



GOVERNMENT OF PUERTO RICO
DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES

AUG 30 2024

Mr. Richard Ruvo
Director
Air and Radiation Division
United States Environmental Protection Agency - Region 2
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New York, NY 10007-1866

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Dear mister Ruvo:

**RE: Commitment to revise Rule 425 of Puerto Rico's Regulations
for the Control of Atmospheric Pollution**

The Puerto Rico Department of Natural and Environmental Resources (PRDNER) is submitting this letter to the U.S. Environmental Protection Agency (EPA) to serve as a commitment to revise Rule 425, "Provisions for SO₂ Non-attainment Areas," of Puerto Rico's Regulations for the Control of Atmospheric Pollution (RCAP). Rule 425 was submitted to the EPA by the PRDNER on November 22, 2022, to address the Clean Air Act (CAA) requirements related to the 2010 primary 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standards (NAAQS).

On January 9, 2018, the EPA, as part of the third round of area designations for the 2010 1-hour primary SO₂ NAAQS, designated five areas of the country as nonattainment, including the San Juan and Guayama-Salinas Nonattainment Areas (NAAs). These areas designations had an effective date of April 9, 2018. Areas designated nonattainment for the SO₂ NAAQS are subject to the general NAA planning requirements of CAA section 172 and to the SO₂-specific planning requirements of subpart 5 of part D of Title I of the CAA (sections 191 and 192). All components of the SO₂ part D nonattainment area State Implementation Plan (SIP) are due to the EPA within 18 months of the effective date of designation of a nonattainment area under CAA section 191. Therefore, the nonattainment area SIPs for areas designated effective April 9, 2018, were due on October 9, 2019. These SIPs are required to demonstrate that their respective areas will attain the 2010 1-hour primary SO₂ NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation, or by April 9, 2023, for the San Juan and Guayama-Salinas NAAs. To satisfy the CAA requirements pertaining to the 2010 primary 1-hour SO₂ NAAQS, the PRDNER submitted an SO₂ SIP for the NAAs, for the EPA's approval, which also included amendments to Puerto Rico's RCAP. The RCAP amendments, which consist of revisions to Rule 102, "Definitions,"

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as well as the adoption of Rule 210, "Non-Attainment Provisions," and the adoption of Rule 425, incorporated the SO₂ control measures and nonattainment provisions of the SO₂ plan and would become federally enforceable upon final approval by the EPA. Specifically, under the newly promulgated Rule 425, control measures, emission limits, test methods and procedures, reporting and recordkeeping requirements, and contingency measures for emission units in the San Juan and Guayama-Salinas NAAs were submitted for incorporation into the SIP to satisfy the CAA requirements under the 2010 1-hour primary SO₂ NAAQS.

Moreover, Rule 425 of the RCAP imposes requirements for emission reductions on certain sources through an interim remedy that prohibits certain emission units located at the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities, which are considered to be the main sources contributing to the nonattainment status of the San Juan and Guayama-Salinas NAAs, from burning any fuel oil above a maximum sulfur content of 0.0015 percent by weight (15ppm) (*i.e.*, ultra-low sulfur diesel or "ULSD") after February 1, 2023. In particular, under Section II, "Emission Limitations for PREPA San Juan and PREPA Palo Seco" and Section III, "Emission Limitations for PREPA Aguirre" of Rule 425, the PRDNER lists compliance start dates for fuel switching to ULSD of certain emission units, retirement schedules for emission units not being converted to ULSD, and emission limits for units using ULSD or liquefied natural gas (LNG) at the aforementioned PREPA facilities.

Additionally, Section V, "Measurement methods and procedures" of Rule 425, imposes requirements for sources at the PREPA facilities, such as performance testing and fuel testing; retention of records needed to demonstrate compliance with the relevant emission limitations; and reporting of such information at the discretion of the PRDNER, or upon our request.

The EPA has indicated that it is concerned with the adequacy of these reporting requirements, in particular, with the absence of additional periodic reporting obligations that would allow members of the public to request these documents to assist with potential enforcement of the rule. In order to address this issue, the PRDNER will revise Section V of Rule 425 to incorporate semi-annual reporting. Specifically, the PRDNER will submit a revised Rule 425 to the EPA by January 1, 2026 that has been adopted by the Commonwealth and includes the following:

1. Revisions to subsection C of Section V of Rule 425, which will require all data, calculations, and reports from any performance test or fuel sample developed for the purpose of demonstrating compliance with the rule to be retained for a minimum of five years and reported to the PRDNER every six months (or on a semi-annual basis).
2. Revisions to subsection D of Section V of Rule 425, which will require any owner or operator of an SO₂ emission source subject to the rule to document any compliance test or applicable emission tracking procedure, as well as document compliance with any applicable emission rate limits and retain all data, calculations, and reports from any

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performance test, fuel sample, or operating rate monitor utilized for the purpose of demonstrating compliance with the applicable emission limits, emission tracking requirements, or emission rate limits for a period of no less than five years and to submit such records and reports to the PRDNER every six months (or on a semi-annual basis).

3. Revisions to subsection F of Section V of Rule 425, which will require any owner or operator of any SO₂ source subject to the rule to demonstrate compliance with the combined hourly emission limits by performing emission tests in accordance with Sections V(A) and V(B) of the rule and submit reports of such tests to the PRDNER every six months (or on a semi-annual basis).

The PRDNER would like to add that these revisions will undergo a public comment period and will be submitted to the EPA as a SIP revision. Once adopted by the PRDNER and fully approved by the EPA, both agencies will have the authority to enforce the conditions requiring the firing of ULSD as detailed under Rule 425, and reporting of emissions at the three PREPA facilities will be on a semi-annual basis, rather than upon request by the PRDNER, and therefore, in accordance with the enforceability requirements of the CAA.

In conclusion, the PRDNER hereby commits to formally revise the aforementioned subsections under Section V of Rule 425 and fully comply with the semi-annual reporting requirements detailed in this letter within twelve months of the EPA's final conditional approval. If there are any questions or concerns regarding this letter, please contact me at (787)999-2200 or cesarrodriguez@drna.pr.gov.

Cordially,



Roberto Méndez Martínez

Acting Secretary

c César O. Rodríguez-DNER