



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

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

JAN 31 2020

Adam Kushner
Hogan Lovells US LLP
Columbia Square
555 Thirteenth Street, NW
Washington, D.C. 20004

RE: No Action Assurance for Puerto Rico Electric Power Authority for Internal Combustion Engines

Dear Mr. Kushner:

This letter is in response to your January 14, 2020, request, on behalf of the Puerto Rico Electric Power Authority (PREPA), for No Action Assurance (NAA) regarding the operation of certain electric generating units operated by PREPA in Puerto Rico. More specifically, this letter responds to that portion of PREPA's request that seeks relief for the operation of internal combustion engines (ICE) in service at the following PREPA facilities in Puerto Rico: Aguirre, San Juan, Palo Seco, Costa Sur, Mayaguez, Cambalache, Daguao, Yabucoa, and Jobos. Beginning on or about December 28, 2019, and continuing through at least January 7, 2020, Puerto Rico has experienced multiple earthquakes and aftershocks that have caused extreme damage to its power grid. Among other things, the earthquakes have rendered the Costa Sur power station, a critical baseload station, inoperable. On January 7, 2020, the Governor of Puerto Rico signed an Executive Order declaring a state of emergency throughout Puerto Rico; on January 16, 2020, the President signed a major disaster declaration for Puerto Rico.

On January 11, 2020, Puerto Rico issued a waiver regarding, among other things, the use of electric generators at industrial or institutional facilities, to help fill those facilities' need for electricity and thus support PREPA's ability to provide electricity to residences and businesses in its service area. Specifically, the Puerto Rico Department of Natural and Environmental Resources (DNER) waived compliance with state law requirements limiting electric generators' hours of operation and fuel consumption, where the limits are exceeded due to the ongoing emergency.

The U.S. Environmental Protection Agency has determined that issuance of this NAA is necessary to further enable PREPA to supply electricity to residential and business customers. This NAA only addresses one portion of PREPA's initial NAA request; as PREPA's original request for NAA covers multiple units in varying operating circumstances. After discussions with counsel for PREPA the EPA has determined that the most appropriate way to timely address the requested action is to issue this NAA covering a subset of the units identified in the January 14, 2020 request. This NAA addresses permit provisions and requirements of law for 24 existing internal combustion engines listed in the attached

Table 1 serving the following facilities: Aguirre, San Juan, Palo Seco, Costa Sur, Mayaguez, Cambalache, Daguao, Yabucoa, and Jobos. These engines are being used for purposes such as support for auxiliary equipment and the facility complexes, and to assist the primary generating units in startup.

The EPA has determined that issuing anNAA, as detailed below, is in the public interest given the conditions in Puerto Rico. Through the issuance of this NAA, the EPA is continuing its commitment to address the very difficult circumstances caused by recent earthquakes.

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, for each internal combustion engine listed in Table 1, of the 500-hour annual engine operating limit (whether measured on a per-year or on a per-12-consecutive-month-period) in the relevant facility's Title V permit or other federally enforceable permit issued pursuant to Puerto Rico's approved State Implementation Plan.

This NAA is subject to the following conditions:

1. In calculating the total annual operating hours for a year that includes the NAA, PREPA may exclude the days it operates pursuant to the NAA;
2. To the best of its ability, while the NAA is in effect PREPA reports hours of operation for the 365 days prior to this NAA as required by its permits or any applicable regulations;
3. PREPA complies with all conditions imposed by territory or local authorities on these emergency operations;
4. PREPA complies with all other conditions related to these ICE in its Title V permits and in applicable regulations;
5. PREPA must comply with all applicable provisions of 40 C.F.R. Part 60, Subparts IIII and JJJJ and/or 40 C.F.R. Part 63, Subpart ZZZZ; and
6. PREPA maintains records documenting the hours of operation of each ICE while the NAA remains in effect.

PREPA must submit a report to the EPA within two weeks of the termination of the NAA containing the following information:

1. The name, address, and contact information for the person submitting the report;
2. A description of the total hours of operation and total fuel used for each covered ICE during the period this NAA is in effect; and
3. A description of how the energy was used, including any benefits provided to the public.

The report referenced above must be sent by email to Gregory Fried, Chief, Stationary Source Enforcement Branch, within EPA's Air Enforcement Division, at fried.gregory@epa.gov. The report must be in portable document format (PDF) and be clearly labeled as "Report for PREPA ICE NAA." Where the information for these reports is not available due to the emergency circumstances, the EPA would accept instead an explanation of those circumstances and specifically how they prevented the collection or transmission of that information.

This NAA terminates at 11:59 PM Atlantic Standard Time, on April 30, 2020. The EPA will assess whether an extension to or revision of this NAA is necessary and appropriate. 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 this facility other than those listed above. Given PREPA's estimates that Costa Sur could remain offline for up to one year, the EPA intends to use the period of the NAA to discuss and develop with PREPA the appropriate longer-term approach for addressing this situation.

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 the recent earthquakes. Nothing in this NAA is intended to over-ride Puerto Rico or local authorities.

Please contact Gregory Fried, Chief, Stationary Source Enforcement Branch, with questions. Mr. Fried can be reached at (202) 564-7016 or fried.gregory@epa.gov.

Sincerely,



Susan Parker Bodine

cc: Peter D. Lopez, Regional Administrator, EPA Region 2

Table 1: Internal Combustion Engines at PREPA Facilities Covered by the NAA

Facility	Internal Combustion Engine(s)
Aguirre	GE-AUX-AG1 GE-CCAM-AG2 GE-PREPANET-AG5 GE-SISTINF-AG6 GE-CICLO-AG7 GE-ADM-AG8
San Juan	GE-AUX-SJ5 GE-AUX-SJ6 GE-AUX-SJ1 GE-AUX-SJ2 GE-GIS-SJ1 GE-TMGN-SJ GE-COM-SJ GE-CCAM-SJ
Palo Seco	GE-PS-1 GE-PS-2 GE-GIS-PS-1
Costa Sur	GE-AUX-CS3-6
Mayaguez	Black start emergency generator
Cambalache	CAMB DG1 CAMB DG2
Daguao	GE-DA-1
Yabucoa	GE-YA-1
Jobos	GE-JOB-1