



ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION

WASHINGTON, D.C. 20460

June 24, 2026

Jerry Purvis
Senior Vice President, Environmental Affairs
East Kentucky Power Cooperative
4775 Lexington Road
P.O. Box 707
Winchester, Kentucky 40392

Via email: *jerry.purvis@ekpc.coop*

Dear Mr. Purvis,

This letter responds to your March 30, 2026, request on behalf of East Kentucky Power Cooperative (EKPC) for a regulatory interpretation regarding EKPC's Backup Generator Control Demand Response program ("EKPC Program"). In your letter, you request confirmation from the U.S. Environmental Protection Agency (EPA) that the operation of stationary emergency engines in the EKPC Program complies with the criteria in 40 CFR 63.6640(f)(4)(ii) of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines (40 CFR part 63, subpart ZZZZ).

Based on the information EKPC has provided and the EPA's interpretation of the provisions in 40 CFR 63.6640(f)(4)(ii) of the NESHAP for Reciprocating Internal Combustion Engines, the Agency considers the EKPC Program to be compliant with those provisions.

Under the NESHAP for Reciprocating Internal Combustion Engines, the EPA allows stationary emergency engines located at area sources of hazardous air pollutants (HAP) to operate for up to 50 hours per year in non-emergency situations to supply power as part of a financial arrangement with another entity.¹ The regulatory provisions in 40 CFR 63.6640(f)(4)(ii) specify: "The 50 hours per year for non-emergency situations can be used to supply power as part of a financial arrangement with another entity if all of the following conditions are met:

- The engine is dispatched by the local balancing authority or local transmission and distribution system operator.
- The dispatch is intended to mitigate local transmission and/or distribution limitations so as to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region.

¹ Area sources are stationary sources of HAP that emit less than 10 tons per year of a single HAP, or less than 25 tons per year of a combination of HAPs. See 40 CFR 63.6675.

- The dispatch follows reliability, emergency operation or similar protocols that follow specific NERC [North American Electric Reliability Corporation], regional, state, public utility commission or local standards or guidelines.
- The power is provided only to the facility itself or to support the local transmission and distribution system.
- The owner or operator identifies and records the entity that dispatches the engine and the specific NERC, regional, state, public utility commission or local standards or guidelines that are being followed for dispatching the engine. The local balancing authority or local transmission and distribution system operator may keep these records on behalf of the engine owner or operator.”

The information provided in your letter indicates that PJM is the transmission operator, reliability coordinator, and local balancing authority in the areas that the EKPC Program serves and that EKPC has been a fully integrated member of PJM since June 1, 2013. Your letter states that EKPC, along with some of its owner-member cooperatives, are developing this voluntary EKPC Program to be available to residential end-users within the service territories of the owner-member cooperatives. The EKPC Program will use member-owned residential backup generators. Your letter notes that EKPC plans to aggregate participating residential generators to offer the collective demand response resource into the PJM demand response program. Your letter goes on to state that as the reliability coordinator and balancing authority, PJM has the authority to not only issue NERC Energy Emergency Alert Level 2 but instruct EKPC to operate the generators of the EKPC Program, which will help alleviate system strain in EKPC’s local area during periods of high energy demand.

Based on the information in your letter, the EPA has determined that EKPC Program meets the criteria in 40 CFR 63.6640(f)(4)(ii):

- Individual emergency engines participating in the EKPC Program cannot operate for emergency demand response purposes for more than 50 hours per calendar year.
- EKPC (which NERC identified as the Distribution Provider) dispatches the engines in accordance with instructions from the transmission operator, reliability coordinator, and balancing authority, PJM.
- The dispatch is only authorized when necessary to mitigate local transmission or distribution limitations within EKPC’s local area to prevent voltage collapse or line overloads that could interrupt power supply in a local area or region.
- The dispatch follows reliability protocols that follow specific NERC and Kentucky Public Service Commission standards.
- The engines provide power only to the participating facilities themselves (in this case, homes).
- EKPC will identify and record the specific NERC and public utility commission standards being followed for dispatching each engine and will maintain records concerning each such dispatch event and its duration.²

Note that the provisions in 40 CFR 63.6640(f)(4)(ii) only apply to stationary emergency engines at area sources of HAP.

The EPA notes that the Agency is engaged in a rulemaking to address the remand in *Conservation Law Foundation et al. v. EPA*, No. 13-1233 (D.C. Cir.). This rulemaking may alter the applicable regulatory

² Note that the EPA may, in the Agency’s discretion, request access to or copies of such records at any time to ensure compliance with the requirements of the Clean Air Act.

provisions discussed in this response. Therefore, the EPA advises you to track this rulemaking effort³ and requests that you consult with the Agency's Office of Clean Air Programs (OCAP) when the Agency completes that effort, as the provisions under which the EPA is issuing this letter may change, and this letter may no longer reflect applicable requirements.

If you have any questions about this response, please contact Ned Shappley at (919) 541-7903 or *Shappley.Ned@epa.gov*.

Sincerely,

A handwritten signature in purple ink, consisting of a large, stylized 'A' followed by a series of connected loops and a long horizontal stroke.

Aaron L. Szabo
Assistant Administrator

cc: Katie Mills, EPA
Peter Tsirigotis, EPA
Scott Mathias, EPA

³ Information regarding the stationary engine rulemakings is available here: <https://www.epa.gov/stationary-engines/national-emission-standards-hazardous-air-pollutants-reciprocating-internal-0>.