



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

NOV - 2 2012

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Bob Martin, Commissioner
New Jersey Department of Environmental Protection
401 E. State Street
7th Floor, East Wing
P.O. Box 402
Trenton, NJ 08625-0402

Joseph Martens, Commissioner
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-1010

RE: No Action Assurance for the Use of Vapor Recovery Systems Related to Hurricane Sandy

Dear Sirs:

This letter is in response to the need for a No Action Assurance (NAA) relating to loading and unloading of fuel at bulk gasoline and marine loading terminals and associated truck loading racks in the States of New York and New Jersey. Due to operational issues resulting from Hurricane Sandy, including the loss of power, damage to vapor recovery devices at fuel loading and unloading terminals, and/or the need to utilize fuel loading/unloading facilities that are not equipped with vapor recovery/combustion devices, an NAA is needed to allow the loading and unloading of fuel without the use of a vapor recovery device or vapor combustion device as required by the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Air Pollutants (NESHAP). See 40 C.F.R. Part 60, Subpart XX and 40 C.F.R. Part 63, Subparts R, Y, and BBBBBB. The need for this request is to address severe fuel shortages that have resulted from damage caused by Hurricane Sandy to the fuel distribution systems in New York and New Jersey.

In light of the emergency in New York and New Jersey, and subject to the conditions discussed below, the EPA will exercise its discretion not to pursue enforcement for violations of the vapor recovery requirements for fuel loading and unloading under 40 C.F.R. Part 60 Subpart XX and Part 63 Subparts R, Y, and BBBBBB under the conditions set forth below. These regulations apply only to Bulk Gasoline Terminals, Pipeline Breakout Stations and Marine Tank Vessel Loading Operations as those terms are defined in the regulations cited above. This NAA is in effect commencing November 2, 2012, and terminates November 17, 2012 at 11:59 PM EST. The EPA reserves the right to revoke or modify the NAA if the EPA believes that such action is necessary to protect public health and the environment. This NAA does not apply to any other federal requirements that may apply to regulated activities at these facilities other than those listed above.

Nothing in this exercise of enforcement discretion relieves any person of the obligation under law, if any, to report emissions from the operation of equipment covered by this action. Pursuant to this NAA, the EPA will not enforce violations of the NSPS and NESHAP applicable to these facilities in New York and New Jersey, subject to the following conditions:

1. The Owner/Operator notifies the EPA prior to initiation of loading and unloading activities using this NAA (phone or email);
2. Vapor Recovery or combustion devices are used to the greatest extent practicable when available and operable;
3. Owners/Operators continue to make best efforts to repair/replace the vapor recovery systems, in an expeditious manner or switch operations to facilities with operational vapor recovery/combustion devices as soon as practicable;
4. Owners/Operators exercise good air pollution control practices as required by any and all applicable standards;
5. Owners/Operators minimize, to the greatest extent practicable, loading operations near residential areas when vapor recovery/combustion devices are not in operation;
6. Owners/Operators comply with all conditions imposed by State or local authorities on these emergency operations;
7. Along with the notice required under paragraph 2 above, Owners/Operators must provide the EPA with their best estimate of the projected hourly and daily VOC emissions rates from operation without vapor recovery/combustion devices; and
8. Owners/Operators must keep records that demonstrate the daily volume of fuel loaded and unloaded without the use of vapor recovery/combustion devices.

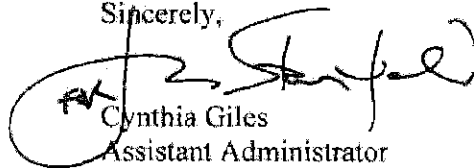
Only those terminal operations with damaged or inoperable vapor recovery/combustion devices, or that are not equipped with otherwise required vapor recovery/combustion devices, may take action in accordance with the terms of this NAA, and only to the extent needed until the expiration of this NAA or at such time as vapor recovery/combustion controls are operable or available, whichever comes first. The EPA reserves the right to amend or revoke this NAA at any time.

The notifications identified above should be sent via email to brooks.phillip@epa.gov and chapman.apple@epa.gov.

The issuance of an NAA for this period of time is in the public interest. Through today's NAA, the EPA is continuing its commitment to address the very difficult circumstances caused by Hurricane Sandy. Nothing in this NAA is intended to over-ride State or local authorities.

If you have any questions or if facilities in your State need additional time to repair or replace the vapor recovery systems, please call Phillip Brooks (202) 564-0652 or John Fogarty (202)564-8865 of my staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia Giles". The signature is written over a circular stamp that contains the initials "AK".

AK
Cynthia Giles
Assistant Administrator

cc: Dore LaPosta, Director, Division of Enforcement and Compliance Assistance EPA Region 2