



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

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Michael W. Kendall, R.S.
Senior Air Program Manager, Group Leader
Air Services Group
URS Corporation
13825 Sunrise Valley Drive, Suite 250
Herndon, Virginia 20171-3426

Re: Regulatory Interpretation in Response to URS Applicability Determination Request of New Source Performance Standards for Stationary Compression Ignition Internal Combustion Engines at 40 CFR Part 60, Subpart IIII

Dear Mr. Kendall:

This letter is in response to your request for a determination of the requirements of the New Source Performance Standards (NSPS) for Stationary Compression Ignition (CI) Internal Combustion Engines, which are codified at 40 CFR Part 60, Subpart IIII. Your request was received by the United States Environmental Protection Agency (EPA) on August 21, 2012. Specifically, you requested a determination as to whether a 3,000 kW engine, manufactured after January 1, 2011 and certified to the Tier 2 emission standards, can be used for non-emergency purposes if it is equipped with selective catalytic reduction and a diesel particulate filter to reduce emissions to levels equivalent to the Tier 4 interim emission standards. The EPA is confirming that the Subpart IIII regulations require that 3,000 KW engines manufactured after January 1, 2011 and certified to the Tier 2 standards may only be used for emergency purposes.

The Subpart IIII regulations set forth the following:

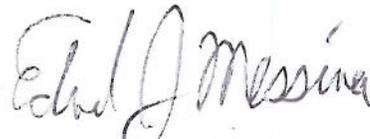
- §60.4204(b) states that 2011 model year 3,000 kW stationary non-emergency CI engines with a displacement less than 10 liters per cylinder must meet the Tier 4 standards in 40 CFR Part 1039, Subpart B.
- §60.4205(b) states that the emission standards that apply to owners and operators of 2011 model year 3,000 kW stationary emergency CI engines with a displacement less than 10 liters per cylinder are the Tier 2 standards in Table 1 of 40 CFR §89.112.
- §60.4211(c) states that owners and operators of 2007 model year and later stationary CI engines subject to the emission standards in §60.4204(b) and §60.4205(b) must comply by purchasing an engine certified to the applicable emission standard.

For a 2011 model year 3000 kW non-emergency CI engine with a displacement less than 10 liters per cylinder, the applicable emission standards are the Tier 4 standards in 40 CFR Part 1039, Subpart B, not the Tier 2 standards in Table 1 of 40 CFR §89.112. Therefore, the 3,000 KW engines manufactured after January 1, 2011 and certified to the Tier 2 standards may only be used for emergency purposes.

In your letter you assert that a number of states, including North Carolina and Virginia, continue to issue permits for non-emergency engines that are not Tier 4 interim certified, but are meeting the Tier 4 interim (and some Tier 4 Final) emission requirements. Please provide specific details concerning these inconsistencies that would assist us in addressing your concerns. You also stated that there is inconsistency in rule implementation, as evident by North Carolina's adoption of Subpart III into their state regulations without a similar state regulation in Virginia. It is important to note that states may issue their own air quality regulations, provided that they are at least as stringent as Federal rules. States cannot weaken Federal regulations, and they cannot waive the EPA certification requirement for stationary engines subject to Subpart III.

EPA regards this response as a regulatory interpretation. As such, this response is not a site-specific applicability determination and is not considered a final Agency action. Feel free to contact John DuPree at (202) 564-5950, if you would like to provide site-specific information in support of a request for a formal EPA applicability determination.

Sincerely,

A handwritten signature in cursive script that reads "Edward J. Messina".

Edward J. Messina, Director
Monitoring, Assistance, and Media Programs Division
Office of Compliance

bcc: Greg Fried, AED
Julius Banks, MAMPD
Michael Horowitz, OGC
Melanie King, OAQPS
Zelma Maldonado, Region 3
Beverly Banister, Region 4