

**Iowa Department of Natural Resources
Environmental Protection Commission**

ITEM

13

DECISION

TOPIC

**Notice of Intended Action – Chapter 23:
Air Quality Program Rules – Adoption of air toxics standards for
stationary engines (RICE NESHAP)**

The Department is requesting permission from the Commission to proceed with the rulemaking process and publish a Notice of Intended Action to amend Chapter 23, “Emissions Standards for Contaminants,” of the Iowa Administrative Code.

The purpose of the proposed rulemaking is to adopt the federal air toxics standards for stationary engines commonly known as the RICE NESHAP. “RICE NESHAP” is the acronym for National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustions Engines (RICE) (40 Code of Federal Regulations (CFR) Part 63 Subpart ZZZZ). The Department requests that the Commission adopt the RICE NESHAP by reference so that all compliance deadlines will be according to federal timelines.

The U.S. Environmental Protection Agency (EPA) recently updated the RICE NESHAP. The revised RICE NESHAP generally provides regulatory relief and clarity from the previous requirements.

Upon adoption of RICE NESHAP amendments, the Department rather than EPA will implement and enforce these regulations in Iowa. This allows the Department to provide compliance assistance and outreach to affected facilities as soon as possible.

Need for Proposed Rule

In 2010, the Commission adopted earlier amendments to the RICE NESHAP. Executive Order (EO) 72 subsequently rescinded adoption of the RICE NESHAP amendments. EO 72 stated the RICE NESHAP was too costly for small utilities that maintain and operate rarely used emergency engines, and the RICE NESHAP requirements could increase electricity rates for consumers.

In response to the concerns from Governor Branstad as expressed in EO 72 and concerns from other stakeholders, EPA agreed to reconsider the RICE NESHAP. Consequently, EPA updated the standards to provide more circumstances for emergency engines and for engines that participate in electricity management programs to operate under non-emergency conditions. The Department is now requesting that the Commission adopt the amendments to the RICE NESHAP.

If the Commission does not adopt the RICE NESHAP amendments, state rules will continue to be inconsistent with federal regulations and will potentially be more stringent than federal regulations. This inconsistency may cause regulatory uncertainty and confusion for affected facilities. Further, Iowa statute prohibits state air quality emission limitations or standards from being more stringent than federal air quality standards (Iowa Code section 455B.133(4)).

Stakeholder Engagement

Over the past three years, the Department has worked closely with stakeholders regarding the RICE NESHAP. Stakeholders include affected facilities (such as investor-owned electric utilities, municipal utilities, rural electric cooperatives, industries, institutional facilities and others), the Iowa Association of Municipal Utilities (IAMU), South Iowa Municipal Electric Cooperative Association (SIMECA), Resale Power Group of Iowa (RPGI), and North Iowa Municipal Electric Cooperative Association (NIMECA). IAMU, SIMECA, NIMECA, and RPGI recently offered their support for the Department adopting the RICE NESHAP amendments.

If the Commission approves the proposed rulemaking, the Notice of Intended Action will be published in the Iowa Administrative Bulletin on May 15, 2013. A public hearing will be held on Tuesday, June 4, 2013, at 10:00 a.m. at the Department's Air Quality Bureau offices. The Department will accept written comments until 4:30 p.m. on June 4, 2013.

An administrative rule jobs impact statement and fiscal impact statement are attached.

Christine Paulson
Environmental Specialist Senior
Program Development Section, Air Quality Bureau
Memo date: April 12, 2013

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Pursuant to the authority of Iowa Code section 455B.133, the Environmental Protection Commission (Commission) hereby gives Notice of Intended Action to amend Chapter 23, “Emissions Standards for Contaminants,” Iowa Administrative Code.

The Commission proposes to adopt by reference the federal air toxics standards for stationary engines commonly known as the RICE NESHAP. “RICE NESHAP” is the acronym for National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (RICE) (40 Code of Federal Regulations (CFR) Part 63 Subpart ZZZZ). The Commission proposes to adopt the RICE NESHAP by reference into state rules so that all compliance deadlines will be according to federal timelines.

The U.S. Environmental Protection Agency (EPA) recently updated the RICE NESHAP. The revised RICE NESHAP generally provides regulatory relief and clarity from the previous requirements.

Upon adoption of the RICE NESHAP, the Department of Natural Resources (Department) rather than EPA will implement and enforce these regulations in Iowa. This allows the Department to provide compliance assistance and outreach to affected facilities as soon as possible.

In 2010, the Commission adopted an earlier version of the RICE NESHAP. In Executive Order (EO) 72, Governor Branstad subsequently rescinded adoption of the RICE NESHAP. EO 72 stated the RICE NESHAP was too costly for small utilities that maintain and operate rarely used emergency engines, and the RICE NESHAP requirements could increase electricity rates

for consumers.

In response to the concerns from Governor Branstad as expressed in EO 72 and concerns from other stakeholders, EPA agreed to reconsider the RICE NESHAP. Consequently, EPA made changes to the RICE NESHAP as published in the Federal Register on January 31, 2013 (available at <http://www.gpo.gov/fdsys/pkg/FR-2013-01-30/pdf/2013-01288.pdf>). The updated RICE NESHAP provides more circumstances for emergency engines and for engines that participate in electricity management programs to operate under non-emergency conditions. The Commission is now proposing to adopt the amendments to the RICE NESHAP.

If the Commission does not adopt the RICE NESHAP amendments, state rules will continue to be inconsistent with federal regulations and will potentially be more stringent than federal regulations. This inconsistency may cause regulatory uncertainty and confusion for affected facilities. Further, Iowa statute prohibits state air quality emission limitations or standards from being more stringent than federal air quality standards (Iowa Code section 455B.133(4)).

Item 1 amends the introductory paragraph of subrule 23.1(4) to reference paragraph 23.1(4)“cz” for adoption of the RICE NESHAP.

Item 2 amends paragraph 23.1(4)“cz” to remove the earlier adoption date for the RICE NESHAP and to adopt the January 31, 2013, version of the federal regulations.

Any person may make written suggestions or comments on the proposed rule on or before June 4, 2013. Written comments should be directed to Christine Paulson, Department of Natural Resources, Air Quality Bureau, 7900 Hickman Road, Suite 1, Windsor Heights, Iowa, 50324, fax (515) 242-5094, or by E-mail to christine.paulson@dnr.iowa.gov.

A public hearing will be held on Tuesday, June 4, 2013, at 10:00 a.m. in the conference rooms at the Department's Air Quality Bureau office located at 7900 Hickman Road, Windsor Heights, Iowa. All comments must be received no later than 4:30 p.m. on Tuesday, June 4, 2013.

Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact Christine Paulson at (515) 242-5154 , or by E-mail at christine.paulson@dnr.iowa.gov to advise of any specific needs.

Jobs Impact Statement

The following is a summary of the jobs impact statement. The complete jobs impact statement is available from the Department upon request.

After analysis and review, the Department has determined that jobs could be impacted. However, this proposed rule is only implementing federally mandated regulations. This rule making does not impose any unnecessary regulations on Iowa businesses not required by federal law. The Commission is proposing to adopt the federal RICE NESHAP by reference so the rule changes will be identical to federal requirements. Additionally, facilities are impacted by the federal standards regardless of whether the Commission adopts the standards into state administrative rules.

The Commission is minimizing the impact of the RICE NESHAP by waiting to adopt the standards until after EPA completed its reconsideration. EPA's final rule generally provides regulatory relief and clarity to the requirements that EPA initially mandated. In particular, the new RICE NESHAP will provide more flexibility and potential cost savings to affected industries.

According to EPA's regulatory impact analysis, the new standards for engines will have capital and annual costs, but these costs are substantially less than the costs EPA estimated for previous standards. Further, more facilities will have only work practice or recordkeeping requirements rather than costs associated with controlling emissions and monitoring emissions.

Facilities that cannot meet EPA's revised requirements for emergency engines must comply with the requirements for non-emergency engines. However, until May 3, 2014, facilities that operate their engines as part of a load management program may still operate their engines for up to 50 hours in a calendar year to provide electricity to the grid or as part of a financial arrangement with another entity (also known as "peak shaving"). Essentially, these facilities have an extra year after the RICE NESHAP compliance date to determine how to use these engines.

Some facilities have already replaced their engines or installed emissions control or are preparing to do so to ensure these engines can operate without any restrictions. Additionally, EPA may grant an extension of up to one year for a facility to install control equipment. Forty-three (43) facilities in Iowa have submitted formal requests for extensions to EPA Region 7. EPA indicated to the Department that it plans to issue formal responses soon to grant nearly all the requests.

This proposed rule is intended to implement Iowa Code section 455B.133 and U.S. Clean Air Act Title I Section 112 (CAA §112; 42 USC §7412).

The following amendments are proposed.

ITEM 1. Amend subrule **23.1(4)**, the introductory paragraph, as follows:

23.1(4) Emission standards for hazardous air pollutants for source categories. The federal standards for emissions of hazardous air pollutants for source categories, 40 Code of Federal Regulations Part 63 as amended or corrected through September 19, 2011, are adopted by reference, except those provisions which cannot be delegated to the states. The corresponding 40 CFR Part 63 subpart designation is in parentheses. An earlier date for adoption by reference may be included with the subpart designation in parentheses (except for paragraph 23.1(4)“cz,” which specifies a later date for adoption by reference). 40 CFR Part 63, Subpart B, incorporates the requirements of Clean Air Act Sections 112(g) and 112(j) and does not adopt standards for a specific affected facility. Test methods (Appendix A), sources defined for early reduction provisions (Appendix B), and determination of the fraction biodegraded (F_{bio}) in the biological treatment unit (Appendix C) of Part 63 also apply to the affected activities or facilities. For the purposes of this subrule, “hazardous air pollutant” has the same meaning found in 567—22.100(455B). For the purposes of this subrule, a “major source” means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants, unless a lesser quantity is established, or in the case of radionuclides, where different criteria are employed. For the purposes of this subrule, an “area source” means any stationary source of hazardous air pollutants that is not a “major source” as defined in this subrule. Paragraph 23.1(4)“a,” general provisions (Subpart A) of Part 63, shall apply to owners or operators who are subject to subsequent subparts of 40 CFR Part 63 (except when otherwise specified in a particular subpart or in a relevant standard) as adopted by reference below.

ITEM 2. Amend paragraph 23.1(4)“cz” as follows:

cz. Emission standards for stationary reciprocating internal combustion engines.

These standards apply to new and existing major sources and to new and existing area sources with stationary reciprocating internal combustion engines (RICE). ~~These standards also apply to new and reconstructed RICE located at area sources.~~ For purposes of these standards, stationary RICE means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not mobile. (Part 63, Subpart ZZZZ, as amended through ~~April 20, 2006~~ January 31, 2013)

Date

Chuck Gipp, Director

**Administrative Rules
JOBS IMPACT STATEMENT**

1. BACKGROUND INFORMATION

Agency:	Environmental Protection Commission/ Department of Natural Resources
IAC Citation:	567 IAC Chapter 23
Agency Contact:	Christine Paulson at (515) 242-5154
Statutory Authority:	Iowa Code section 455B.133 and United States Clean Air Act (CAA) Title I (CAA §112; 42 USC §7412), as codified in 40 Code of Federal Regulations Part 63.

Objective:	<p>The Department of Natural Resources (Department) proposes to adopt the federal air toxics standards for stationary engines commonly known as the RICE NESHAP. “RICE NESHAP” is the acronym for National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustions Engines (RICE) (40 Code of Federal Regulations (CFR) Part 63 Subpart ZZZZ). The Department proposes to adopt the RICE NESHAP by reference into state rules so that all compliance deadlines will be according to federal timelines.</p> <p>The U.S. Environmental Protection Agency (EPA) recently updated the RICE NESHAP. The revised RICE NESHAP generally provides regulatory relief and clarity from the previous requirements.</p> <p>Upon adoption of the RICE NESHAP, the Department rather than EPA will implement and enforce these regulations in Iowa. This allows the Department to provide compliance assistance and outreach to affected facilities as soon as possible.</p>
Summary:	<p>In 2010, the Environmental Protection Commission (Commission) adopted an earlier version of the RICE NESHAP. In Executive Order (EO) 72, Governor Branstad subsequently rescinded adoption of the RICE NESHAP. In EO 72, Governor Branstad declared that the RICE NESHAP standards “impose[d] unnecessary and crippling costs on small Iowa municipal utilities” and the RICE NESHAP standards “may make it cost prohibitive for some utilities to maintain and operate emergency engines, jeopardizing the security of the national power grid.” In EO 72, Governor Branstad indicated that EPA was reconsidering the RICE NESHAP rule, in light of widespread concerns received from many stakeholders, including the state of Iowa. Accordingly, Governor Branstad determined that it was in the best interests of Iowa to rescind the RICE NESHAP “because the federal RICE NESHAP standard for requirements for existing stationary diesel engines is likely to change.”</p>

	<p>EPA’s rule did change. EPA updated the RICE NESHAP to provide more circumstances for emergency engines and for engines that participate in electricity management programs to operate under non-emergency conditions. In response, Governor Branstad issued a press release on January 16, 2013, stating, “Recognizing this unnecessary onerous rule would raise costs on Iowa families, I signed Executive Order 72 to rescind the Iowa’s adoption of the rule. I am pleased to learn the Environmental Protection Agency has listened to my concerns over the rule and opted against requiring generators to be retrofitted with expensive components.” The press release also indicated, “Yesterday, the Governor’s Office was informed the EPA finalized changes to the RICE Rule which will help keep utility costs low for hard-working Iowa families. Specifically, the EPA updated the rule with a broader usage definition of emergency use, which will allow utility companies to use these important back-up engines during winter storms or power outages, without necessarily having to retrofit the engines with the expensive new components.” Consequently, the Department is now requesting approval to adopt the updated RICE NESHAP.</p> <p>If the Department does not adopt this proposed rule, state rules will continue to be inconsistent with federal regulations and will potentially be more stringent than federal regulations. This inconsistency may cause regulatory uncertainty and confusion for affected facilities. Further, Iowa statute prohibits state air quality emission limitations or standards from being more stringent than federal air quality standards (Iowa Code section 455B.133(4)).</p>
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2. JOB IMPACT ANALYSIS

<u> </u> Fill in this box if impact meets these criteria:
<u> </u> No Job Impact on private sector jobs and employment opportunities in the State.
<u> </u> Job Impact cannot be determined.

<u> </u> Fill in this box if impact meets either of these criteria:
<u> </u> X Positive Job Impact on private sector jobs and employment opportunities in the State.
<u> </u> X Negative Job Impact on private sector jobs and employment opportunities in the State.

<p><i>Description and quantification of the nature of the impact the proposed rule will have on private sector jobs and employment opportunities:</i></p> <p>After analysis and review, the Department has determined that jobs could be impacted. However, this proposed rule is only implementing federally mandated regulations. This rule making does not impose any unnecessary regulations on Iowa businesses not required by federal law. The</p>

Department is proposing to adopt the RICE NESHAP by reference so the rule changes will be identical to federal requirements. Additionally, facilities must comply with the federal standards regardless of whether the Department adopts the standards into state administrative rules.

Potential positive job impacts

The Department is minimizing the impact of the RICE NESHAP by waiting to adopt the federal standards until after EPA completed its reconsideration. EPA's final rule generally provides regulatory relief and clarity to the requirements that EPA initially mandated. In particular, the new RICE NESHAP potentially provides more flexibility and potential cost savings to affected industries.

Additional information (April 9, 2013)

NIMECA: A representative from NIMECA noted that some short-term jobs are being created in skilled construction, engine manufacturing, and consulting so that municipal utilities can retrofit or replace engines to meet the RICE NESHAP requirements. The Department estimates the increase in these short-term jobs likely occurred over the past 2-3 years and will likely continue until May 3, 2014.

Potential neutral or negative job impacts

According to EPA's regulatory impact analysis, the new standards for engines will have capital and annual costs, but these costs are substantially less than the costs EPA estimated for the previous standards. Further, more facilities will have only work practice or recordkeeping requirements rather than costs associated with controlling and monitoring emissions.

In 2010, the Department estimated the RICE NESHAP might affect 300-500 non-emergency engines in Iowa. Because of EPA's changes to the RICE NESHAP, more back-up engines at municipal utilities, electric cooperatives and other electricity generators potentially qualify as emergency engines, and owners/operators will not have to retrofit these back-up engines with emissions control equipment. These facilities will have new requirements, beginning January 1, 2015, to switch to using Ultra Low Sulfur Diesel (ULSD) fuel and to begin submitting annual reports. The jobs impacts of these new requirements should be minimal and will be significantly less than the impacts of installing and operating control equipment. Further, back-up engines for emergency use at facilities not under contract to provide electricity to the grid or to another entity continue to qualify as emergency engines. These engines have only work practice and recordkeeping requirements.

Facilities that cannot meet EPA's revised requirements for emergency engines must comply with the requirements for non-emergency engines. However, until May 3, 2014, facilities that operate their engines as part of a load management program may still operate their engines for up to 50 hours in a calendar year to provide electricity to the grid or as part of a financial arrangement with another entity (also known as "peak shaving"). Essentially, these facilities have an extra year after the RICE NESHAP compliance date to determine how to use these engines.

Some facilities have already replaced their engines or installed emissions control, or are preparing to do so, to ensure these engines can operate without any restrictions. Additionally, EPA may grant an extension of up to one year for a facility to install control equipment. Forty-

three (43) facilities in Iowa submitted formal requests for extensions to EPA Region 7. EPA indicated to the Department that it plans to issue formal responses soon to grant nearly all the requests.

Additional information on the number of facilities/engines potentially affected (April 9, 2013)

IAMU: In IAMU's letter of support to the Commission (dated April 9, 2013), IAMU states: "IAMU is a non-profit trade association...including 136 electric utilities. **Sixty seven [67] of the municipal electric utilities operate a total of 288 RICE/generators** with a total nameplate capacity of 560 megawatts (MW)." (numerical notation and emphasis added)

NIMECA: NIMECA indicated that 11 of NIMECA's 13 member-utilities have engines affected by the RICE NESHAP (37 engines total). NIMECA estimates 31 of the 37 engines will be retrofitted or replaced, and 6 engines may continue to operate as emergency engines. All 11 member-utilities with RICE-affected engines requested extensions from EPA. **Note:** Based on information received from EPA, the Department believes that EPA will grant all of these extensions.

Department: Based on IAMU's and NIMECA's additional information, the Department's confirms its original estimate that the RICE NESHAP may affect 300-500 non-emergency engines in Iowa. The RICE NESHAP potentially affects municipal utilities more than other facilities because municipal utilities are more likely to operate non-emergency engines. IAMU estimates that municipal electric utilities in Iowa operate 288 engines/generators. Based on NIMECA's information, the Department believes that at least some of the 288 engines at municipal utilities will be classified as emergency engines. If municipal utilities account for 225-250 non-emergency engines, other facilities (such as rural electrical cooperatives, investor-owned utilities, industrial facilities, university campuses, and government operations) would reasonably account for 75-150 non-emergency engines.

Estimated Costs to Retrofit or Replace Engines

The costs for retrofit controls on an existing, non-emergency diesel (CI) engine have not changed appreciably since the Department estimated costs in 2010. Because engine types and set-ups vary greatly from facility to facility, the costs of control, emissions testing, and ongoing operation and maintenance also vary greatly. Control costs will also differ from engine to engine depending on the horsepower rating of the engine. The Department's estimates for one-time capital costs to install control range from \$11,000-\$155,000. Again, fewer engines will incur these costs than previously thought because the revised RICE NESHAP provides more flexibility to operate these engines for emergency demand response and for interruptible power agreements.

Additional information (April 11, 2013)

The Department is clarifying that its earlier estimate for the cost of installing emissions controls is on a **per engine basis**. In general, the bigger the engine, the more it will cost to retrofit or replace the engine.

Additional Information Provided by Stakeholders (April 9-10, 2013)

IAMU: IAMU confirmed the accuracy of the Department's estimated range of the cost to install

control on a non-emergency engine. IAMU recently received information from municipal utilities with retrofitting bids ranging from \$17,500-\$150,000 per engine. IAMU also provided an explanation from the Resale Power Group of Iowa (RPGI) about the variation in costs to retrofit engines, as follows, "...there are several variables that make a difference in the cost of the project, [such as] vendor/contractor, engine age/type, physical facility, when the work was done, and how much work the utility was actually able to do itself."

NIMECA: NIMECA confirmed the accuracy of the Department's estimated range of the cost to install controls on a non-emergency engine. In fact, the NIMECA representative believes that bids to install control have actually decreased slightly over the last two years. NIMECA members recently received bids of \$35,000-\$100,000 (per engine) for retrofitting costs. Currently, NIMECA estimates that the income from capacity credits paid to NIMECA members will cover the costs to retrofit or replace non-emergency engines.

Categories of jobs and employment opportunities that are affected by the proposed rule:
Municipal utilities, institutional facilities, industrial plants and other businesses with stationary engines.

Number of jobs or potential job opportunities:
Cannot be determined at this time.

Regions of the state affected:
All regions of the state.

Additional costs to the employer per employee due to the proposed rule: (if not possible to determine, write "Not Possible to Determine.")
Not possible to determine.

3. COST-BENEFIT ANALYSIS

The Agency has taken steps to minimize the adverse impact on jobs and the development of new employment opportunities before proposing a rule. See the following Cost-Benefit Analysis:

No other less intrusive or expensive method exists for achieving the purpose of the proposed rule. Facilities must comply with RICE NESHAP regardless of whether the Commission adopts the standards. By adopting these standards, Iowa becomes the delegated authority and the Department can provide compliance assistance and outreach to affected facilities as soon as possible.

4. FISCAL IMPACT

Please see the Fiscal Impact Statement for an identification and description of costs the Department anticipates state agencies, local governments, the public, and the regulated entities, including regulated businesses and self-employed individuals, will incur from implementing and complying with the proposed rule.

Administrative Rule Fiscal Impact Statement

Date: April 3, 2013 (revised April 11, 2013)

Agency: Environmental Protection Commission/Department of Natural Resources

IAC Citation: 567 IAC subrule 23.1(4)

Agency Contact: Christine Paulson

Summary of the Rule:

The Department proposes to adopt by reference the federal air toxics standards for stationary engines commonly known as the RICE NESHAP. "RICE NESHAP" is the acronym for National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustions Engines (RICE) (40 Code of Federal Regulations (CFR) Part 63 Subpart ZZZZ). The Department proposes to adopt the RICE NESHAP by reference into state rules so that all compliance deadlines will be according to federal timelines.

The U.S. Environmental Protection Agency (EPA) recently updated the RICE NESHAP. The revised RICE NESHAP generally provides regulatory relief and clarity from the previous requirements.

Upon adoption of the RICE NESHAP, the Department rather than EPA will implement and enforce these regulations in Iowa. This allows the Department to provide compliance assistance and outreach to affected facilities as soon as possible.

Fill in this box if the impact meets these criteria:

- No Fiscal Impact to the State.
 Fiscal Impact of less than \$100,000 annually or \$500,000 over 5 years.
 Fiscal Impact cannot be determined.

Brief Explanation: The Department will use existing budget and resources to implement the proposed rule.

Assumptions:

Describe how estimates were derived:

Estimated Impact to the State by Fiscal Year

	<u>Year 1 (FY 2011)</u>	<u>Year 2 (FY 2012)</u>
Revenue by Each Source:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
Other (specify)	0\$	0\$
	<hr/>	<hr/>
	0\$	0\$
TOTAL REVENUE		
Expenditures:		
GENERAL FUND	0\$	0\$
FEDERAL FUNDS	0\$	0\$
Other (specify) Air Contaminant Fee		
	<hr/>	<hr/>
TOTAL EXPENDITURES		

NET IMPACT

This rule is required by State law or Federal mandate.

Please identify the state or federal law:

Iowa Code section 455B.133 and United States Clean Air Act (CAA) Title I (CAA §112; 42 USC §7412), as codified in 40 Code of Federal Regulations Part 63.

Funding has been provided for the rule change.

Please identify the amount provided and the funding source:

Funding has not been provided for the rule.

Please explain how the agency will pay for the rule change:

The Department will utilize existing resources at this time.

Fiscal impact to persons affected by the rule:

These rules will affect municipal utilities, industries, and other facilities with stationary engines.

According to EPA's regulatory impact analysis, the updated RICE NESHAP will have capital and annual costs, but these costs are substantially less than the costs EPA estimated for the previous standards. Further, more facilities will have only work practice or recordkeeping requirements rather than costs associated with controlling and monitoring emissions.

In 2010, the Department estimated that the RICE NESHAP might affect 300-500 non-emergency engines in Iowa. Because of EPA's changes to the RICE NESHAP, more back-up engines at municipal utilities, electric cooperatives and other electricity generators potentially qualify as "emergency engines," and owners/operators will not have to retrofit these back-up engines with emissions control equipment. These facilities will have new requirements, beginning January 1, 2015, to switch to using Ultra Low Sulfur Diesel (ULSD) fuel and to begin submitting annual reports. The costs of complying with these new requirements should be minimal and will be significantly less than the regulatory impacts of installing and operating emissions control equipment. Further, back-up engines for emergency use at facilities not under contract to provide electricity to the grid or to another entity continue to qualify as emergency engines. These engines have only work practice and recordkeeping requirements.

Facilities that cannot meet EPA's revised requirements for emergency engines must comply with the requirements for non-emergency engines. However, until May 3, 2014, facilities that operate their engines as part of a load management program may still operate their engines for up to 50 hours in a calendar year to provide electricity to the grid or as part of a financial arrangement with another entity (also known as "peak shaving"). Essentially, these facilities have an extra year after the RICE NESHAP compliance date to determine how to use these engines.

Some facilities have already replaced their engines or installed emissions control, or are preparing to do so, to ensure these engines can operate without any restrictions. Additionally, EPA may grant an extension of up to one year for a facility to install control equipment. Forty-three (43) facilities in Iowa have submitted formal requests for extensions to EPA Region 7. EPA indicated to the Department that it plans to issue formal responses soon to grant nearly all the requests.

Additional information on the number of facilities/engines potentially affected (April 9, 2013)

IAMU: In IAMU's letter of support to the Commission (dated April 9, 2013), IAMU states: "IAMU is a non-profit trade association...including 136 electric utilities. **Sixty seven [67] of the municipal electric utilities operate a total of 288 RICE/generators** with a total nameplate capacity of 560 megawatts (MW)." (numerical notation and emphasis added)

NIMECA: NIMECA indicated that 11 of NIMECA's 13 member-utilities have engines affected by the RICE NESHAP (37 engines total). NIMECA estimates 31 of the 37 engines will be retrofitted or replaced, and 6 engines may continue to operate as emergency engines. All 11 member-utilities with RICE-affected engines requested extensions from EPA. **Note:** Based on information received from EPA, the Department believes that EPA will grant all of these extensions.

Fiscal impact to persons affected by the rule (continued from previous page):

Department: Based on IAMU's and NIMECA's additional information, the Department's confirms its original estimate that the RICE NESHAP may affect 300-500 non-emergency engines in Iowa. The RICE NESHAP potentially affects municipal utilities more than other facilities because municipal utilities are more likely to operate non-emergency engines. IAMU estimates that municipal electric utilities in Iowa operate 288 engines/generators. Based on NIMECA's information, the Department believes that at least some of the 288 engines at municipal utilities will be classified as emergency engines. If municipal utilities account for 225-250 non-emergency engines, other facilities (such as rural electrical cooperatives, investor-owned utilities, industrial facilities, university campuses, and government operations) would reasonably account for 75-150 non-emergency engines.

Estimated Costs to Retrofit or Replace Engines

The costs for retrofit controls on an existing, non-emergency diesel (CI) engine have not changed appreciably since the Department estimated costs in 2010. Because engine types and set-ups vary greatly from facility to facility, the costs of control, emissions testing, and ongoing operation and maintenance also vary greatly. Control costs will also differ from engine to engine depending on the horsepower rating of the engine. The Department's estimates for one-time capital costs to install control range from \$11,000-\$155,000. Again, fewer engines will incur these costs than previously thought because the revised RICE NESHAP provides more flexibility to operate these engines for emergency demand response and for interruptible power agreements.

Additional information (April 9, 2013)

The Department is clarifying that its earlier estimate for the cost of installing emissions controls is on a **per engine basis**. In general, the bigger the engine, the more it will cost to retrofit or replace the engine.

Additional Information Provided by Stakeholders (April 9-10, 2013)

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NIMECA: NIMECA confirmed the accuracy of the Department's estimated range of the cost to install controls on a non-emergency engine. In fact, the NIMECA representative believes that bids to install control have actually decreased slightly over the last two years. NIMECA members recently received bids of \$35,000-\$100,000 (per engine) for retrofitting costs. Currently, NIMECA estimates that the income from capacity credits paid to NIMECA members will cover the costs to retrofit or replace non-emergency engines.

Fiscal impact to Counties or other Local Governments (required by Iowa Code 25B.6):

The fiscal impact to municipally owned utilities, counties or other local government entities with stationary engines would be the same as described above.