new stationary CI engines to purchase engines certified to the applicable emission standards. Below is our response to the specific issues you raised during the call.

Requirement to purchase certified engines: As specified in subpart IIII at 40 C.F.R. § 60.4205(b), for 1 MW stationary CI emergency engines with a displacement less than 10 liters per cylinder, the emission standards that apply for owners and operators (emphasis added) of 2011 model year and later engines are the Tier 2 standards in Table 1 of 40 C.F.R. § 89.112. As specified in subpart IIII at 40 C.F.R. § 60.4204(b), owners and operators of 2011 model year and later 1 MW stationary CI non-emergency engines with a displacement less than 10 liters per cylinder must meet the Tier 4 standards in 40 C.F.R. part 1039, subpart B.

You indicated that you are purchasing new 2011 and later model year stationary CI engines that are certified to the Tier 2 standards that apply to emergency engines. You are then installing emission controls on the engine that you believe will reduce the emissions of the engines below the Tier 4 emission standards. You stated that these engines are then being used in non-emergency applications, despite the fact that they are not certified by the U.S. Environmental Protection Agency (EPA) as meeting the emission standards applicable to non-emergency engines. You indicated that you are the owner/operator of these engines through your affiliation with ELM Energy LLC.

As our staff has indicated to you previously on several occasions, subpart IIII specifies at 40 C.F.R. § 60.4211(c) that owners and operators of 2007 model year and later stationary CI engines subject to the emission standards in § 60.4204(b) and § 60.4205(b) must comply by purchasing an engine certified to the applicable emission standard. For 2011 model year and later non-emergency engines larger than 1 MW with a displacement less than 10 liters per cylinder, the applicable emission standards are the Tier 4 standards in 40 C.F.R. part 1039, subpart B, not the Tier 2 standards in Table 1 of 40 C.F.R. § 89.112. It



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is a violation of subpart IIII to purchase an engine for non-emergency use if it is not certified to the applicable standards for non-emergency engines.

You indicated that you believe 40 C.F.R. § 60.4211(g) allows you to demonstrate compliance through on-site compliance testing in lieu of purchasing a certified engine. This is not correct. Paragraph 60.4211(c) says that the owner/operator must comply by purchasing a certified engine; it then goes on to say that it must be installed and configured according to the manufacturer's specifications, "except as permitted in paragraph (g) of this section." In other words, there is no exception to purchasing a certified engine; the paragraph (g) exception applies only to the requirement that the engine be installed and configured as per the manufacturer's specifications. Paragraph 60.4211(g) further makes clear that the requirements for the additional compliance demonstration apply "if you do not install, configure, operate, and maintain your engine and control device according to the manufacturer's emission-related written instructions, or you change emission-related settings in a way that is not permitted by the manufacturer" In other words, 60.4211(g) does not provide a mechanism for doing something other than purchasing a certified engine; it only provides an alternative mechanism for showing compliance if you deviate from the manufacturer's specs for installation and configuration of the certified engine that you are required to purchase.

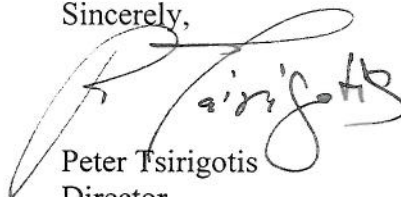
As you may be aware, we issued a letter to engine manufacturers in December 2011 to remind manufacturers that they are required to certify engines to the applicable emission standards in subpart IIII, and that non-emergency engines must be certified to the emission standards for non-emergency engines. Any manufacturer that sells an engine subject to subpart IIII that is not certified to the applicable emission standards for the engine's model year, maximum engine power, and application is violating subpart IIII. The manufacturer letter is attached for your information.

Cost of certification: You indicated that the cost of certification is an unreasonable burden for small businesses. As we have indicated previously, the certification program ensures that the engine manufacturer goes through a robust process to show that the engine meets these emissions standards *over the useful life of the engine*. Owners and operators of certified engines benefit significantly from this program, because they do not have to perform costly stack testing to show initial or continuing compliance with the emission limits set out in subpart IIII. By contrast, once a manufacturer certifies an engine family under subpart IIII, no further engines in that subcategory need be tested under subpart IIII. Numerous small volume manufacturers have certified their engines to the provisions for mobile sources over the years, and the EPA regulations contain several provisions to reduce the burden of certification on small volume manufacturers.

Field testing and state/ local requirements: You stated that owners/operators of stationary CI engines are experiencing difficulty in reconciling the EPA requirements for stationary CI engines with more stringent state or local requirements. It is important to note that states have the right to issue their own air quality regulations, provided they are at least as stringent as federal rules. States cannot weaken federal regulations, however, and they cannot waive the EPA certification requirement for stationary CI engines. You also indicated that field testing of certified engines has demonstrated large differences between emissions measured using the laboratory certification test procedures versus field test procedures, and that certified engines do not reduce emissions below the required emission standards for the first 90 minutes after startup. As we have stated previously, we have not been notified of such difficulties or differences by our state and local air agency partners, but would welcome additional specific information about these issues.

We would welcome any additional information and data you wish to provide us regarding your concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Tsirigotis". The signature is fluid and cursive, with the first name "Peter" and last name "Tsirigotis" clearly legible.

Peter Tsirigotis
Director
Sector Policies and Programs Division
Office of Air Quality Planning and Standards

A handwritten signature in black ink, appearing to read "Phillip A. Brooks". The signature is cursive and somewhat stylized, with the first name "Phillip" and last name "Brooks" being the most prominent parts.

Phillip A Brooks
Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance