DEPARTMENT OF THE ENVIRONMENT
AIR AND RADIATION ADMINISTRATION

RESPONSE TO COMMENTS

for the

PUBLIC HEARING held on August 8, 2017
in BALTIMORE, MD

related to Proposed Amendments to COMAR 26.11.02 – Permits, Approvals, and Registration, and COMAR 26.11.36 – Distributed Generation

Purpose of Hearing: The purpose of the public hearing was to give the public an opportunity to comment on the Maryland Department of the Environment's (the Department or MDE) proposed amendments to Regulations **.01** and **.10** under **COMAR 26.11.02 Permits, Approvals, and Registration**; Amendments to Regulations **.01**, **.02**, and **.04**, repeal existing Regulation **.03**, and adopt new Regulation **.03** under **COMAR 26.11.36 Distributed Generation**.

Date and Location: The public hearing was held on August 8, 2017 at the Department of the Environment, 1800 Washington Boulevard, 1st Floor Conference Room, Baltimore, Maryland 21230.

Attendance: Tim Henderson (Rich and Henderson, P.C.) and Mike Kendall (Alban Engines)

Hearing Officer: Carolyn Jones, Senior Engineer, Regulations Development Division, Air and Radiation Administration, served as Hearing Officer.

Statement: The Department's statement was read by Kathleen Wehnes, Regulatory Engineer within the Regulations Development Division of the Air and Radiation Administration.

Comments and Responses: Comments were received from Blue Sky Environmental, Don C. DiCristofaro, and EnerNOC, Steve Doremus.

A summary of the comments received and the Department's responses are below.

COMMENT: Both commenter's state that MDE's proposed regulation amendments will directly align Maryland requirements with those of the EPA, in particular 40 CFR 63 Subpart ZZZZ, 40 CFR 60 Subpart IIII, and 40 CFR 60 Subpart JJJJ, as applicable. The alignment of MDE regulations with EPA regulations and the simplification of MDE regulations is strongly endorsed.
"MDE's proposed changes also include the following footnote to each of these EPA engine citations:
　　　*In May, 2015, the United States Court of Appeals for the District of Columbia Circuit vacated paragraphs 40 CFR 60.4211(f)(2)(ii)-(iii), 60.4243(d)(2)(ii)-(iii), and 60.6604(f)(2)(ii)-(iii). Therefore, engines [subject] to this chapter do not need to comply

with those provisions.
In the event EPA addresses the Court's concerns and these provisions, or modified provisions, are added back, MDE should consider language in the footnote that allows for this possibility."

RESPONSE： The Department agrees that the main purpose of this action was to align MDE requirements for emergency generators and load shaving units (engines) with federal requirements.

The Department will continue to monitor the EPA's actions in relationship to stationary engines. In the event that EPA amends 40 CFR 63 Subpart ZZZZ, 40 CFR 60 Subpart IIII, and 40 CFR 60 Subpart JJJJ, the Department will evaluate these amendments and make changes to the affected chapters in COMAR, as warranted.

COMMENT: Both commenter's state "Currently MDE excludes certain stationary engines from acquiring a "Permit to Construct & Registration Application" under COMAR 26.11.02 – Permits, Approvals and Registration. Emergency stationary engines with an output less than 500 hp and non-emergency stationary engines that serve as a primary source of power for agricultural equipment or industrial equipment, with an output less than 500 hp, are exempt from getting a permit to construct. Under the proposed MDE engine regulations, engines operating in the ELRP will no longer be considered emergency engines so all engines less than 500 hp that are currently operating in the ELRP will need to obtain a MDE air permit for continued operation in the ELRP."

RESPONSE： The Department has not introduced any new or revised permit conditions. The Department simply amended the current regulations to clarify the existing permit process for engines less than 500 hp. If the commenter's, or other members of the public, have any questions regarding permitting, they can contact the Department at anytime for permit assistance.