

EXECUTIVE ORDERS

Executive Order No. 113.104: Temporary Suspension of Provisions Relating to Out-of-State Law Enforcement Officers Serving as Railroad Police Officers.

WHEREAS, on September 11, 2001, I issued Executive Order Number 113 declaring a disaster emergency in the State of New York;

WHEREAS, the attacks of September 11, 2001 have demonstrated that there are terrorist at home abroad that seek to do us harm;

WHEREAS, no State has done more than New York since September 11, 2001 to ensure the safety and security of the people within its borders and its critical infrastructure;

WHEREAS, we must be vigilant in our efforts to protect against terrorist attacks;

WHEREAS, the States of Connecticut and New Jersey have agreed to deploy police officers from their states to provide increased security on commuter trains going to and from New York State;

WHEREAS, to fully utilize the police resources provided by our sister states, we must confer police officer powers on such officers while they are within the geographic jurisdiction of New York State;

WHEREAS, Railroad Law § 88 authorizes the Superintendent of State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations;

WHEREAS, such circumstances and limitations should not be applied to sworn police officers from our sister states serving as railroad police officers and would prevent, hinder and delay action necessary to cope with the aftermath of the September 11, 2001 attacks and the heightened risk of terrorist attacks; and

WHEREAS, Executive Law § 29-a authorizes the suspension, alteration and modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency;

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York, do hereby continue Executive Order Number 113, dated September 11, 2001, except that such Executive Order is amended by adding the following provisions:

FURTHER, pursuant to the authority vested in me by Section 29-a of Article 2-B of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from the date of this Executive Order until further notice, the following laws for purposes of appointment of sworn police officers of the State of Connecticut or sworn police officers of any county or municipality in the State of Connecticut, or sworn police officers of the State of New Jersey or sworn police officers of any county or municipality in the State of New Jersey as Railroad Police:

Subdivision 1 of Section 88 of the Railroad Law, is suspended insofar as it requires the Superintendent of the New York State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, and is modified to the extent necessary to include all rail facilities owned or operated by the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State;

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15 and 16 of Section 88 of the Railroad Law; and

Subdivision 17 of Section 88 of the Railroad Law, insofar as it relates to the filing requirements by the Superintendent of the New York State Police and the mailing of notice of suspension or revocation of appointments made pursuant to Section 88 of the Railroad Law and is modified so as to require the Superintendent of the New York State Police to mail notice of suspension or revocation of any such appointments to the Superintendent of the State Police of either New Jersey or Connecticut, whichever is appropriate.

(L.S.)

GIVEN under my hand and the Privy Seal of the State in the City of Albany, this sixth day of September in the year two thousand five.

BY THE GOVERNOR

/S/ George E. Pataki

/s/ John C. Cahill

Secretary to the Governor

Executive Order No. 142: Directing State Agencies and Authorities to Diversify Transportation Fuel and Heating Oil Supplies through the use of Bio-Fuels in State Vehicles and Buildings.

WHEREAS, New York State agencies and authorities annually consume over 48 million gallons of diesel fuel and 55 million gallons of heating oil;

WHEREAS, less than 1% of the nation's proven oil reserves and less than 0.03% of the world's proven oil reserves are located in New York;

WHEREAS, New York imports the vast majority of its transportation and heating fuels via extended supply chains that have proven capable of interruption;

WHEREAS, the price of crude oil on worldwide markets has experienced dramatic price fluctuations in recent months;

WHEREAS, New York's security and economy are threatened by an over-reliance upon imported transportation and heating fuels;

WHEREAS, over 5% — or 400 million gallons — of New York's gasoline requirements are already met through the use of ethanol;

WHEREAS, approximately 150 million gallons of annual ethanol production capacity are currently planned or under construction in New York State;

WHEREAS, the diesel fuel supply in New York remains exclusively dependent upon imported petroleum products;

WHEREAS, methyl ester, common referred to as bio-diesel, can be produced from New York State agricultural products, such as soybeans and other crops, and can be utilized in standard diesel engines without modification; and

WHEREAS, use of renewable fuels in New York would increase demand for agricultural products grown in the State, improve revenue for the State's farmers, provide investment and employment opportunities from the production and distribution of bio-fuels, reduce emissions from diesel engines, increase diversity of fuel supplies, and decrease reliance on foreign sources of energy.

NOW, THEREFORE, I, GEORGE E. PATAKI, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and Laws of the State of New York do hereby order as follows:

I. Definitions

A. "State Agency" shall mean any agency or department over which the Governor has Executive authority.

B. "Public authority" shall mean any public authority, the head of which is appointed by the Governor, or the majority of the board members are appointed by the Governor.

C. "B100" shall mean bio-diesel in its pure form.

D. "B20" shall mean a mixture of 20% bio-diesel and 80% petroleum fuel.

E. "B5" shall mean a mixture of 5% bio-diesel and 95% petroleum fuel.

F. "E100" shall mean ethanol in its pure form.

G. "E10" shall mean a mixture of 10% ethanol and 90% petroleum fuel.

H. "E85" shall mean a mixture of 85% ethanol and 15% petroleum fuel.

II. Diversification of State Agency and Public Authority Transportation Fuels

A. Ethanol

New York State currently has four E85 Ethanol fueling stations and additional E85 fueling stations are planned for future installation. Currently, the vast majority of the gasoline powered vehicles in the New York State fleet do not utilize central fueling stations, but instead rely upon private sector gasoline stations. However, all of the gasoline sold in the New York City metropolitan non-attainment area is already 10% ethanol, a significant component of the State's light-duty fleet is already using blended ethanol as fuel.

Therefore, to the extent that gasoline powered State agency vehicles do utilize central fueling stations, all agencies and authorities shall ensure that vehicles capable of operating on E85 ethanol fuel shall do so whenever it is feasible to do so. The Governor's Clean Vehicle Council, chaired by the Commissioner of the Office of General Services and comprised of the fleet managers of State agencies and public authorities, shall prepare a plan outlining steps that can be taken to ensure that, to the greatest extent possible, all flexible-fueled vehicles in the State fleet than can utilize ethanol fuels will do so, and identify and implement measures to provide for such refueling.

B. Bio-diesel

The Governor's Clean Vehicle Council shall prepare a report detailing how such agencies and authorities shall purchase, allocate, distribute and utilize bio-diesel in State agency and public authority fleets. State agencies and public authorities shall purchase, allocate, distribute and utilize bio-diesel in accordance with the aforementioned report, and as specified in the table below. The percentage of diesel shall be a blended equivalent which results in an overall consumption of B100 as set forth below.

Calendar Year	B100 Percentage
2007	2.0%
2008	5.0%
2009	6.0%
2010	7.0%
2011	8.0%
2012	10.0%

III. Substitution of Biodiesel Usage for Alternative Fueled Vehicle Requirements of Executive Order No. 111

Paragraph V of Executive Order No. 111, issued on June 10, 2001, requires that:

"State Agencies and other affected entities shall procure increasing percentages of alternative-fueled vehicles, including hybrid-electric vehicles, as part of their annual vehicle acquisition plans. By 2005, at least 50% of new light duty vehicles acquired by each agency and each affected entity shall be alternative-fueled vehicles, and by 2010, 100 percent of all new light-duty vehicles shall be alternatively-fueled vehicles, with the exception of specialty, police or emergency vehicles as designated by DOB. State agencies and other affected entities that operate medium- and heavy-duty vehicles shall implement strategies to reduce petroleum consumption and emissions by using alternative fuels and improving vehicle fleet fuel efficiency."

In complying with the requirements of Paragraph V of Executive Order No. 111, State agencies and other affected entities may substitute the use of 450 gallons of B100 for the acquisition of one alternative-fueled vehicle. Use of 2,250 gallons of B20 or use of 9,000 gallons of B5 may also be substituted for one alternative fueled vehicle. No more than 50% of a given State agency fleet's alternative-fueled vehicle purchase requirements may be met by substituting B100, B20 or B5 in accordance with this Order.

IV. Use of Bio-based Heating Fuels in State Buildings

The New York State Energy and Research Development Authority (NYSERDA) and the New York City Housing Authority are currently conducting a "Bio-Based Heating Oil Project." Although many transportation applications can use bio-diesel at concentrations of up to B20, the fuel is generally used at B5 concentrations for heating and burner applications. Preliminary findings from the study have shown that B5 can be used in processes and space heating equipment and has resulted in more efficient furnace operations and reduced emissions.

NYSERDA shall therefore develop a plan pursuant to which state agencies and public authorities shall purchase, allocate, distribute and utilize bio-diesel heating oil for use in state agency and public authority buildings that currently utilize oil, as specified in the table below. The percentage of diesel shall be a blended equivalent which results in an overall consumption of B100 as set forth below:

Calendar Year	B100 Percentage
2007	0.5%
2008	1.0%
2009	2.0%
2010	3.0%
2011	4.0%
2012	5.0%

IV. Waiver Provisions

Although there is a recognized national specification for bio-diesel, and most engines and burners can utilize bio-diesel at concentrations of up to B20 without harm or need for modification, there has been limited on-road testing of bio-diesel in the State's diesel vehicle fleet. In addition, certain engine manufacturers have taken the position that use of bio-diesel fuels above certain concentrations will void existing

engine warranties. Many, if not all, of those State vehicles are engaged in mission-critical operations that are essential to public safety, conscience and welfare. As a result of the limited on-road testing to date, it is possible that the use of bio-diesel in certain vehicles in the State's diesel fleet may have unacceptable impacts upon the reliable and safe operation of such vehicles or upon the life cycle or warranted performance of certain critical components of such vehicles and therefore may not be prudent.

Therefore, the requirements of Paragraphs II, III and IV of this Order may be waived, either in whole or in part, by any State agency or public authority subject to this Order upon a finding from a commissioner of the State agency or the chief executive officer of the public authority that adherence to such requirement would have unacceptable impacts upon the reliable and safe operation of such vehicles, or upon the life cycle or warranted performance of certain critical components of such vehicles. Such waivers shall be in effect no longer than necessary to address the condition, or for a maximum of 60 days from the issuance of the finding, whichever one is less; however, in the event that the condition that gives rise to the waiver is not capable of being resolved within a 60-day period, such waivers may be extended for an additional period by the State agency or public authority with the concurrence of the President of NYSERDA, after consultation with the Commissioner of the Department of Environmental Conservation.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-first day of November in the year two thousand five.

BY THE GOVERNOR
/S/ George E. Pataki
/s/ John C. Cahill
Secretary to the Governor

