

Memorandum in Strong Opposition of S.5061-A (Perkins) / A.7424 (Rosenthal)

June 01, 2010

S.5061-A (Perkins) / A.7424 (Rosenthal) - AN ACT to amend the environmental conservation law, in relation to restricting the operation of diesel powered electrical generation systems in areas identified as not meeting certain federal air quality standards for ozone

The Independent Power Producers of New York, Inc. (IPPNY) is a trade association representing companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. IPPNY represents almost 75 percent of the electric generating capacity in New York.

IPPNY strongly opposes the passage of S.5061-A / A.7424. Enactment and implementation of this proposal would lead to problems with electric system reliability, especially in the areas of New York City and Long Island. These bills prohibit the generation of electricity for public or private use by means of diesel combustion generation facilities in areas designated as being in non-attainment of the National Ambient Air Quality Standard for ozone. The bills only allow diesel combustion facilities that (1) have a generating capacity of less than 100 kilowatts; (2) emit no more than 0.03 pounds of particulate matter per megawatt hour and no more than 0.03 pounds of nitrogen oxides (NOx) per megawatt hour; (3) are used solely as an emergency back-up system during a power outage; or (4) use cogeneration technology to utilize the waste heat.

New York's existing power plants are powered by a variety of fuels, including hydro, nuclear, wind, waste, coal, natural gas, oil, and biomass. This diversity of fuels helps to protect consumers from dramatic price variations resulting from an overdependence on one fuel and increases the electric system's reliability. However, these bills hinder the operation of facilities that are powered by oil, such as natural gas facilities that use oil as a back-up fuel in cases where the use of natural gas is not possible or appropriate.

In addition, the bills would not allow companies to run diesel-powered units for testing purposes. IPPNY has supplied an amendment to the sponsors of the legislation to allow a diesel combustion facility still to be operated in a testing mode, in order to ensure equipment readiness for use during a power outage; however, our recommended change still has not been incorporated into the bills.

Furthermore, New York State power producers already are reducing NOx emissions. The New York State Department of Environmental Conservation (DEC) has approved its Clean Air Interstate Rule, Best Available Retrofit Technology (BART) Determinations Rule, and Reasonably Available Control Technology for the Control of Nitrogen Oxides (NOx RACT) Rule. The DEC also has a policy on fine particulate matter (PM 2.5).

For the reasons stated above, IPPNY opposes S.5061-A / A.7424.