



ASSISTANT ADMINISTRATOR FOR AIR AND RADIATION

WASHINGTON, D.C. 20460

June 24, 2026

Walter Stone
Senior Vice President, Environmental & Deputy General Counsel
NRG Energy Inc.
1301 McKinney Street
Houston, TX 77010

Via email: *Walter.Stone@nrg.com*

Dear Mr. Stone,

This letter responds to your March 24, 2026, request on behalf of NRG Energy for a regulatory interpretation regarding NRG Energy's PowerPay! demand response program (the "Program"). In your letter, you request confirmation from the U.S. Environmental Protection Agency (EPA) that the operation of stationary emergency engines in the 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). You also provided additional information via email on April 10, 2026, which the EPA considered in this response.

Based on the information NRG Energy 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 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 you provided indicates that PJM is the local balancing authority in the areas served by the Program and that NRG Energy is a Curtailment Service Provider (CSP) that receives and executes exact PJM dispatch instructions without change or modification to end-use customers with emergency engines participating in the Program. According to the information you provided, NRG Energy dispatches the emergency engines participating in the Program in locally affected utility zone(s) or subzones where an emergency is occurring to prevent voltage collapse or line overloads that would otherwise lead to a blackout of power supply in affected local areas. Importantly, you indicated the ways in which the Program is distinct from the provisions formerly in 40 CFR 63.6640(f)(2)(ii)-(iii) that the U.S. Court of Appeals for the D.C. Circuit vacated in 2015.² The vacated provisions specified that emergency engines could operate for emergency demand response during an Energy Emergency Alert Level 2 (EEA2).

Your follow-up email provided information that demonstrates how the Program conforms with the requirements in 40 CFR 63.6640(f)(4)(ii) – *i.e.*, the “50-hour” provision that is available to address local transmission and distribution concerns. You stated that in prior years, reliability coordinators had broad discretion when using emergency procedures to dispatch emergency demand response, and that those procedures did not constrain or limit the dispatch of emergency demand response to local reliability conditions. In addition, you stated that less developed technology for managing distributed energy resources across a region further constrained the ability of reliability coordinators to dispatch, manage, and aggregate distributed energy resources on a local reliability basis. However, you distinguished the operating conditions in the Program by noting that in more recent years, reliability coordinators administer emergency operation procedures based upon the *local* reliability conditions. Specifically, you stated that PJM’s current Transmission Security Emergency Procedures indicate that reliability coordinators call resources on a localized basis in the impacted area in one or more of approximately 20 local transmission zones or a portion of a local transmission zone.³

Based on the information you provided in your letter and follow-up email, the EPA has determined that the Program meets the criteria in 40 CFR 63.6640(f)(4)(ii):

² On January 30, 2013, the EPA finalized amendments to the Reciprocating Internal Combustion Engines NESHAP specifying that emergency engines could operate for up to 100 hours per calendar year in non-emergency situations under the following conditions: (1) emergency demand response during periods in which the Reliability Coordinator, or another entity that the Reliability Coordinator has authorized, under the NERC Reliability Standard EOP–002–3, Capacity and Energy Emergencies has declared an Energy Emergency Alert Level 2 as defined in the NERC Reliability Standard EOP– 002–3 and (2) periods where there is a deviation of voltage or frequency of 5 percent or greater below standard voltage or frequency. The U.S. Court of Appeals for the D.C. Circuit vacated those provisions in 2015. *See* 87 FR 48603 (Aug. 10, 2022).

³ PJM Manual 13: Emergency Operations. Revision: 97. Effective Date: Nov. 20, 2025. Section 5.2. <https://www.pjm.com/-/media/DotCom/documents/manuals/m13.pdf>.

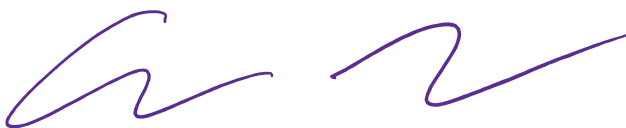
- Individual emergency engines participating in the Program cannot operate for emergency demand response purposes for more than 50 hours per calendar year.
- NRG Energy dispatches the engines in exact accordance with unmodified instructions from the balancing authority, PJM.
- The dispatch is only authorized when necessary to mitigate local transmission or distribution limitations within NRG's local area to prevent voltage collapse or line overloads that could interrupt power supply within one of PJM's specified local transmission zones.
- The dispatch follows reliability protocols that follow specific NERC and public utility commission standards.
- The engines provide power only to the participating facilities themselves.
- PJM or NRG Energy will identify and record the specific NERC and public utility commission standards being followed for dispatching each engine, and NRG or PJM will maintain records concerning each such dispatch event and its duration, if customers do not maintain such records.⁴

Note that the provisions in 40 CFR 63.6640(f)(4)(ii) only apply to stationary emergency engines at area sources of HAP; emergency engines at major sources of HAP may not participate in your program.

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 provisions discussed in this response. Therefore, the EPA advises you to track this rulemaking effort⁵ and request 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,



Aaron L. Szabo
Assistant Administrator

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

⁴ 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.

⁵ Information regarding the stationary engine rulemakings is available here: <https://www.epa.gov/stationary-engines/national-emission-standards-hazardous-air-pollutants-reciprocating-internal-0>.