



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C., 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

JAN 3 1 2020

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

RE: No Action Assurance for Puerto Rico Power Authority for Fuel Consumption and Analysis

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 fuel consumption limits and fuel quality and quality analysis requirements described below. 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.

The U.S. Environmental Protection Agency has determined that issuance of this NAA is necessary to enable PREPA to supply electricity to residential and business customers. Because the request for an 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. To that end, as set forth below, this NAA addresses the generating units identified in Table 1 below for the permit provisions and requirements of law specifically identified in the Table.

The EPA has determined that issuing an NAA, 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 of the following requirements that occur during the period of this NAA:

- The fuel consumption limits identified in Table 1 for the identified Generating Unit; and
- The fuel quality and quality analysis requirements identified in Table 1 for the identified Generating Unit, to the extent that the requirements mandate that the analysis of the fuel sample must be completed prior to firing of the fuel in the Generating Unit.

This NAA is subject to the following conditions:

1. Fuel consumption limits: Once the NAA terminates, in calculating the 365-day rolling total fuel consumption, PREPA may exclude fuel consumption data from days it operated pursuant to this NAA and instead calculate the 365-day rolling total fuel consumption by including 365 days of fuel consumption data from consecutive days immediately prior to the effective date and immediately after the termination date of this NAA, but excluding each day that PREPA operated a covered Generating Unit pursuant to this NAA. PREPA must, however, also provide the Puerto Rico Department of Natural and Environmental Resources with the 365-day rolling total fuel consumption calculation using the total fuel consumption data during the time it operated pursuant to this NAA;
2. Fuel quality and quality analysis: Where results of the fuel quality analysis are not available prior to the need to burn the fuel, PREPA will rely on bulk analysis documentation from the fuel supplier regarding the content of the fuel to show that the fuel is compliant with the required standard. PREPA will also not blend the newly received fuel with other fuel not known to be compliant prior to receipt of its own fuel quality analysis results. In the event PREPA becomes aware that it is burning noncompliant fuel, through receiving lab results or otherwise, PREPA will notify the EPA immediately and timely take any actions required by EPA to address the noncompliant fuel;
3. To the best of its ability, while the NAA is in effect PREPA will report on fuel consumption for the 365 days prior to this NAA in accordance with any reporting requirement in an applicable permit or regulation;
4. PREPA informs the EPA within 48 hours that it has obtained sufficient generation from units compliant with the Clean Air Act and all applicable permits to allow discontinuation of operation of covered Generating Units under this NAA; and
5. PREPA complies with all conditions imposed by territory or local authorities on these emergency operations.

PREPA must submit a report to the EPA within thirty (30) days 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 amount of fuel used for each covered Generating Unit during the period this NAA is in effect;
3. A description of how the energy was used, including any benefits provided to the public; and
4. A description of any instances in which fuel quality analysis results received after PREPA began burning newly-received fuel indicated that the fuel was not compliant.

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 Generators Operated Pursuant to the No Action Assurance First Issued (insert date of issuance of this 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, 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. The EPA intends to use the period of the NAA to evaluate 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: Covered Generating Units and Associated Clean Air Act Permit Requirements

Facility	Generating Unit	Clean Air Act Permit Requirements
Palo Seco	GT 1-1 (21MW)	Palo Seco Title V permit No. PFE-TV-4911-70-1196-0015 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B) and V(B)(c)–(d).
Palo Seco	GT 1-2 (21MW)	Palo Seco Title V permit No. PFE-TV-4911-70-1196-0015 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B) and V(B)(c)–(d).
Palo Seco	GT 3-1 (21MW)	Palo Seco Title V permit No. PFE-TV-4911-70-1196-0015 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B) and V(B)(c)–(d).
Aguirre	Combined cycle gas turbine “CCGT” 1-1 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B), V(B)(c)–(d), and V(C).
Aguirre	CCGT 1-2 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B), V(B)(c)–(d), and V(C).
Aguirre	CCGT 1-3 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B), V(B)(c)–(d), and V(C).
Aguirre	CCGT 1-4 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B), V(B)(c)–(d), and V(C).
Aguirre	CCGT 2-1 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B),

Facility	Generating Unit	Clean Air Act Permit Requirements
		V(B)(c)–(d), and V(C).
Aguirre	CCGT 2-3 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B), V(B)(c)–(d), and V(C).
Aguirre	CCGT 2-4 (50MW)	Aguirre Title V permit No. PFE-TV-4911-63-0212-0244 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(B), V(B)(c)–(d), and V(C).
Mayaguez	GT-5 (54MW)	Mayaguez construction permit no. PFE-50-0307-0286-I-II-C for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions II; and III(A)(31)–(33) and (37).
Mayaguez	GT-6 (54MW)	Mayaguez construction permit no. PFE-50-0307-0286-I-II-C for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions II; and III(A)(31)–(33) and (37).
Mayaguez	GT-7 (54MW)	Mayaguez construction permit no. PFE-50-0307-0286-I-II-C for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions II; and III(A)(31)–(33) and (37).
Mayaguez	GT-8 (54MW)	Mayaguez construction permit no. PFE-50-0307-0286-I-II-C for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions II; and III(A)(31)–(33) and (37).
Cambalache Peakers	2 (83MW)	Cambalache PSD Permit Modification for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Attachment I (general description); and Attachment II, Conditions VII(1), (2), (5), and X.
Cambalache Peakers	3 (83MW)	Cambalache PSD Permit Modification for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Attachment I (general description); and Attachment II, Conditions VII(1), (2), (5), and X.

Facility	Generating Unit	Clean Air Act Permit Requirements
Daguao Peakers	GT 1-1 (21MW)	Daguao Title V permit No. PFE-TV-4911-63-0212-0447 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(A)(1) and V(A)(1)(c)-(d).
Daguao Peakers	GT 1-2 (21MW)	Daguao Title V permit No. PFE-TV-4911-63-0212-0447 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(A)(1) and V(A)(1)(c)-(d).
Yabucoa Peakers	GT 1-1 (21MW)	Yabucoa Title V permit No. PFE-TV-4911-77-0707-0759 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(A)(1) and V(A)(1)(c)-(d).
Jobos Peakers	GT 1-2 (21MW)	Jobos Title V permit No. PFE-TV-4911-30-1107-0991 for conditions pertaining to fuel quality testing and fuel consumption limits (barrels per year) at Conditions V(A)(1) and V(A)(1)(c)-(d).