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MEMORANDUM

TO: Regional Directors; Director, Air Permits; Director, Air Compliance; Director, Data Analysis and Planning; Director, Enforcement; Air Permit Managers; Air Compliance Managers

CC: Richard F. Weeks, Chief Deputy
James J. Golden, Deputy Director of Operations

FROM: Michael G. Dowd, Director, Air Division MGD
Jefferson Reynolds, Director, Enforcement Division

SUBJECT: APG-575: Revised Interim Guidance for Portable IC Engines and Revised Article 6

DATE: January 2, 2014 (Revision 2.0)
May 28, 2013 (Revision 1.0)
December 7, 2012 (Original)

Purpose:

The following policy provides interim guidance to air permitting and compliance staff concerning the requirements of revised Article 6 (9 VAC 5-80-1100 et seq.) as they relate to portable internal combustion (IC) engines. Recognizing that revised Article 6, which became effective November 7, 2012, may subject a potentially large number of portable IC engines to minor NSR permitting and other requirements that heretofore had not been subject to such requirements, and that DEQ has initiated a fast-track regulatory process to reverse the particular Article 6 revision at issue, this Guidance allows a phase-in period for owners and operators of those engines to adjust to Article 6's new requirements in an orderly manner while also providing the time necessary to complete the regulatory remedy. As of the date of this guidance, it is anticipated that the fast-track regulatory process will be complete prior to July 1, 2014.

Background:

With the revised Article 6 regulations, the definition of "nonroad engine" has been changed at 9 VAC 5-80-1110. As a result of this change, some previous nonroad engines are now considered "portable" engines and are now subject to permitting requirements.

Applicability:

This guidance is effective as of November 7, 2012 (revised May 28, 2013 and January 2, 2014).

Implementation:

1. Owners and operators of portable IC engines subject to permitting requirements under revised Article 6 must submit an application by July 1, 2014, for an authorization of a form to be determined by DEQ (e.g. individual permit, general permit, etc.) if the regulatory remedy is not complete by that time. DEQ will attempt to assess the universe of affected portable IC engines and the time and resources necessary to process applications. DEQ will take the results of that assessment into account when making its decision regarding the appropriate form of authorization required for affected portable IC engines.

2. Until July 1, 2014, owners and operators of portable IC engines subject to permitting or other requirements under revised Article 6 may operate those engines in the manner they had before the effective date of revised Article 6 and will not be considered out of compliance for failing to receive a permit or otherwise comply with Article 6. Such owners or operators need not reflect portable IC engines in any reporting requirements, including any reporting or certification under Title V.

3. Owners and operators of portable IC engines subject to permitting or other requirements under revised Article 6 who do not submit an application for those engines by July 1, 2014, at that time could become subject to DEQ compliance and enforcement action for failing to receive a permit if the regulatory remedy is not complete by that time.

4. Owners and operators of portable IC engines subject to permitting or other requirements under revised Article 6 who submit an application for those engines by July 1, 2014, may continue to operate engines covered by that application in the manner they had before the effective date of revised Article 6 and will not be considered out of compliance pending DEQ's issuance of the authorization. Once the authorization is issued, an owner or operator must operate the portable IC engine in accordance with the authorization.

5. For the purpose of Article 6 applicability determination, each portable IC engine will be evaluated as separate stationary sources unless the owner requests otherwise. When a portable IC engine is moved to a different facility and does not currently possess a minor NSR permit for a portable source, the uncontrolled emissions rate of the portable IC engine is compared to the thresholds under 9 VAC 5-80-1105 C to determine if the owner is required to obtain DEQ authorization prior to the move.

6. The amendments to the definition of "nonroad engine" only apply to evaluations and requirements of the Article 6 regulations. The amendments do not change how non-road engines are treated under other permit regulations including Article 8, Prevention of Significant Deterioration (PSD) regulations (9 VAC 5-80-1605 et seq.), Article 9, Nonattainment New Source Review (9 VAC 5-80-2000 et seq.), Article 3 (9 VAC 5-80-360 et seq.), or Article 1, Title V regulations (9 VAC 5-80-50 et seq.). These programs will continue to use the federal definition of "nonroad engine" which currently includes certain portable engines based upon criteria found in applicable federal regulations (e.g. at 40 CFR 89.2, 40 CFR 90.3, 40 CFR 1068.30, etc.). As such, portable IC engines meeting the definition of "nonroad" in applicable federal regulations are not considered

when determining applicability, are not included in emissions unit tables, and are not addressed in permit conditions when processing actions under Articles 1, 2, 3, 8, or 9. In addition, any Article 6-based conditions for portable IC engines qualifying as nonroad under applicable federal regulations are not "applicable requirements" for the purpose of Articles 1 or 2 and are not included in such permits.

Questions or comments on this guidance should be directed to the Office of Air Permit Programs.