UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 Broadway
New York, NY 10007-1866

February 14, 2006

Mr. William O'Sullivan, Director
Division of Air Quality
New Jersey Department of
Environmental Protection
PO Box 423
401 East State Street, 3rd floor
Trenton, NJ 08625-0423

Dear Mr. O'Sullivan:

This is in response to your December 13, 2005 e-mail and February 6, 2006 follow-up e-mail inquiry to me regarding a discussion that you saw in Pages 23-25 of the proposed New Source Performance Standards (NSPS) for Stationary Compression Ignition Internal Combustion Engines (ICE). More specifically, you mentioned that in the proposed rule in the evaluation of "best demonstrated technology" for the emergency generators, EPA took into account no hour limits on actual emergency use and that EPA only took into account hours the manufacturer recommended for test firing the units, i.e., 30 hours in this case. You specifically mentioned an EPA statement in the proposed NSPS which says "[t]here is no time limit on the use of emergency stationary ICE in emergency situations." You also mentioned that this approach is consistent with what New Jersey recently did with the NOx RACT rule, i.e., removing the 500 hour/year total use limitation and replacing it with restrictions on the use of the equipment to maintenance and testing recommended by the manufacturer (to be specified in individual permits).

You stated that consistent with the New Jersey NOx RACT Rule and the proposed NSPS, New Jersey intends to specify that the potential to emit (PTE) for emergency generators be the emissions associated with non-emergency use, i.e., the 30 hours in this particular NSPS case (but up to 100 hours in some other cases). According to your proposal, actual emergency use would not count against PTE. You reasoned that otherwise we would be restricting the actual use of emergency generators which is not what New Jersey or EPA intends. New Jersey wanted a confirmation that this approach is appropriate.

We raised this issue with our Office Air Quality Planning and Standards (OAQPS) and Office of Enforcement and Compliance Assurance (OECA). The consensus is that for the purposes of determining PTE in the New Source Review (NSR) and the Title V programs, EPA has no policy that specifically requires exclusion of "emergency" (or malfunction) emissions. Rather,

to determine PTE, a source must estimate its emissions based on the worst-case scenario taking into account startups, shutdowns and malfunctions. The EPA statement that you quote above from the proposed NSPS is for the purposes of determining the actual cost of a control technology for NSPS purposes. As you know, the intended effect of the proposed NSPS standard is to require all new, modified, and reconstructed stationary CI ICE to use the best demonstrated system of continuous emission reduction, considering costs, non-air quality health, and environmental and energy impacts. So in determining the actual cost of the control technology being proposed, EPA took into account no hour limits on actual emergency use of the equipment. In determining PTE, there is no actual cost consideration factored into it. So the EPA statement would not be appropriate in that case.

Consequently, it is EPA's opinion that for the purposes of the NSR and the Title V programs, New Jersey should continue as they have and permit emergency units at some amount of operation sufficiently large to cover emergencies (i.e., 500 hours a year). Malfunctions that may require the operation of the emergency units and that may exceed the 500 hours/year limit could be handled through enforcement discretion on a case-by-case basis, as appropriate.

If you have any questions, please contact me at (212) 637-4074.

Sincerely,

/s/

Steven C. Riva, Chief
Permitting Section
Air Programs Branch

bcc: J. Siegel, 2ORC-AIR
F. Jon, 2APB-PS
R. Ruvo, 2APB-SIP
S. Riva, 2APB-PS
APB File