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U.S. Environmental Protection Agency
EPA Docket Center
Mailcode 2922IT
Attn: Docket ID No. EPA-HQ-OAR-2021-0668
1200 Pennsylvania Avenue, NW
Washington, DC 20460

June 21, 2022

Re: Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard, 87 Fed. Reg. 20,036 (Apr. 6, 2022)

Dear Docket Clerk,

GPA Midstream Association ("GPA Midstream") appreciates the opportunity to provide these comments to the U.S. Environmental Protection Agency ("EPA") in response to its proposal to issue a Federal Implementation Plan governing ozone-related emissions from 26 states. 87 Fed. Reg. 20,036 (April 6, 2022) ("Proposed Rule").

GPA Midstream has served the U.S. energy industry since 1921 and has over 60 corporate members that directly employ more than 60,000 employees that are engaged in a wide variety of services that move vital energy products such as natural gas, natural gas liquids ("NGLs"), refined products, and crude oil from production areas to markets across the United States, commonly referred to as "midstream activities." The work of our members indirectly creates or impacts an additional 320,000 jobs across the U.S. economy. GPA Midstream members recover more than 80% of the NGLs such as ethane, propane, butane, and natural gasoline produced in the United States from more than 380 natural gas processing facilities. In the 2018-2020 period, GPA Midstream members spent over $90 billion in capital improvements to serve the country's needs for reliable and affordable energy.

Summary

GPA Midstream believes that, with respect to reciprocal internal combustion engines ("Stationary Engines") used in the Pipeline Transportation of Natural Gas sector, EPA should not finalize the Proposed Rule. A review of the Proposed Rule's preamble and the reference materials in the rulemaking docket indicates that EPA seriously understates the number of Stationary Engines that would be subject to regulation. This calls into question EPA's assumptions regarding the amount of nitrogen oxide ("NO_X") emissions that would be achieved by the Proposed Rule, the necessity of imposing low emission limitations, and compliance costs. A more accurate estimate of the number of Stationary Engines is needed before EPA can finalize the Proposed Rule.

Importantly, the Proposed Rule includes significant changes in EPA's prior approach to the regulation of Stationary Engines when compared to prior Cross State Air Pollution Rule ("CSAPR") regulations. This includes changes to both the annual NO_X emission threshold for evaluating non-electric generating unit ("non-EGU") sources and the marginal cost threshold for assessing pollution controls. The Proposed Rule does not provide a sufficient explanation as to why EPA is significantly deviating from its prior practices.

Further, as explained in more detail below, the Proposed Rule relies on a cost threshold for non-EGU pollution controls justified by an assessment that does not appear to be in the docket, or at least cannot be identified after a reasonable effort. In fact, the Proposed Rule frequently fails to clearly present key information, opting instead to generally refer the reader to the 200 or so supporting documents in the rulemaking docket. Requiring the reader to roam through a docket full of technical papers and spreadsheets significantly hinders the public's ability to comment on the Proposed Rulemaking. Thus, EPA has either failed to provide the public with access to necessary information to support the Proposed Rule, or it lacks that information necessary to support the Proposed Rule.

Other issues that EPA should address include the need to exempt emergency engines from the Proposed Rule, the need for additional time to install new pollution controls, and a re-assessment of the proposed compliance requirements.

I. The Proposed Rule's Estimate of Emission Reductions from Stationary Engines is Based on Incorrect Assumptions

The Proposed Rule incorrectly assumes that Stationary Engines rated at 1,000 horsepower or more will emit 100 tons per year of NO_X or more. EPA then compounds the problem by making the horsepower rating – not the emissions potential – the threshold for regulation. As a result, EPA will not only be regulating sources emitting less than 100 tons per year, but it dramatically underestimates the number of Stationary Engines that would be subject to the Proposed Rule. This means that the Proposed Rule likely underestimates the total NO_X emissions that could be achieved and certainly underestimates the midstream sector's compliance costs. Further, with more Stationary Engines subject to a finalized rule than EPA anticipated, it should reconsider the proposed NO_X emission limits as EPA can reduce those emission limits to some degree while still obtaining an equivalent cumulative emissions reduction.

A. The Proposed Rule Errs in Both Its Emission Assumptions and in Estimating the Number of Stationary Engines that Would Actually be Subject to Regulation

The Proposed Rule states that it is only evaluating non-EGU emission sources that emit 100 tons per year, either without any controls or "sources that could be better controlled at a reasonable cost." 87 Fed. Reg. 20,083. Instead of making the regulatory threshold 100 tons per year, however, the Proposed Rule opted to regulate all Stationary Engines with a maximum rated capacity of 1,000 horsepower or greater because "[b]ased on our review of the potential emissions from stationary SI engines, we find that use of a maximum rated capacity of 1,000 hp reasonably approximates the selection of 100 tpy used within the non-EGU screening assessment." *Id.* at 20,142. This conclusion is contrary to the experience of our members, many of which use hundreds of Stationary Engines with a capacity of 1,000 horsepower or more but very few of those Stationary

Engines have NO_X emissions of 100 tons per year or more. Indeed, a 1,000 horsepower engine would have to emit 10 grams of NO_X per hour (at 8,760 hours per year) to reach 100 tons of NO_X per year. Although such an emission rate may be possible on very old Stationary Engines, as explained in more detail below, New Source Performance Standards for Stationary Engines establish much lower emission limits for manufacturers. *See* Section V, *infra* (discussing Subpart JJJJ regulations). EPA should explain the basis of its "review" and identify the materials used in its support.

Further, the Proposed Rule never clearly states the number of Stationary Engines EPA believes would be subject to the proposed NO_X emission limit. This is a significant aspect of the Proposed Rule given that EPA must estimate both the aggregate compliance costs and the aggregate emission reductions that would purportedly result from the Proposed Rule. Instead, EPA provides a lengthy and opaque description of the number of Stationary Engines affected, which are purportedly derived from EPA's emissions inventories. *See*, *e.g.*, 87 Fed. Reg. at 20,063 ("data from various sources including data developed using models, methods, and source datasets that became available in calendar years 2020 and 2021"); *id.* ("developed through a national collaborative effort"); *id.* at 20,064 ("future year non-EGU point inventories were grown from 2016 to the future years using factors based on the AEO 2021 except for limited cases where errors were identified with the AEO 2021 data in which case data from AEO 2020 were used."). This means that commenters are forced to root through the docket materials to find basic information that should be provided in the Proposed Rule's preamble.

Based on material in the docket, it appears that the Proposed Rule significantly underestimates the number of stationary engines that would be subject to the proposed NO_X emissions limit based on a 1,000 horsepower threshold. The Excel spreadsheet attached to the document, Non-EGU Applicability Requirements versus Results from Non-EGU Screening Assessment for 2026, titled "Transport Proposal – Screening Assessment Non-EGU Facility and Emissions Unit Lists – 03-18-2022," EPA-HQ-OAR-2021-0668-0191, only identifies 218 "Pipeline Transportation of Natural Gas" sources. GPA Midstream believes that more than 10,000 Stationary Engines will be subject to the Proposed Rule as many of its members operate several hundred Stationary Engines each, with some operating over 1,000 such sources. EPA should issue a supplemental proposed rule that clearly states the number of Stationary Engines it believes would be subject to the Proposed Rule and the basis for that estimate.

B. The Proposed Rule Failed to Discuss Stationary Engines Used in Natural Gas Distribution Gathering and Boosting Operations

Correspondence with EPA personnel stated that EPA intended the Proposed Rule to also include Stationary Engines used for gathering and boosting operations under NAICS Code 221210 but inadvertently omitted those Stationary Engines from the Proposed Rule. *See*, *e.g.*, 87 Fed. Reg. at 20,049, Table III.A-1 (listing regulated industry groups by NAICS Code). The correspondence admitted the error and asked that the industry correspondent provide comments as to whether including gathering and boosting engines was appropriate. EPA has not provided any supplemental proposed rule acknowledging its proposal to include this additional category of Stationary Engines.

GPA Midstream cannot find any indication that gathering and boosting Stationary Engines were considered in any of the docket materials, such as the various technical support documents

or those evaluating pollution controls. Further, just as with Stationary Engines under NAICS Code 4862 (Pipeline Transportation of Natural Gas), there is no indication that EPA has accurately estimated the number of gathering and boosting Stationary Engines for the purpose of evaluating compliance costs or emissions reductions. Nor has EPA provided a rationale for including gathering and boosting Stationary Engines in the Proposed Rule. Based on the Proposed Rule and supporting information in the rulemaking docket, it appears that EPA does not know what, or how many, Stationary Engines it is proposing to regulate. If EPA intends to include gathering and boosting Stationary Engines in a final rule, it would do so without providing key information to the public, a supporting rationale, or an opportunity for comment.

EPA should issue a supplemental proposed rule where it clearly explains the number of Stationary Engines that it believes would be subject to the Proposed Rule, the basis for that number, and re-calculated compliance costs and emissions reduction estimates based on that number. Otherwise, the absence of this basic information renders the Proposed Rule, as currently written, defective with respect to the requirement that every "notice of proposed rulemaking" must include 'either the terms or substance of the proposed rule or a description of the subjects and issues involved'" so that commenters may have fair notice of the agency's proposed regulation. *Long Island Care at Home, Ltd. v. Coke*, 551 U.S. 158, 176 (2007).

C. EPA Should Re-evaluate Potential Emissions Reductions Under Step Three

As explained in the Proposed Rule, Step Three of the four-step process involves an analysis of "potential emission reductions from non-EGU sources located in the linked upwind states." 87 Fed. Reg. at 20,043. As it appears that EPA dramatically underestimated the number of Stationary Engines that would be subject to the Proposed Rule, EPA's Step Three air quality modeling, emission assumptions, and NO_X emission reduction strategies require re-evaluation. Underestimating the number of Stationary Engines subject to the proposed NO_X emission limitation would mean that EPA underestimated emission reductions from Stationary Engines, upwind state emissions as a whole, and total compliance costs. This would not only result in an unnecessary over-control of emissions, but would impose new and excessive compliance costs on the midstream industry without any justification under the Clean Air Act. EPA must adopt an accurate estimate of the number of Stationary Engines that may be subject to the Proposed Rule and re-evaluate the potential Stationary Engine emission reductions using this accurate number.

As the number of Stationary Engines are higher than what EPA assumed, a more modest per unit emissions limit from these sources could still achieve significant downwind emission reductions. Or EPA could explore alternatives such as exempting Stationary Engines already subject to New Source Performance Standards. This would instead regulate older, higher-polluting Stationary Engines that are already approaching the end of their service lives.

II. The Proposed Rule Does not Explain the Significant Deviations from Prior CSAPR Regulation Methodologies

The Proposed Rule significantly deviates from EPA's prior methodologies for both selecting which non-EGU sources to regulate and the marginal cost thresholds for identifying meaningful and cost effective NO_X emission reductions.

In the 2016 CSAPR Update Rule, EPA excluded non-EGU sources, stating that its "analysis shows that there is uncertainty regarding whether or not meaningful, cost-effective non-EGU emission reductions are achievable for the 2017 ozone season." 81 Fed. Reg. 74,504, 74,508 (Oct. 26, 2016). In its 2021 Revised CSAPR Update Rule, EPA again declined to regulate non-EGU sources, finding that "there are relatively fewer emission reductions available at a cost threshold comparable to the cost threshold selected for EGUs." 86 Fed. Reg. 23,054, 23,059 (Apr. 30, 2021). The Proposed Rule, however, issued less than a year later and using the same supporting data and analytical tools, reaches the opposite conclusion but without an adequate explanation. EPA does not explain why it now believes that non-EGUs should be regulated, or that emission reductions are cost effective. The Proposed Rule, however, contains two significant methodological differences when compared to the 2021 Revised CSAPR Update Rule: (1) EPA is including non-EGU sources with NO_X emissions of 100 tons per year, and (2) EPA has significantly increased its cost effectiveness threshold.

In the 2021 Revised CSAPR Update Rule, "EPA assessed potential emission reductions associated with applying controls to emissions units with 150 tons per year (tpy) or more of pre-control NO_X emissions in 2023, which is an emissions threshold that represents a comparable unit size to 25 MW for EGUs used in prior interstate transport rulemakings." 86 Fed. Reg. at 23,098. EPA has always pursued a relative parity between EGUs and non-EGU sources in the CSAPR regulations, meaning that they have traditionally considered only larger non-EGU sources. The Proposed Rule, however, reduces this threshold to <u>100</u> tons per year without explanation. *See* 87 Fed. Reg. at 20,083, n. 163 ("In the non-EGU emission reduction assessment prepared for the Revised Cross State Air Pollution Rule Update … The [sic] EPA reviewed emissions units with >150 tpy of NO_X emissions. In this assessment, EPA broadened the scope to include emissions units with greater than or equal to 100 tpy of NO_X emissions."). Although the Proposed Rule acknowledged the reduced threshold it provided no explanation for it. Nor did it explain why it selected 100 tons per year as a lower threshold, unlike in the 2021 Revised CSAPR Update Rule and prior CSAPR rules where non-EGU sources were pegged to a 25 megawatt EGU.

The 2021 Revised CSAPR Update Rule also used a marginal cost threshold of $2,000 per ton of NO_X reduced for non-EGUs as that figure was comparable to the $1,800 per ton cost effectiveness threshold used for EGUs. 86 Fed. Reg. at 23,103-104. The Proposed Rule, however, dramatically increased the marginal cost threshold to <u>$7,500</u> per ton – a 350% increase.[1] The Proposed Rule never acknowledges the much lower $2,000 per ton threshold that EPA used less than a year prior, much less provides an explanation for the change. Instead, the Proposed Rule offered only that EPA arrived at this much larger threshold "based on information available to the Agency about existing control device efficiency and cost information." 87 Fed. Reg. at 20,043; *see also* Section III, *infra*. This change in the marginal cost threshold is extremely important as under the prior $2,000 per ton threshold, none of the emission controls selected for Stationary Engines would be cost effective. *See* 87 Fed. Reg. at 20,091, Table VI.C.2-3. The Proposed Rule

[1] Even this understates the true increase in the marginal cost threshold. The Proposed Rule presents estimated control costs in 2016 dollars, disregarding the current high inflation environment. According to the Bureau of Labor Statistics, $7,500 in 2016 dollars is equivalent to $9,063 in April 2022. This means that the Proposed Rule increased the marginal cost threshold by <u>450%</u> in 2022 dollars. EPA should provide a more accurate account of emission control costs using present day dollar values.

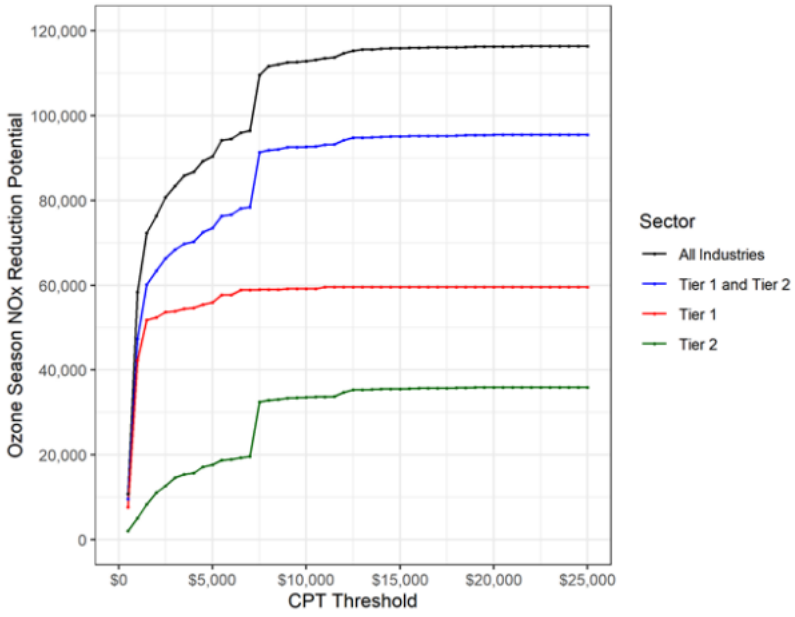
cannot be finalized until EPA provides a clear explanation for its significant changes in methodology from just one year ago.

III. The $7,500 Per Ton Non-EGU Marginal Cost Threshold is not Supported by the Record

The Proposed Rule adopts a $7,500 per ton marginal cost threshold for assessing potential control strategies, estimated emissions reductions, and air quality improvements. 87 Fed. Reg. 20,083. This is a key metric as the Proposed Rule uses this threshold as an effective cut-off for Tier 1 industry emission control requirements, including those in the pipeline transportation of natural gas industry. *Id.* The Proposed Rule states that this cost threshold is based on the "Non-EGU Screening Assessment memorandum, which is available in the docket for this proposed rulemaking," *id.*, which illustrates a "notable 'knee in the curve' breakpoint" in EPA's plotted cost data justifying the unprecedentedly high $7,500 marginal cost threshold. *Id.* at 20,095. EPA provided no other discernible explanation.

The Proposed Rule provides no explanation of what EPA means by a "knee in the curve" of its cost threshold chart. There is no indication of why such a "knee" would be significant or how it relates to the cost per ton of emission reduction. To the extent that the Proposed Rule meant that $7,500 per ton is the optimum cost threshold because there is a visible inflection point in the cost-benefit curve, this is not supported by the record. For Tier 1 point sources, which includes Stationary Engines, the Screening Memorandum's Figure 1 shows no evident "knee in the curve" at, or around, $7,500 per ton.

Figure 1. Ozone Season NOx Reductions and Costs per Ton (CPT) for Tier 1, Tier 2 Industries, and Other Industries



EPA, Screening Assessment of Potential Emissions Reductions, Air Quality Impacts, and Costs from Non-EGU Emissions Units for 2026 at 4, Figure 1 (Feb. 28, 2022). Instead, any such "knee" clearly occurs well before $2,500 per ton, which is consistent with EPA's determination for the

2021 Revised CSAPR Update Rule using the same Control Strategy Tool. When combined with Tier 2 industries there is a second breakpoint evident in the data at around $7,500 per ton (with the first breakpoint occurring, again, well short of $2,500 per ton). This still leaves three significant questions unanswered by the Proposed Rulemaking: (1) What is the justification for establishing a marginal cost threshold for Tier 1 industries by combining them with Tier 2 industry emission control costs instead of using the costs for Tier 1 alone?[2] (2) Even if using the combined Tier 1 and Tier 2 data, why did EPA disregard the first "knee in the curve" occurring somewhere before $2,500 per ton and use the second "knee" at or around $7,500 per ton? (3) Why does the Proposed Rule select a much higher marginal cost threshold than in the 2021 Revised CSAPR Update Rule despite using the same data and the same analytical tools? Without providing an explanation to these questions, the Tier 1 industry marginal cost threshold lacks a rational basis and is unsupported by the record.

IV. The Proposed Emission Limitations are not Achievable for Existing Four-Stroke Lean Burn Engines and Two-Stroke Lean Burn Engines

Older four-stroke and two-stroke lean burn engines will not be able to achieve the proposed NO_X emission limit. Conversion kits are available for several models that can reduce emissions, however, such kits are not made for all models, especially older Stationary Engines. Where conversion kits are not available, a company would likely have no choice but to replace the older four-stroke or two-stroke Stationary Engines entirely – usually at a cost of $2 million to $4 million each. EPA has not accounted for these replacement costs.

For four-stroke lean burn engines, EPA states that achieving a 1.5 g/hp-hr NO_X emission limit is possible by using selective catalytic reduction ("SCR"). 87 Fed. Reg. at 20,143. This is not a practical option as most Stationary Engines used in the midstream sector are located at unmanned facilities. This raises two significant problems.

First, GPA Midstream believes that storing the ammonia needed for an SCR system at an unmanned facility raises significant safety concerns. The industry already struggles with trespassers and equipment theft. GPA Midstream believes it would be highly irresponsible to effectively require midstream companies to store a hazardous chemical at unmanned facilities in primarily rural areas.

Second, the reliable operation of an SCR system requires monitoring ammonia storage, control, metering, injection rates, and leak detection systems. Where issues arise, such as ammonia slip or nozzle clogs, these need to be detected and corrected immediately. This makes SCR operation impractical at an unmanned facility. EPA should reconsider an alternate means of emission reduction for four-stroke lean burn engines or calculate the significant additional cost of having to maintain a team of SCR system operators at each Stationary Engine site. When accounting for the cost of full-time staff to man each facility, combined with the SCR system's operation (which may require providing electricity to non-electrified sites – another cost that EPA may not have accounted for), GPA Midstream is skeptical that SCR is cost-effective even at $7,500 per ton given that the Proposed Rule would only reduce emissions from 2.0 g/ hp-hr (the current

[2] This decision is particularly unusual because Tier 1 and Tier 2 industries are subjected to different contribution thresholds. EPA must explain why those industries are treated differently for contribution thresholds but then treated interchangeably for establishing emission control marginal cost threshold.

NSPS emission limit) to 1.5 g/hp-hr. EPA should provide a more detailed analysis demonstrating that SCR is cost-effective for four-stroke lean burn engines.

V. EPA Should Exempt Stationary Engines Subject to New Source Performance Standards

The Proposed Rule should clearly state that Stationary Engines already regulated under the applicable New Source Performance Standards ("NSPS") are exempt from the Federal Implementation Plan. The NSPS already limits Stationary Engines manufactured after July 2010 to emissions of 1.0 grams of NO_X per horsepower-hour, which are lower than the proposed NO_X emission limits at Table 1.B-2 of the Proposed Rule. *See* 40 C.F.R., Part 60, Subpart JJJJ, Table 1 (lean burn engines).[3]

The Proposed Rule states that NSPS regulations for Stationary Engines "are reflected for select source categories," 87 Fed. Reg. 20,065, however, EPA does not explain what that means. For other non-EGU emission sources, the Proposed Rule explicitly considers existing NSPS emission limits and proposes to impose more stringent limits. *See* 87 Fed. Reg. at 20,085 (municipal waste combustors); *id.* at 20,143 (Portland cement plants); *id.* at 20,146 (glass and glass product manufacturing). The Proposed Rule does not discuss the NSPS emission limitations for Stationary Engines or otherwise describe how they were considered. Should EPA decline to exempt those Stationary Engines already regulated under Subpart JJJJ, it should then explain how it considered those existing emission limitations.

VI. EPA Should Exempt Emergency Engines

Emergency Stationary Engines should also be exempt from the Federal Implementation Plan. EPA has traditionally exempted emergency engines or set more lenient emission standards. *See*, *e.g.*, 40 C.F.R. § 60.4202 (lower Subpart IIII standards for emergency use stationary compression ignition internal combustion engines); 40 C.F.R. § 60.4243(d) (exemptions for emergency stationary spark ignition internal combustion engines operated 100 hours per year or less); 40 C.F.R. § 63.6585 (emergency engine exemption under Subpart ZZZZ).[4] This is because EPA has typically found that the use of add-on emission controls cannot be justified "due to the cost of the technology relative to the emission reduction that would be obtained." 70 Fed. Reg. 39,870, 39,874 (July 11, 2005) (Standards of Performance for Stationary Compression Ignition Internal Combustion Engines) (proposed rule). Neither the Proposed Rule nor the major supporting documents in the rulemaking docket (such as the various technical support documents) provide any consideration of whether the same proposed NO_X emission limitations are appropriate for emergency uses. This is a significant omission as EPA has previously stated that the agency's policy is to maintain consistent regulations for emergency engines across Clean Air Act programs. *See* 76 Fed. Reg. 37,964, 37,962 (June 28, 2011) (explaining amendments to New Source

[3] Rich burn engines are subject to a nitrogen oxide plus hydrocarbon emission standard ("$HC+NO_X$") on a gram per kilowatt-hour ("g/kW-hr") basis. *See* 40 C.F.R. § 60. 4231(c) (rich burn engines subject to Tier 1 and Tier 2 standards found in 40 C.F.R. § 1048.101, ranging from 2.7 g/kW-hr to 4.0 g/kW-hr for HC+NOx). These standards are not immediately comparable to the NO_X-only, gram per horsepower-hour standard used in the Proposed Rule.

[4] Such exemptions are common under State regulation as well. *See*, *e.g.*, 20.2.50.113(B)(10) NMAC (emergency use engine operated less than 100 hours per year is not subject to New Mexico emission standards); 5 CCR 1001-9.I.C.3 (emergency engine exemption under Colorado law).

Performance Standards for emergency engines in order "to be consistent with the provisions promulgated in the NESHAP for existing stationary RICE at 40 CFR part 63, subpart ZZZZ" and citing previous regulatory amendments undertaken to maintain consistency).

The Proposed Rule, without any explanation, not only appears to break with EPA's policy of consistency in regulation but abandons its long-held rationale that add-on emission controls are not cost effective for emergency engines, given their infrequent use and resulting low emission contributions. EPA should issue a supplemental proposed rule where it provides a clear exemption for emergency engines or, if EPA determines that they should not be exempt, it should provide a rationale for that decision.

VII. Industry Needs More Time to Install Stationary Engine Controls

Installing new emission controls on thousands of engines cannot be reasonably accomplished by 2026. Midstream companies must maintain pipeline operations pursuant to private contracts and Federal Energy Regulatory Commission obligations. They cannot simply shut down operations for several weeks in order to rebuild or replace their Stationary Engines or install additional emission controls.

Even if a turn-around style shutdown of operations was possible, logistical difficulties would severely limit the ability to install the needed emission controls. If the Proposed Rule is finalized, it would create an unprecedented demand for engine parts and emission controls as the midstream industry would be required to replace, rebuild, and install emission controls for thousands of Stationary Engines at the same time. Current domestic manufacturing capacity could not possibly meet this demand. Parts and equipment from foreign manufactures are still facing significant supply chain delays. *See*, *e.g.*, U.S. Dep't of Transp., Transportation Supply Chain Indicators (data compiled by the President's Supply Chain Disruptions Task Force still show significant delays in obtaining foreign goods).[5]

Further, the Stationary Engines would require permit modifications, including the potential need to obtain a New Source Review ("NSR") permit. *See* 87 Fed. Reg. at 20,140, n. 308 (acknowledging possibility of Stationary Engines requiring NSR permitting for the installation of SCR or SNCR emission controls). Obtaining an initial NSR permit (as opposed to amending an existing permit) can take well over a year and the process often leads to protracted litigation. Even without considering the potential need to obtain an NSR permit, State permitting agencies will face a flood of applications to amend Title V and other permits, not only from the Proposed Rule, but other EPA rulemakings. *See*, *e.g.*, 86 Fed. Reg. 63,110 (Nov. 15, 2021) (New Source Performance Standards for Crude Oil and Natural Gas Facilities); 87 Fed. Reg. 19,042 (Apr. 1, 2022) (proposal to remove the Title V emergency affirmative defense provision from State operating permit programs). This flurry of permit amendments will be especially hard on States with thousands of oil and gas sources, such as Louisiana, Oklahoma, Texas, Pennsylvania, and West Virginia. Yet, the Proposed Rule never considers this inevitable state permitting backlog in establishing 2026 as the compliance deadline.

[5] *Available at*, https://www.transportation.gov/briefing-room/transportation-supply-chain-indicators.

EPA previously recognized such logistical difficulties in its 2021 CSAPR Update Rule. *See* 86 Fed. Reg. at 23,099 ("EPA does not have detailed information on the time needed to install all of the control technologies" for Stationary Engines as "installation timing estimates would need to reflect the time needed to install controls across a potentially large number of sources, the time needed to have appropriate NO_X monitoring installed … and other steps in the permitting, construction and procurement process."). GPA Midstream urges EPA to delay the proposed compliance deadline by at least one additional year to allow additional time for midstream companies to obtain and install parts and to obtain amended permits from state agencies. As an alternative, EPA could deem regulated industry to be in compliance once any permit application is submitted with the appropriate agency. This would avoid industry from being deemed to be non-compliant simply because state permitting agencies have not processed permit applications in accordance with EPA's deadline.

VIII. The Proposed Rule's Compliance Requirements are Unsupported by the Record and Inconsistent with Similar Regulations

The Proposed Rule would impose significant new compliance requirements on the owners and operators of Stationary Engines without any basis in the administrative record. For instance, the Proposed Rule would require performance testing every six months and the monitoring and recording of various operating parameters, such as fuel consumption, air-to-fuel ratio, inlet temperature, and pressure drop across any catalyst used. 87 Fed. Reg. at 20,143. These compliance requirements are expensive, burdensome, and unnecessary. The Proposed Rule and supporting materials in the rulemaking docket, however, provide no explanation as to why EPA is proposing these particular compliance requirements.

Not only do these proposed compliance requirements appear to be arbitrarily selected, but they are inconsistent with existing requirements under the New Source Performance Standard Subpart JJJJ regulations, 40 C.F.R. § 40.4230, *et seq.*, and the National Emission Standards for Hazardous Air Pollutants Subpart ZZZZ regulations. 40 C.F.R. § 63.6580, *et seq.* Under the existing Subpart JJJJ regulations, owners and operators of Stationary Engines that are not being operated and maintained in accordance with the manufacturer's certification must utilize a maintenance plan, keep maintenance records, operate the engine in a manner consistent with good air pollution practices, and undertake performance testing once every 8,760 hours or three years. 40 C.F.R. § 60.4243(a)(2)(iii). The Subpart ZZZZ regulations are similar. *See id.* § 63.6605(b) (record keeping requirements), Subpart ZZZZ, Table 3 (requirements for existing non-emergency Stationary Engines not located at major sources). The Proposed Rule, however, does not acknowledge these existing compliance requirements, much less explain why EPA believes that significantly more stringent compliance requirements are now necessary. Although EPA may change its policy on what is necessary to demonstrate compliance, it must identify the factual findings justifying that change and provide a satisfactory explanation in support. *See*, *e.g.*, *Mingo Logan Coal Co. v. EPA*, 829 F.3d 710, 718-19 (D.C. Cir. 2016). Here, the Proposed Rule failed to identify any facts or explanation demonstrating that new and more onerous compliance requirements are needed.

The Proposed Rule also requests comment on whether "it is feasible or appropriate" to require Stationary Engine owners and operators to install and operate a continuous emission monitoring system ("CEMS") instead of conducting semi-annual performance testing. 87 Fed.

Reg. at 20,143. GPA Midstream does not believe that *either* CEMS or semi-annual performance testing are appropriate due to their high costs and limited benefits. EPA has traditionally agreed with that view as most Stationary Engines are not currently required to install or operate CEMS. *See* 40 C.F.R., Part 60, Subpart JJJJ, Table 3 (no requirement to comply with CEMS monitoring under 40 C.F.R. § 60.13); *id.* § 63.6625(a) (operator may elect to install CEMS). And, as with the new compliance requirements proposed, EPA never explains why it should change its position to require CEMS. The Proposed Rule does not address the costs or benefits of CEMS, or why using CEMS would provide a significant advantage over current compliance monitoring requirements. EPA must explain the bases for adopting new regulations. *See*, *e.g.*, 5 U.S.C. § 553(b) (proposed rules must include legal authorities and an explanation of the substance of the proposed rule). An agency may not simply solicit comments on various options that may be "feasible or appropriate" and then adopt new regulations based on whatever justifications the comments may offer. Instead, if EPA is considering the installation and operation of CEMS, it should issue a supplemental proposed rule that provides an adequate explanation for changing existing requirements.

IX. Stationary Engine Controls Cannot be Operated Only During Ozone Season

The emission controls identified in the Proposed Rule cannot be operated only during ozone season. *See* 87 Fed. Reg. at 20,097 ("We request comment on whether controls on … reciprocating IC engines are likely to be run all year (*e.g.*, 8,760 hours/year) or only during the ozone season."). All of the potential emission controls identified involve permanent alterations to the Stationary Engine. For instance, "layered combustion controls" – which EPA favors for two stroke and four stroke lean burn engines, 87 Fed. Reg. at 20,142 – involves significant modification to engine operations. Nitrogen oxide formation is driven largely by air to fuel ratios with the highest levels generated under somewhat lean conditions.[6] A stoichiometric air to fuel ratio minimizes nitrogen oxide formation while avoiding excess carbon monoxide and hydrocarbon emissions. EPA, Control of Nitrogen Oxide Emissions, Student Manual (Sept. 2000) at 9-3 to 9-4. Although some electronic controllers can improve air to fuel ratio in fuel injected engines,[7] ensuring proper combustion while meeting performance requirements is a matter of proper design and operation (*e.g.*, proper spark timing and compression ratio). *Id*. at 9-5 to 9-8. Proper combustion design is best implemented by the manufacturer, not through add-on controls or engine rebuilds by the operator. *Id.* This combustion design would, of course, be maintained permanently, not just during ozone season.

The Proposed Rule favors the installation of Non-Selective Catalytic Reduction for four-stroke rich burn engines, 87 Fed. Reg. at 20,142, and SCR for four-stroke lean burn engines. *Id.* at 20,143. Once installed, these systems cannot be practically uninstalled or go unused after ozone season ends.

[6] Two and four stroke lean burn engines, as their design indicates, are air-rich. However, they typically operate under conditions much leaner than stoichiometric. *See*, Att. 1, Colo. Dep't of Public Health and Env't – Air Pollution Control Div., Reasonable Progress Evaluation for Reciprocating Internal Combustion Engine (RICE) Source Category at 2. Thus, enriching combustion would involve introducing more fuel, increasing combustion temperatures, and increasing carbon monoxide and hydrocarbon emissions.

[7] Retro-fitting older lean burn engines without fuel injectors would require effectively rebuilding the combustion chamber.

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GPA Midstream appreciates the opportunity to submit these comments in response to EPA's request for comments and is standing by to answer any questions that it may have.

Respectfully submitted,

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