



June 3, 2009

Air and Radiation Docket and Information Center  
U.S. Environmental Protection Agency  
**Attention: Docket ID No. EPA-HQ-OAR-2008-0708**  
Mailcode-6102T  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20460

Re: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE); Federal Register March 5, 2009, Pages 9897-9731; EPA Docket ID No. EPA-HQ-OAR-2008-0708

Dear Sir or Madam:

The American Exploration and Production Council (AXPC) appreciates the opportunity to offer comments on the NESHAP for RICE regulation proposed in the March 5, 2009, 74 Federal Register 9897, as requested in the referenced publication.

The AXPC is a national trade association representing 25 of the largest United States independent upstream natural gas and crude oil exploration and production (E&P) companies. Most AXPC members are publicly traded corporations, and many have international operations or interests. The AXPC members are leaders in developing and applying technology necessary to explore for and extract, oil and gas onshore and offshore, including in deep water and from unconventional reservoirs. The large independent sector (meaning non-integrated companies without refining operations or retail service stations) has a history of *investing more than it earns*, and 100% of its cash flow, in exploration and production. The AXPC companies as a group are leaders in adding domestic energy reserves by being among the most active in drilling natural gas and oil exploration and development wells in the United States, accounting for nearly one quarter of all wells drilled.

The proposed Amendments to the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE) is a regulation that will have a major financial impact on our member companies. Member companies operate thousands of engines continuously throughout the year. The operating and capital costs associated with compliance with this proposed regulation will be borne by the member companies, which are expected to have a significant impact on the profitability of individual producing sites. Marginal operating locations will be shut down to avoid the cost of compliance with this rule. AXPC is aware that many other organizations such as the American Petroleum Institute (API), Gas Processors Association (GPA), and the Interstate Natural Gas Association of America (INGAA) are providing comments with substantially more detail than contained in these comments. We support and endorse those comments.

## **General Comments**

- a. EPA's Economic Impact Estimate is Extremely Low** – EPA estimated the initial capital cost in this rule for control equipment to be \$528 million and the annual cost to be \$345 million. Industry estimates the capital cost to be a factor of 2 to 4 higher and the annual cost to be a factor of 4 higher. Reasons for the low estimate include:
1. Not all existing engines requiring controls can simply add catalyst to the exhaust, some engines (primarily 2SLB) must be replaced;
  2. EPA assumed that 80% of the 4SRB engines were already controlled with NSCR, whereas a tiny percent of 4SRB engines under 500 hp are equipped with catalyst.
  3. EPA estimated performance tests to cost \$250-500 each when the cost for most engines between 100 hp and 500 hp (primarily 4SRB) is approximately \$8,000; even 4SLB engine stack tests using portable analyzers for CO cost more than \$250-500 due to the 3 hour per engine test time.
  4. EPA falsely assumes proposed maintenance requirements add no cost to industry; and the administrative burdens of the rule are underestimated or left out entirely.
- b. Relax Control Requirements for Area HAP Sources in Rural Areas** – EPA has chosen to make control requirements the same nationwide. The Clean Air Act (CAA) allows the Administrator to use discretion to apply less burdensome controls at area sources (small facilities with low HAP emissions) in rural areas at areas sources in urban areas where the public has high exposure to the emissions. EPA chose low burden controls for rural area dehydrators in the ONG Area Source NESHAP, Subpart HH. We request EPA to take this approach to avoid burdensome regulations on hundreds of thousands of engines in area sources.
- c. Revise Fixed Maintenance (One-Size-Fits-All) Requirements to Maintenance Plans** – EPA requires maintenance work practices (fixed intervals for inspections and changes of oil & spark plugs) in this rule for engines that are not equipped with catalyst. While fixed maintenance intervals work well for new mass produced engines similar to those in automobiles, they are inappropriate for the wide variety of existing engines used in the O&G, agriculture and power generation industries across the nation. EPA allows the use of operator defined maintenance plans that are “consistent with good air pollution control practice for minimizing emissions” to be used in other portions of this same rule. EPA should allow the use of operator defined maintenance plans to greatly reduce cost and allow operators to optimize maintenance for each type of engine. In addition, EPA should limit required maintenance to those activities that are known to have an effect on emissions, not unrelated activities like oil change frequency.
- d. “MACT Floor” Emission Limits are Set Lower Than Required by the CAA** – The Courts have been critical of EPA's process of setting the minimum allowable emission limits (called the MACT Floor) in the past (i.e. the Cement Kiln and Brick Kiln MACT decisions). EPA has overcompensated in trying to meet the Court's expectations of setting the emission limits in proposing this rule. EPA set the proposed emission limits by averaging the best 12% of all performance tests for each sub-category, but did not consider operational variations of those Units. EPA should set the emission limits at the emissions “actually achieved” “under the worst reasonably foreseeable circumstances” (e.g., uncontrolled) for the

best performing 12% of sources as allowed by the Courts in the Cement Kiln MACT and Brick Kiln MACT decisions (see 200 U.S. App. D.C. 363 and 375 U.S. App. D.C. 228).

- e. **SSM Emission Limits are Unproven and cause Compliance Uncertainty** – EPA set emissions limits based on a Court action that is not yet finalized. The emission limits were set assuming that emissions during startup, shutdowns and malfunctions are the same as steady state engine operation before the catalyst. HAP emissions during SSM activities have not been studied, but are definitely not stable over hourly averages like the proposed standard assumes. With today’s knowledge, SSM emissions standards are not feasible. EPA should set up work practices (in compliance with CAA §112(h)(1)) within the SSM Plan framework to comply with the Court mandate., (currently February 10, 2010 by Court Consent Decree).
- f. **Engine Rules are Overly Complex** – EPA has finalized three major engine rules for stationary sources within the past 5 years. These rules are complex because of there overlap with and reference to the mobile source engine rules (i.e. for automobiles, boats, construction equipment, etc). The mobile source rules are not well understood by the agencies and industries involved with the stationary source rules. EPA has done little to aid the agencies and industry in understanding these rules. EPA should separate these rules for existing rules into a new Subpart ZZZZa instead of amending the current Subpart ZZZZ. Additionally, EPA should delay promulgation of these rules until compliance assistance material can be developed to aid the State agencies and regulated community in their compliance efforts.
- g. **Emission Limits for Existing Engines Should Not Be Lower Than for New Engines** - It is counterintuitive that older existing engines should be required to meet more stringent emission standards than brand new engines. The proposed ppmvd standards are unrealistically low, and should be set to conform to the limits in the EPA’s 2008 Consolidated Engine Rule for new engines.

AXPC asks that EPA consider these comments and those made by INGAA, GPA and API because of the impact that these regulations will have on the regulated community. It is critically important that we enter into a deliberative, well-informed dialogue so that we can formulate regulations that are both protective of the environment and conducive to existing and future oil and gas production activities. Should you have any questions, please call me at (703) 519-0019.

Respectively submitted,

Bruce Thompson  
President

cc: Office of Information and Regulatory Affairs  
Office of Management and Budget  
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