

United States Senate

WASHINGTON, DC 20510

March 8, 2024

The Honorable Michael S. Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave, N.W.,
Washington, DC 20460

The Honorable Lisa Garcia
Regional Administrator
US EPA – Region 2
290 Broadway
New York, NY 10007

Dear Administrator Regan and Regional Administrator Garcia,

We are writing to urge the Environmental Protection Agency (EPA) to issue a waiver, an Administrative Order, or a No Action Assurance to allow for the continued use of temporary generators in Puerto Rico while the proper permitting for their longer-term use is finalized.

Puerto Rico has been facing numerous power grid recovery challenges in the aftermath of natural disasters, most recently, Hurricane Fiona. With assistance from the Federal Emergency Management Agency (FEMA), Puerto Rico has relied upon temporary generators to keep the lights on. LUMA Energy reports that these 350 MWs of temporary generators are critical to grid reliability, because they represent 10% of the generating capacity on the island and contributed 15% of the island's power supply, as of November 2023.

The Government of Puerto Rico worked quickly with FEMA to come to an agreement to acquire the generators, allowing the generators to remain in Puerto Rico for the time being. We understand that the current agreement allowing the operation of these temporary generators will expire on March 15, 2024. The Government of Puerto Rico plans to pursue a judicial consent decree that permits continued use of the generators, as Regional Administrator Lisa Garcia has advised, but expects that obtaining such a decree before March 15 is likely impossible.

If the Government of Puerto Rico continues operating these generators without assurance from EPA that the standard emissions regulations will not be enforced, it faces severe litigation risk that could shut down service. If, instead, the Government of Puerto Rico shuts off the generators, it would imperil grid reliability across the island.

Since 2017, several natural disasters severely damaged Puerto Rico's power grid and the pace of recovery has been slow. Many residents have been without electricity for days, months, and sometimes even years. This lack of power has had serious consequences on the lives of the people of Puerto Rico, leading to a 270 percent spike in death rates in communities where it took more than four weeks to reestablish power.

In light of these challenges, it is imperative that the temporary generators transferred from FEMA to the Government of Puerto Rico continue to generate power in Puerto Rico. While we recognize the legitimate environmental concerns that underlie Clean Air Act permitting requirements, it is crucial that the agency prioritize the safety of the Americans in Puerto Rico affected by these natural disasters. Without reliable electricity, people's lives are put at risk, and recovery efforts for future disasters will be hindered.

With respect to the concerns listed above, we respectfully request that EPA act swiftly and decisively to ensure that the Government of Puerto Rico may continue to operate these critical generators.

We also request a response to the following questions:

1. What steps has EPA taken already to allow for the continued use of the transferred generators in Puerto Rico?
2. What progress has been made on expediting the required permitting for the transferred generators to remain in service without a lapse?
3. Is the EPA willing to provide a No Action Assurance or other means of compliance waiver in the interim while permits are being processed?
4. Is the EPA willing to provide an Administrative Order or other means to prevent a break in service while permits are being processed?
5. What impediments is EPA facing that would prevent resolution of this issue by March 15th of this year?

Sincerely,



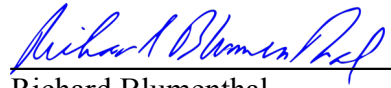
Christopher S. Murphy
United States Senator



Joe Manchin III
United States Senator



Martin Heinrich
United States Senator



Richard Blumenthal
United States Senator