UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OCT 31 2012

THE ADMINISTRATOR

The Honorable Christopher Christie
Governor
State of New Jersey
The State House
P.O. Box 001
Trenton, NJ 08625

Re: October 2012 Diesel Fuel Waiver Concerning the State of New Jersey

Dear Governor Christie:

I have received a request for a waiver under the Clean Air Act (CAA) made on your behalf to allow the use of high sulfur heating oil in mobile nonroad generators or pumps used for emergency purposes. As you know, regulations promulgated under the CAA require the use of Ultra Low Sulfur Diesel (ULSD) fuel meeting 15 parts per million (ppm) sulfur specifications in mobile nonroad diesel engines. The widespread power outages and flooding caused by Hurricane Sandy have resulted in a shortage of ULSD fuel in certain areas of New Jersey.

The United States Environmental Protection Agency (EPA), in consultation with the Department of Energy (DOE), has evaluated the impact of fuel supplies as the result of disruptions to the fuel distribution system. Based on this evaluation, the EPA has determined, and DOE concurs, that it is necessary to take the following action to minimize or prevent disruption of the supply of diesel in New Jersey.

I have determined that an "extreme and unusual fuel supply circumstance" exists that will prevent the distribution of an adequate supply of ULSD fuel for use in mobile nonroad generators and pumps used for emergency purposes in New Jersey. CAA § 211(c)(4)(C)(ii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(I). This extreme and unusual fuel circumstance is the result of Hurricane Sandy, a natural disaster that could not reasonably have been foreseen or prevented, and is not attributable to a lack of prudent planning on the part of suppliers of the fuel to these areas. CAA § 211(c)(4)(C)(ii)(II), 42 U.S.C. § 7545(c)(4)(C)(ii)(II). Furthermore, I have determined that it is in the public interest to grant this waiver and that this waiver applies to the smallest geographic area necessary to address the fuel supply circumstances. CAA § 211(c)(4)(C)(ii)(III) and (iii)(I), 42 U.S.C. § 7545(c)(4)(C)(ii)(III) and (iii)(I).

Therefore, to minimize or prevent disruptions with the supply of ULSD fuel for mobile nonroad generators and pumps used for emergency purposes, I am today issuing this limited waiver of the diesel sulfur standards. Under this waiver, the EPA will allow parties in New Jersey to sell, distribute and use diesel fuel that exceeds the 15 ppm standard set forth at 40 C.F.R. § 80.510(c)(1) under the following limited conditions:

1. The non-ULSD fuel is used in a model year 2010 or older mobile nonroad diesel generator or pump, or any model year mobile nonroad diesel generator or pump above 750 horsepower, that is being used for emergency purposes.

2. ULSD fuel is not reasonably available for use in the mobile nonroad diesel generator or pump.

3. The non-ULSD fuel is not used in any model year mobile nonroad diesel generator or pump that has been retrofitted with diesel particulate filter technology.

4. The non-ULSD fuel used under this waiver remains segregated from ULSD fuel until the ULSD fuel is used in the mobile nonroad generator or pump.

WARNING: USE OF DIESEL FUEL EXCEEDING THE 15 PPM SULFUR STANDARD IN ANY ENGINE EQUIPPED WITH A DIESEL PARTICULATE FILTER MAY CAUSE SERIOUS DAMAGE TO THE ENGINE AND ITS EMISSSIONS CONTROL COMPONENTS.

This waiver is effective immediately and will continue through November 13, 2012. Any non-ULSD fuel authorized under this waiver and remaining in a mobile nonroad generator or pump after November 13, 2012, may continue to be used until the fuel has been consumed.

The EPA will continue to work with the DOE and affected states to monitor the impact of Hurricane Sandy on the fuel supply situation. Should conditions warrant, this waiver may be modified, terminated or extended, as appropriate.

If you have questions you may call me, or your staff may call Phillip Brooks at (202) 564-0652.

Sincerely,

Lisa P. Jackson

cc: The Honorable Steven Chu
Secretary of Energy

All best wishes, Governor.