

NORTHWEST CLEAN AIR AGENCY

In the Matter of Additional Action Required by:)
) AGREED COMPLIANCE
) ORDER
) MT. BAKER SKI AREA, INC.) No. 1743-2020-30
) PROPOSED FOR PUBLIC COMMENT
)

TO:
DUNCAN HOWAT
PRESIDENT & GENERAL MANAGER
1420 IOWA ST.
BELLINGHAM WA, 98229-4710

I.

Jurisdiction

This Agreed Compliance Order ("Order") is issued pursuant to the authority of RCW 70A.15.2040 and NWCAA Regulations 103 and 121.

II.

Findings of Fact

Northwest Clean Air Agency (NWCAA) makes the following Findings of Fact:

- A. Mt. Baker Ski Area, Inc. owns and operates diesel-fired compression ignition engines to provide operating power to the ski area lifts, lodges, and utilities because there is no commercial power available at their location.

- B. The following stationary engines have been installed, re-located, or re-purposed within the ski area since 2009 with their model year of manufacture noted:

Location/Description	Site rating/type	Manufacture date	Install date
Chair 3/4 - unit 1	275 hp / CI	8/23/2011	10/30/2012
Chair 3/4 – unit 2 emergency	325 hp / CI	5/13/2009	9/1/2009
Chair 7 - emergency	275 hp / CI	5/13/2009	10/2009

Chair 8 – unit 1	475 hp / CI	5/1/2010	9/1/2010
WS Gen Rm – unit 1	178 hp / CI	8/9/2011	6/15/2017
WS Gen Rm – unit 2 emergency	122 hp / CI	2/2017	10/1/2017
WS – unit 3 (aka “big gen” aka “Gen Room”)	569 hp / CI	12/6/2013	9/1/2017
Raven lodge – unit 1	79 hp / CI	2/2011	8/2011
Raven lodge – unit 2	79 hp / CI	12/1/2015	4/2016
Sewage treatment - unit 1	74 hp / CI	10/1/2015	1/17/2020
Sewage treatment – unit 2	86 hp / CI	10/2015	2/1/2016
HM maint. – unit 1	190 hp / CI	11/1/2007	10/1/2012
HM maint. – unit 2	190 hp / CI	11/1/2007	11/1/2012
HM maint. – unit 3	134 hp / CI	6/2017	6/1/2018
Concrete hut emergency	40 hp / CI	4/11/2018	10/1/2018
Pandome hut – unit A	31 hp / SI	9/1/2016	8/1/2018
Pandome hut – unit B	31 hp / SI	9/1/2016	8/1/2018

C. Mt. Baker Ski Area operated the following stationary engines existing as of 2008:

Location/Description	Site rating/type	Manufacture date	Install date
Chair 1	275 hp / CI	1/1/2008	9/1/2008
Chair 2 - unit 1	150 hp / CI	2000	9/1/2001
Chair 2 - unit 2 emergency	150 hp / CI	1/1/2004	9/1/2005
Chair 5 – unit 1	450 hp / CI	1/1/2002	9/1/2003
Chair 5 – unit 2 emergency	450 hp / CI	3/4/2002	10/1/2002
Chair 6 – unit 1 emergency	450 hp / CI	1/1/2003	9/1/2004
Chair 6 – unit 2	450 hp / CI	1/1/2003	9/1/2004
Chair 8 – unit 2 emergency	450 hp / CI	8/29/2002	10/1/2002

D. Performance testing was conducted on one of the Chair 6 engines on March 30, 2018

E. Performance testing was conducted on one of the Chair 5 engines on March 31, 2018.

F. The performance test results were Chair 5 engine: 135 ppmvd CO at 15% O₂, and Chair 6 engine; 214 ppmvd CO at 15% O₂.

G. NWCAA issued Notice of Violation 4319 to Mt. Baker Ski Area on December 11, 2018 documenting alleged violations of NWCAA Regulation 300, 40 CFR Part 60 Subpart IIII, and 40 CFR Part 63 Subpart ZZZZ.

H. Mt. Baker Ski Area responded to NOV 4319 both in person and in writing on multiple occasions providing additional information to NWCAA. In 2019, Mt. Baker Ski Area committed to upgrading the Chair 5 and 6 engines to EPA certified tier 4 as part of resolution of the alleged violations.

- I. The designated emergency engines listed in section B. and C. of this order serve as "emergency engines" under 40 CFR 60.4219 for less than 100 hours of non-emergency service annually.
- J. Mt. Baker Ski Area operates gasoline dispensing facilities for fleet vehicles: WS gen room 1-1,000-gallon and HM maint. shop 1-2,500 gallon above-ground storage tanks and dispensing pump/equipment.

III.

Regulatory Basis

The following is a list of pertinent citations regarding the alleged violations and definitions within this order. It is not a complete list for purposes of compliance demonstration with local, state, or federal rules.

- A. 40 CFR 63.6603(a) Table 2d 2. Non-Emergency, non-black start CI stationary RICE 300<HP≤500 (Site rating)
 - a. Limit concentration of CO in the stationary RICE exhaust to 49 ppmvd at 15 percent O₂; or
 - b. Reduce CO emissions by 70 percent or more.
- B. 40 CFR 63.6612(a) Tables 4 and 5. Initial compliance requirements.
- C. 40 CFR 63.6625(e)(3)-(4), (f), (g), and (h).
- D. 40 CFR 63.6640(f)(1)-(4) Emergency stationary RICE requirements.
- E. 40 CFR 63.6650 (b)(1)-(4) Compliance reporting requirements.
- F. 40 CFR 63.6655 (e) and (f) Recordkeeping.
- G. 40 CFR 63.6675 Definitions:

Emergency stationary RICE means any stationary reciprocating internal combustion engine that meets all of the criteria in paragraphs (1) through (3) of this definition. All emergency stationary RICE must comply with the requirements specified in §63.6640(f) in order to be considered emergency stationary RICE. If the engine does not comply with the requirements specified in §63.6640(f), then it is not considered to be an emergency stationary RICE under this subpart.

(1) The stationary RICE is operated to provide electrical power or mechanical work during an emergency situation. Examples include stationary RICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary RICE used to pump water in the case of fire or flood, etc.

(2) The stationary RICE is operated under limited circumstances for situations not included in paragraph (1) of this definition, as specified in §63.6640(f).

(3) The stationary RICE operates as part of a financial arrangement with another entity in situations not included in paragraph (1) of this definition only as allowed in §63.6640(f)(2)(ii) or (iii) and §63.6640(f)(4)(i) or (ii).

H. NWCAA Regulation 300.1 and 300.2 Notice of Construction requirements.

IV.

Determinations

Based upon the foregoing Findings of Fact and Regulatory Basis, NWCAA makes the following Determination:

- A. The Mount Baker Ski Area is classified under NAICS 713920 designated as a commercial operation consistent with 2010 EPA guidance (9/9/2010 memo to EPA Docket EPA-HP-OAR-2008-0708 from Melanie King).
- B. The engines listed in Section II. B. are considered "new" sources under NSPS Subpart IIII and NESHAP Subpart ZZZZ (NWCAA 300.2), and have a potential to emit that exceeds thresholds established under NWCAA Regulation 300.5. However, emergency engines are exempt from New Source Review under NWCAA Regulation 300.3(I).
- C. Chair 5 and 6 non-emergency engines were required to conduct an initial performance test in accordance with 40 CFR Part 63 Subpart ZZZZ under the category "existing non-emergency stationary CI RICE 300<HP≤500 located at an area source of HAP". The test was due within 180 days of the compliance date for these engines of May 31, 2013, i.e.; testing due by November 28, 2014.
- D. Performance testing of Chair 5 and 6 engines was conducted more than 3 years beyond the deadline.
- E. Performance testing in March 2018 demonstrated that Chair 5 and 6 fail to meet applicable CO emissions limitations.
- F. Add-on controls (oxidation catalyst) for CO are not the preferred option on the existing Chair 5 and 6 non-emergency engines because of re-certification complications of the lift systems based on discussion with Mt. Baker Ski Area.
- G. Replacement of the non-compliant Chair 5 and 6 non-emergency engines with EPA Tier 4 engines will result in an estimated reduction of 16 tons per year of total emissions (CO, VOC, NOx, and PM10 combined).

V.

Terms of Order: Actions to Be Taken

Based on the forgoing Facts, Regulatory Basis, and Determinations, it is hereby ordered that Mt. Baker Ski Area, Inc. take the following actions. For those actions completed prior to finalizing this agreement, information is included.

- A. Submit a complete permit application(s) for each non-emergency engine listed in Section II B. Mt. Baker Ski Area completed the permit application for these engines in 2020.
- B. Submit a complete permit application for replacement of Chair 5 and 6 engines. Mt. Baker Ski Area completed the permit application for these engines in 2020.
- C. Replace Chair 5 non-emergency engine with EPA Tier 4 compliant equipment. Mt. Baker Ski Area installed a compliant engine on Chair 5 in 2020.
- D. Replace Chair 6 non-emergency engine with EPA Tier 4 compliant equipment on or before September 30, 2021.
- E. Immediately develop and implement a compliance plan to meet 40 CFR 60 Subpart IIII or JJJJ and 40 CFR Part 63 Subpart ZZZZ for the following stationary engines according to their appropriate designation under the regulations:

Location/Description	Regulation	Compliance Group Designation
Chair 1	60 Subpart IIII	New non-emergency CI
Chair 3/4 - unit 1	60 Subpart IIII	New non-emergency CI
Chair 5 – unit 1	60 Subpart IIII	New non-emergency CI
Chair 8 – unit 1	60 Subpart IIII	New non-emergency CI
WS Gen Rm – unit 1	60 Subpart IIII	New non-emergency CI
WS – unit 3 (aka “big gen”)	60 Subpart IIII	New non-emergency CI
Raven lodge – unit 1	60 Subpart IIII	New non-emergency CI
Raven lodge – unit 2	60 Subpart IIII	New non-emergency CI
Sewage treatment - unit 1	60 Subpart IIII	New non-emergency CI
Sewage treatment – unit 2	60 Subpart IIII	New non-emergency CI
HM maint. – unit 1	60 Subpart IIII	New non-emergency CI
HM maint. – unit 2	60 Subpart IIII	New non-emergency CI
HM maint. – unit 3	60 Subpart IIII	New non-emergency CI
Chair 3/4 – unit 2 emergency	60 Subpart IIII	New emergency CI
Chair 7 – emergency	60 Subpart IIII	New emergency CI
WS Gen Rm – unit 2 emergency	60 Subpart IIII	New emergency CI
Concrete hut emergency	60 Subpart IIII	New emergency CI
Pandome hut – unit A	60 Subpart JJJJ	New non-emergency SI
Pandome hut – unit B	60 Subpart JJJJ	New non-emergency SI

Chair 6 – unit 2*	63 Subpart ZZZZ	Existing non-emergency CI 300<hp<500
Chair 2 - unit 1	63 Subpart ZZZZ	Existing non-emergency CI <300hp
Chair 2 - unit 2 emergency	63 Subpart ZZZZ	Existing commercial emergency CI
Chair 5 – unit 2 emergency	63 Subpart ZZZZ	Existing commercial emergency CI
Chair 6 – unit 1 emergency	63 Subpart ZZZZ	Existing commercial emergency CI
Chair 8 – unit 2 emergency	63 Subpart ZZZZ	Existing commercial emergency CI

** Unit emissions determined out of compliance in 2017; see terms C. and D. of this section. Other provisions still apply.*

F. NWCAA, after reviewing all of the circumstances, has evaluated the civil penalty which should be imposed upon Mt. Baker Ski Area, Inc. for the violations identified in NOV 4319 and in light of the determinations contained in this Agreed Order. Based on this evaluation, NWCAA has determined that a total civil penalty of \$30,000 is warranted for such violations. However, NWCAA agrees to suspend the penalty in its entirety (\$30,000) in return for Mt. Baker Ski Area, Inc. agreeing to abide by this Agreed Order, subject to the conditions that:

- a. Mt. Baker Ski Area does not violate NWCAA 300.1 or 300.2 (requirements for obtaining a permit) for 5 years.
- b. Mt. Baker Ski Area shall agree to purchase and operate EPA tier 4 compliant engines or the best emissions-performing engine, for new and replacement stationary non-emergency installations subject to permitting.

Should Mt. Baker Ski Area actions violate any of these conditions, the stipulated amount of penalty due is \$10,000 per each project that required permitting, for up to 3 projects, totaling \$30,000. This stipulated penalty shall be in addition to, and does not preclude, any enforcement action taken and any civil penalty issued specific to the violation. Penalties incurred are due immediately to the NWCAA, 1600 S Second Street, Mount Vernon, WA 98273-5202.

VI.

Terms and Definitions in Order

Unless otherwise specified, the definitions set forth in NWCAA Regulation 200, WAC 173-400 & 401, ch. 70A.15 RCW, 40 CFR Part 60 Subparts IIII and JJJJ, and 40 CFR Part 63 Subpart ZZZZ shall control the meanings of the terms used in this Agreed Order.

VII.

Satisfaction of Order

The provisions of this Agreed Order, as amended by any modifications, shall be deemed satisfied upon Mt. Baker Ski Area, Inc.'s receipt of written notification of such satisfaction

from Northwest Clean Air Agency and upon compliance with all provisions of this Agreed Order.

VIII.

Enforcement

Pursuant to RCW 70A.15.2040, 3150 and 3160, this Order may be enforced by the Northwest Clean Air Agency.

IX.

Order Not Subject to Appeal

The terms of this Order having been agreed to by both parties, it is further stipulated that the same shall be final and not be subject to appeal in accordance with RCW 43.21B.230 and NWCAA Regulation 122.

Effective date of this Order: _____

ORDERED BY:
NORTHWEST CLEAN AIR AGENCY

By: _____

Mark Buford,
Executive Director

AGREED BY:
MT. BAKER SKI AREA, INC.

By: _____

Duncan Howat
President and General Manager