



Powering Strong Communities

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

Re: Comments of the American Public Power Association on the National Emission Standards for Hazardous Air Pollutants: Reciprocating Internal Combustion Engines and New Source Performance Standards: Internal Combustion Engines Electronic Reporting, EPA-HQ-OAR-2022-0879, 88 Fed. Reg. at 41,361 (June 26, 2023)

I. Introduction

The American Public Power Association (APPA or Association) appreciates the opportunity to provide comments on the Environmental Protection Agency’s (EPA or Agency) proposed rule, titled “National Emission Standards for Hazardous Air Pollutants (NESHAP): Reciprocating Internal Combustion Engines (RICE) and New Source Performance Standards (NSPS): Internal Combustion Engines (ICE); Electronic Reporting” (Proposed Rule).¹ APPA urges EPA not to remove the “50-hour provision” in the stationary RICE NSPS and NESHAP rules for “non-emergencies.” The provision is important to public power utilities because of the local reliability and resource adequacy benefits the provision provides to support a safe and reliable grid.

American Public Power Association is the voice of not-for-profit, community-owned utilities that power 2,000 towns and cities nationwide. We represent public power before the federal government to protect the interests of the more than 49 million people that public power utilities serve, and the 96,000 people they employ. Our association advocates and advises on electricity policy, technology, trends, training, and operations. Our members strengthen their communities by providing superior service, engaging citizens, and instilling pride in community-owned power.

Most APPA members are small entities serving communities with less than 50,000 customers. A few of APPA’s members are also “balancing authorities” in their local transmission areas, as defined by the North American Electric Reliability Corporation (NERC). Our members have invested hundreds of millions of dollars to comply with applicable Clean Air Act (CAA) regulations, including the RICE NESHAP and NSPS regulations, as well as a myriad of other

¹ 88 Fed. Reg. at 41,4361 (June 26, 2023).

continuous pollution controls and related monitoring, testing, and reporting requirements to ensure that they can continue to supply affordable, reliable, and sustainable electricity to their communities.

As these comments discuss in further detail below, APPA’s members believe that the 50-hour provision to operate emergency RICE must continue to be available to be called upon by public power utilities at their plants and in consultation with local balancing authorities and local transmission and distribution operators, to help to address intermittent voltage sags and other transmission and safety issues that could compromise the delivery of power in their local service areas. It would be unfortunate and even detrimental for the EPA to delete these small “insurance policies” in the RICE regulations, particularly considering the current challenges that operators are facing as the power sector transitions to other cleaner and non-emitting generation technologies, all while facing unprecedented weather-related disruptions to the bulk power system.

APPA’s comments in response to the Proposed Rule will address arguments by opponents to the related “100-hour provision” in the 2013 RICE NSPS and NESHAP rules, which was vacated in *Delaware v. EPA*, 785 F.3d 1 (2015). The related challenges in that case to the “50-hour provision,” which, pursuant to the agency’s motion, were severed from *Delaware* and continue to be held in abeyance pending the agency’s reconsideration of that provision, *sub. nom. Conservation Law Foundation v. EPA*, D.C. Cir. Docket No. 13-2022.² We also discuss the need to operate emergency RICE under the remaining 50-hour provision to stabilize the delivery of electricity in urban as well as rural areas. And finally, we offer recommendations to improve the reporting requirements.

A. Background

The current 50-hour non-emergency provision has been utilized by APPA’s members sparingly to address local reliability concerns such as voltage sags, transmission line maintenance, and non-emergencies such as ramping-up operations of steam generation equipment during black start conditions following an emergency. Also, some of APPA’s members have entered into financial agreements to dispatch the engines under the 50-hour provision.

B. Regulatory History and APPA’s Involvement

APPA has long advocated for EPA to allow limited hours of usage under the RICE Rules for electric utilities to call on “emergency engines” on a limited basis to address “non-emergency uses” to stabilize and protect local electricity transmission areas. (In our comments, APPA refers to these RICE as “emergency engines” to distinguish them from RICE at members’ facilities that must comply with the RICE regulations.) Many of APPA’s members own such engines, which are not cost-effective to retrofit but are maintained and tested, consistent with the RICE regulations so that they can be operated reliably as emergency engines for brief periods for emergency or non-emergency purposes pursuant to the RICE regulations.³ APPA members also, from time to time, have entered into financial arrangements to dispatch RICE units in non-emergency situations with other generation operators in “balancing areas” and/or with

² See Court’s Order at D.C. Cir. No. #13-1233, CM-ECF #1449888 (Aug. 2, 2013).

³ 40 CFR 60.4211(f)(2)(ii)-(iii); 40 CFR 60.4211(d)(2)(ii)-(iii); and, 40 CFR 63.6640(f)(2)(ii)-(iii).

Independent System Operators (ISOs) and Regional Transmission Operators (RTOs).⁴ In past discussions with EPA staff and in briefs in defense of the use of the emergency engines in *Delaware*--which APPA participated as an Intervenor Respondent on EPA's behalf--APPA emphasized that rural communities, including municipally-owned power plants and rural cooperatives that are literally "at the end of the transmission line," have been more susceptible to voltage sags and other local electricity outages that jeopardize their local service areas.

II. DISCUSSION OF APPA'S COMMENTS

A. APPA Supports Retaining the Current 50-hour Non-Emergency Provisions Codified at 40 Code of Federal Regulations (CFR) 63.6640 (f)(3) and (f)(4)(ii) and related NSPS Provisions at 40 CFR 60.4211(f)(3)(i) and 40 CFR 60.4243(d)(3)(ii).

Removal of the 50-hour provisions from the current RICE rule could harm public power communities because municipally owned and operated power generators will no longer be able to call on these onsite engines to help stabilize and protect the local transmission system or to maintain water pressure to operate fire pumps and safety lighting. To the extent that some of the Association's members, all of which are not-for-profit entities, enter agreements with balancing authorities or other entities for demand response, the rescission of the rules also will eliminate a modest funding source that cities use for maintenance and testing of these emergency engines and fuel for the engines.⁵

1. EPA should *not* narrow the current 50-hour non-emergency provision for RICE operation to generators in "rural areas."

EPA requests comment on whether there are potential revisions that would narrow the 50-hour provision "to ensure that its use is limited to remote rural areas (if those are the only areas where it is needed)."⁶ First, APPA does not believe the non-emergency provision should be limited to "remote rural areas." Now, and over the next decade, APPA believes that the importance of the 50-hour RICE provisions may grow in *both* rural and urban areas, given the increase in non-dispatchable generation (e.g., intermittent energy sources like solar and wind-generated power) and load growth.

In addition, emergency engines are also a viable means for addressing unprecedented weather conditions and other events across the country. Extreme weather events have not been confined to Texas and California and include areas in Kansas served by KPP Energy. In 2021 and 2022, the Southwest Power Pool (SPP) region experienced widespread failure in the natural gas markets. Intermittent generation was not available, and natural gas dispatchable resources were limited due to natural gas availability. While the events in 2021 and 2022 were short in duration, even the smallest generator was critical to prevent local voltage collapse and cascading outages.

⁴ APPA describes *infra* the role of "balancing authorities," and "balancing areas," which are "enforcement" terms defined by the North American Reliability Council (NERC), and certified by the Federal Energy Regulatory Commission (FERC). A map of the current 38 local balancing authorities' jurisdiction in the western interconnect is included.

⁵ APPA wants to emphasize that not only do the RICE rules require maintenance, but standby engines must be annually maintained (e.g., changing oil, filters, etc.) and tested periodically to be reliable to be called upon, whether they are, in fact, operated for any other reason.

⁶ 88 Fed. Reg. at 41,368.

Public power, like other power systems, address the impending loss of transmission by dropping load, alerting resident to discontinue the use of unnecessary appliances, etc. The ability to operate emergency engines under the 50-hour provision during these events can provide a valuable, if very limited, transition tool to “lower generation” safely or to bring up engines from black start conditions, and thus protect employees and generation resources, the surrounding community, and the environment.

2. The Agency should retain the 50-hour non-emergency provisions at this time because of changes in the generation mix.

The agency also requests comment on whether it should delete the provision rather than attempting to narrow it or make other changes to it.⁷ Our members are adamant that the regulation should not be deleted. As the power sector transitions to lower and non-emitting generation resources, public power utilities are balancing the system with all available resources, including the potential to operate emergency engines.

For example, in SPP, the amount of wind generation nameplate capacity has changed from 7 gigawatts (GW) to over 32 GW at the end of 2022.⁸ Wind generation produced 38 percent of the energy in SPP in 2022, more than any other fuel type in SPP.⁹ As evidenced by recent weather events, these non-emergency engines are operated infrequently but will be increasingly important to protecting public health and safety as more growth in low and non-emitting generation comes online. Figure 1 below is a snapshot of the SPP generator interconnection queue.¹⁰ The queue process provides a means for generation planners and developers to submit new generation interconnection projects into the queue for validation, study, analysis, and, ultimately, execution of a generator interconnection agreement. In 2023 SPP queue will include over 200 active projects ranging from storage to wind generation. To ensure the reliability of the local transmission grid while bringing such resources online, SPP and other members, including joint action agencies in the Midwest and the South, are depending on their ability to operate emergency standby engines to successfully implement these interconnects.

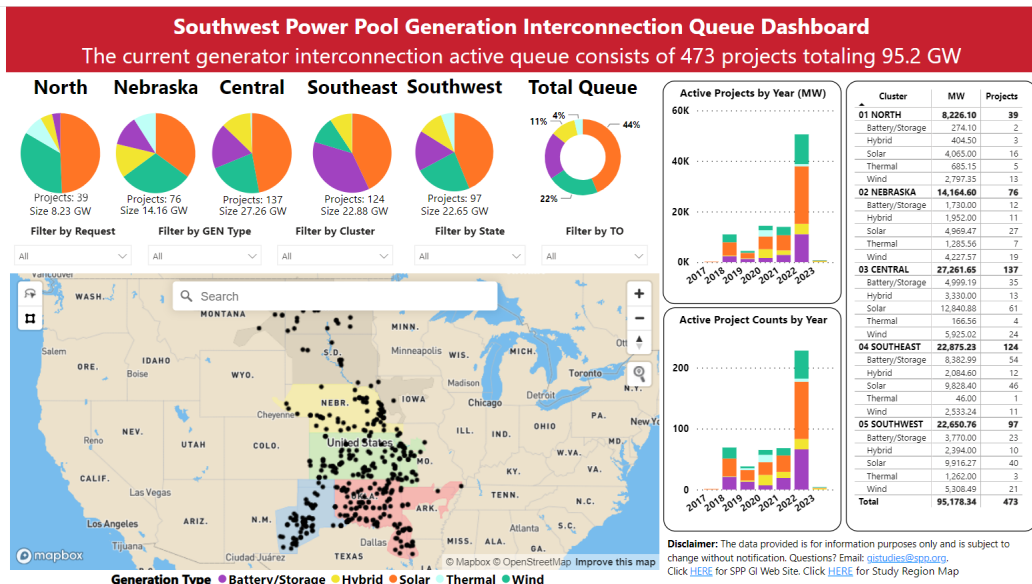
⁷ *Id.*

⁸ SPP Market Monitors’ “State of the Market 2022” report (“2022 Report”) <https://www.spp.org/documents/69330/2022%20annual%20state%20of%20the%20market%20report.pdf>. At 42.

⁹ *Id.* at 2.

¹⁰ <https://www.spp.org/engineering/generator-interconnection/>.

Figure 1 Snapshot of the SPP Generation Interconnection Queue



APPA member Salt River Project Agricultural Improvement and Power District (SRP), a local balancing authority that provides water and electric service in central Arizona, is also in the process of designing an extension to its Demand Response (DR) program to help meet its system needs during peak load. This program relies on RICE engines owned and operated by SRP customers and permitted by the applicable local air quality authority. The updated program is intended to serve as a bridge until SRP can bring more utility-scale energy storage online over the next several years. SRP’s DR program for emergency resources is initially slated to enroll 25 megawatts (MW) of emergency power generation that could rely on the 50-hour provision.

DR plays an important role in providing cost-effective, reliable power, particularly in areas of high load growth. For example, SRP faces significant capacity constraints over the next few summers due to several factors, such as a customer and load growth rate that is three times the national average, the retirement of generation assets, and the significant integration of intermittent renewable resources on the western grid. Additionally, extreme weather events in California during the summer of 2020 and in Texas during the winter of 2021 put enormous strain on the western grid and fuel supplies, threatening SRP’s ability to generate and deliver reliable power to its customers. Closer to home, SRP experienced the hottest calendar day ever recorded this summer, where extreme temperatures drove a 500 MW increase in peak demand over the prior year’s all-time record. In addition to procuring new resources to meet these growing needs, public power utilities such as SRP must explore and leverage all options to reduce demand on their systems to help mitigate cost and ensure reliability. Leveraging existing customer-owned emergency resources in alignment with the 50-hour provision is one such common-sense option. Without the 50-hour provision, DR becomes more burdensome and less attractive to participating customers.

3. Energy storage technological advancements, transmission system repairs and/or replacement, and the build-out of new transmission lines may ease the need for uncontrolled RICE units, but not in the immediate future.

Advances in bulk energy storage systems (BESS) and efforts by public power utilities to own and operate intermittent resources such as wind and solar are ongoing. We expect these new resources with increased electrification will increase volatility in the short term as more fossil generation is retired due to proposed regulations to reduce greenhouse gas emissions from the power sector. Over time, energy markets and system operators will incorporate this change; however, in the meantime, our members need the 50-hour provision to maintain grid reliability as the economics and operational capabilities of BESS improve.

B. APPA’s Responses to Concerns Raised by Opponents in *Delaware* and the Brief Filed by the *Conservation Law Foundation in that Litigation, Still Pending before the D.C. Circuit.*

The Proposed Rule appears to seek responses to the arguments that challengers made in *Delaware v. EPA*, to the 100-hour DR provisions in the RICE rules.¹¹ These challenges were not specifically adjudicated by the court in *Delaware* because the D.C. Circuit held that the 2013 RICE NESHAP 100-hour provisions for the operation of emergency standby engines for the national grid were arbitrary and capricious because the agency (1) failed to respond to commenters’ concerns about the 2013 Rule’s impact on the efficiency and reliability of the energy grid, and (2) the 100-hour provisions were justified on the basis of “faulty evidence” regarding the minimum capacity requirements to operate in the PJM.¹² EPA also requested comments related to criticisms of the 50-hour non-emergency provision made in the Conservation Law Foundation’s brief (CLF brief), which was filed in *Delaware* before CLF’s challenge to the 50-hour provision was severed from the case, and the 50-hour provision was remanded to the EPA for further consideration.¹³ APPA responds to the substantive arguments raised by opponents of the 100-hour and 50-hour provisions.

Petitioners and the supporting “Intervenors-Petitioners” argued that demand response in capacity markets based on the use of emergency generators have, had, or will have negative effects on the overall reliability of the national electrical grid for four reasons. First, they asserted that since emergency generators did not have to conform to emissions controls like newer RICE or other power plants equipment, their electricity costs less to produce, and they accordingly will be operated in lieu of controlled equipment. Hence, opponents argued that these generators can charge less and underbid conventional power suppliers in capacity markets, particularly since they can enter into beneficial financial arrangements to sell these emergency engines into the market. Second, Petitioners have argued that as emergency generators displace traditional power plants in capacity markets, demand for traditional power generation drops, and because traditional power generators rely on capacity markets to “recoup their costs,” they,

¹¹ 88 Fed. Reg. at 41368.

¹² See *Delaware at 14-16*. The court also held that that the regulation was arbitrary and capricious because the agency failed to consider limiting to the provision to areas not served by organized capacity markets, and that EPA failed to obtain the views of the Federal Energy Regulatory Commission (FERC) or NERC on the reliability considerations upon which the EPA’s exemption was based. APPA has addressed the agency’s questions in this notice about whether the use of the 50-hour provision should be limited to rural areas. We must defer to the agency regarding its discussions with FERC and NERC regarding the application of NERC’s reliability standards. impact on the efficiency and reliability of the energy grid.

¹³ See discussion at 88 Fed. Reg. 41,368.

therefore, will under-invest in power plants that produce more reliable and expensive electricity for the energy markets, causing a reduction in supply that will undermine the reliability of the power grid. Third, opponents of the RICE allowances for non-emergency use limited to 50 hours further asserted that as the power supply decreases and the grid becomes less stable because investment in new generation stalls, the number of power emergencies will increase. Fourth, as non-emergency events increase and interrupt electricity transmission, the actual use of “dirty” emergency generators will correspondingly increase, causing greater pollution and discouraging cleaner generation. Thus, opponents of the 100-hour and 50-hour provisions have argued that instead of protecting the nation's air resources and improving grid reliability as EPA claimed, the 100-hour and 50-hour provisions will “distort the reliability and efficiency” of the capacity and energy markets.¹⁴ In *Delaware*, the court expressed no opinion on any of these contentions except to observe that EPA gave “wan” responses to what the court appeared to agree were “well-founded concerns.”¹⁵

1. Retaining the 50-hour non-emergency allowance did not and will not affect the reliability of the U.S. electric markets, nor did it or will it incentivize operators or “energy brokers” to bundle and attempt to dispatch old engines, forcing out more efficient and/or cleaner generation.

In APPA’s experience over the last decade, the use of emergency engines under the 50-hour provision has not made the transmission of electricity more vulnerable. The use of emergency engines is not viable to meet the nation’s demand for electricity and has not replaced the energy supply from conventional electric generating units (EGUs). These emergency engines are not as efficient as regulated RICE, and they are not as economical to operate, even for short time intervals, except for non-emergency and emergency events when there is no other EGU available. Nor does the Association believe that there is any evidence that any local or regional operator has ever suggested the use of these emergency engines is a solution or potential solution to current national energy transmission problems, which are generally attributed to insufficient transmission infrastructure and increased energy demand around the country.

The majority of the emergency engines that would be allowed to run under the 50-hour provisions were built decades ago and are not nearly as efficient as modern RICE-compliant internal combustion engine generators based on fuel input and energy output. Modern, compliant RICE generators, which are more efficient and more versatile to operate, the older emergency engines are not as cost-effective as newer combustion engines to operate,¹⁶ and hence they could not be dispatched economically enough to cause them to “rise” in the dispatch order in the daily auctions for available power in regional transmission markets. Therefore, it is our understanding that these emergency engines have never been bid into the daily auctions for “available power” despite being “available” for 50 hours of non-emergency use.

¹⁴ See Petitioners’ Brief at DC. Cir. Docket #13-1093, CM-ECF #1491648, at 20-23.

¹⁵ *Id.* at 14.

¹⁶ In fact, newer compliant RICE engines are increasingly designed to not only meet emission requirements but to be more fuel efficient and cost-effective to operate than combustion turbines. Additionally, these “quick start” engines and BESS allow utilities to incorporate the variable output of non-dispatchable renewable generation.

In other words, these emergency engines are simply too inefficient and expensive to operate for all but a last-ditch effort to avert an emergency. Consequently, power plants only dispatch these units to address voltage sag, repair and maintenance of transmission lines carrying electricity, maintenance events for other generating resources at a power plant, or for safety operations. Similarly, “balancing authorities” only call upon “uncontrolled” emergency engines to be dispatched when there is an occurrence of a “balancing event,” as defined by NERC, which includes an emergency or portends an emergency (e.g., a drop by 5% in voltage). APPA also believes, based on conversations with members, that there are not a significant number of emergency standby engines available for dispatch, principally because of the cost and difficulty of testing and maintaining them so they can be reliably called to run under the 50-hour provision.

2. Capacity Payments under Financial Arrangements with a Balancing Authority or Other Entity are Negligible.

Challenges to the use of emergency engines under the 50-hour provisions also appear to have been fueled by Petitioners’ convictions that demand response capacity payments would be financially attractive and, thus, that the 50-hour provision would allow many “unreliable” emergency engines to be contracted for and bundled to supply electricity markets, and thusly, the 50-hour provision has the potential to distort electricity and capacity markets. According to APPA’s members, there was--and still is-- no basis for such concerns. In addition to the fact that these engines lack the efficiency and cost-effectiveness of newly controlled RICE and other conventional power sources, DR capacity payments are barely enough to cover the testing and maintenance of these older engines.

In a member’s affidavit in *Delaware v. EPA* its financial arrangement with a balancing authority merely reimbursed the city for the fuel needed to operate the emergency unit in a non-emergency flood event. (See Affidavit of L. Holloway Ass’t. Mgr., Kansas Power Pool, at Att. C, par. 10).¹⁷ Similarly, another APPA member recently told us that the joint action agency pays its members \$7.50/kilowatt (kW)-per year for maintaining standby capacity. This “capacity payment” for DR is about 1/10 the current market rate for paper capacity (i.e., capacity with no energy). Such payments are highly unlikely to interfere with the market privately financed or, in the case of municipalities, by municipally-issued bonds for their acquisition and installation, with maintenance and repairs being financed by consumers at monthly rates approved by public utility commissions under the Federal Power Act.¹⁸ The payments do help to relieve some of the financial burdens of maintaining emergency generators to protect individual homeowners and businesses in our members’ service areas.

3. DR Financial arrangements, a.k.a “capacity payments,” are not relevant to decisions regarding the installation of pollution controls or replacing existing generation with reliable, clean generation.

Opponents of the 50-hour provision in the RICE regulations also have contended, without any factual basis, that because the provision would incentivize the use of old engines, power plants

¹⁷ D.C. Cir. Doc. #13-1093, CM-ECF Doc. No. 1565413 (July 30, 2015)

¹⁸16 U.S.C. §§ 791-825r (1940).

will cease to make investment in more reliable generators with state-of-the-art pollution controls. As a result, the electricity and capacity markets will threaten the reliability of local, regional, and national electricity transmission. This is not the case. There is no foundation for concern based on the evidence of the last decade. Further, APPA's members, and the electric generating industry, have made hundreds of millions of dollars in investments in generation and transmission resources *every year*, and these investments include bringing new generation resources online, which are subject to the most stringent pollution control requirements. APPA's members have reported purchasing new RICE units, to replace emergency standby engines. The Association's members also have and will continue to make financial investments in clean generation technologies.¹⁹

APPA believes, therefore, that it is beyond dispute that capacity payments do not, and cannot, distort capacity and electricity markets, as asserted by Petitioners in their briefs. However, the Association is willing to concede that if clean energy expectations play out, and our members are able at the end of this decade to purchase and install long-duration batteries that can store energy from solar generation and wind or other energy in the future, or install newer compliant and efficient RICE generation, there may be a diminished incentive in the next decade to rely on emergency engines except for total energy collapse. But that is a hope for the *future*, not the present. EPA needs to retain the allowance that would enable our members to use emergency engines to stabilize local transmission now.

4. Dispatching emergency standby RICE under the conditions in the RICE rule are highly unlikely to contribute to a significant impact on local air quality or downwind air quality.

In their briefs, Petitioners have argued that the EPA “unreasonably dismissed” their concerns about the potential for the use of emergency standby engines under the 100-hour and 50-hour provision to harm vulnerable residents and to compound downwind violations of the National Ambient Air Quality Standards (NAAQS).²⁰ The recorded evidence demonstrates that no such increase occurred by virtue of the fact EPA has little information on the use of the 50-hour provision.²¹ It would be arbitrary and capricious to eliminate the 50-hour provisions, given the fact that these predictions have proven to be patently untrue.²² Further, since the majority of RICE, including emergency engines, use natural gas as a fuel, they are unlikely to emit significant emissions that would impair air quality or impact sensitive populations, particularly given their limited operation. RICE units are not covered under EPA's interstate transport rules; this is likely because the emissions are so small in comparison to EGUs that controlling them

¹⁹ As APPA has explained above, these clean resources present a new reason to preserve the 50-hour provision to ensure reliable conversions of transmission systems to conventional electricity when solar and wind energy fades at night.

²⁰ See e.g., Petitioners Brief, at FN 13, *supra*, at 22.

²¹ See 88 Fed. Reg. 41,368.

²² *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (“[T]he agency must examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’”)

likely would have not have any effect on reducing a state’s significant contribution (≥ 1 percent) to downwind air quality.²³

C. Demand Response Agreements are Related to Balancing Authorities’ Enforcement Authorities.

EPA requests information regarding the meaning of “local balancing authority” and “local transmission and “distributions system operation.”²⁴ The terms are included in all three of the relevant RICE regulations at issue in this Proposed Rule, specifically with regard to the five conditions that must be met to dispatch emergency generators 50-hours per calendar year for non-emergency use as part of a financial arrangement with another entity. However, these terms are not defined in the regulation, itself, which opponents of the 50-hour emergency allowance have implied could allow for their misuse and/or are indications that EPA has failed to consult with the North American Electric Reliability Council (NERC) and/or the Federal Energy Regulatory Commission (FERC) on the use of these terms.²⁵

The first condition in each NSPS and the NESHAP rule is that under the 50-hour provision the engine must be dispatched by the local balancing authority or local transmission and distribution system operator. Balancing Authority (BA), Transmission Operator (TOP), Transmission Owner (TO) and Distribution Provider (DP) are all terms that have been defined by NERC and have been approved by the Federal Energy Regulatory Commission and are part of NERC’s enforcement regime.²⁶

Balancing authorities are the entities throughout the U.S., that are responsible for ensuring a locale’s “real-time” energy supply, with reference to dozens of NERC reliability standards. NERC, and the balancing authorities themselves, were created after several massive blackouts in the country including the Great Northeast Blackout in 1965, that were caused by cascading events throughout local transmission systems when transmission in Ontario “tripped” and caused transmission system collapse throughout New England and parts of Canada for fourteen hours. NERC defines “balancing authority” as the responsible entity that integrates resource plans ahead of time, maintains demand and resource balance within a Balancing Authority Area, and supports Interconnection frequency in real-time. An important related term, “Balance Contingency Event” is:

“Any single event described in Subsections (A), (B), or (C) below, or any series of such otherwise single events, with each separated from the next by one minute or less.

²³ Clean Air Act Section 110(a)(2)(D)(i), 42 U.S.C. 7410(a)(2)(D)(i), requires a state implementation plan to contain adequate provisions to prohibit . . . “any source or other type of emissions activity within a from emitting any air pollutant in amounts which will—(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility. EPA defined “contribute significantly” in the first “Good Neighbor” rule at 76 Fed. Reg. 48254 “amounts [that] ... contribute significantly to nonattainment” if they (1) constitute one percent or more of a relevant NAAQS in a nonattaining downwind State and (2) can be eliminated under the cost threshold set by the Agency.

²⁴ 88 Fed. Reg. at 41,368.

²⁵ See *Delaware* at 18.

²⁶ https://www.nerc.com/pa/Stand/Glossary%20of%20Terms/Glossary_of_Terms.pdf. (NERC Glossary of Terms)

A. Sudden loss of generation:

a. Due to

i. unit tripping, or

ii. loss of generator Facility resulting in isolation of the generator from the Bulk Electric System or from the responsible entity's System, or

iii. sudden unplanned outage of transmission Facility;

b. And, that causes an unexpected change to the responsible entity's ACE [Area Control Error]²⁷;

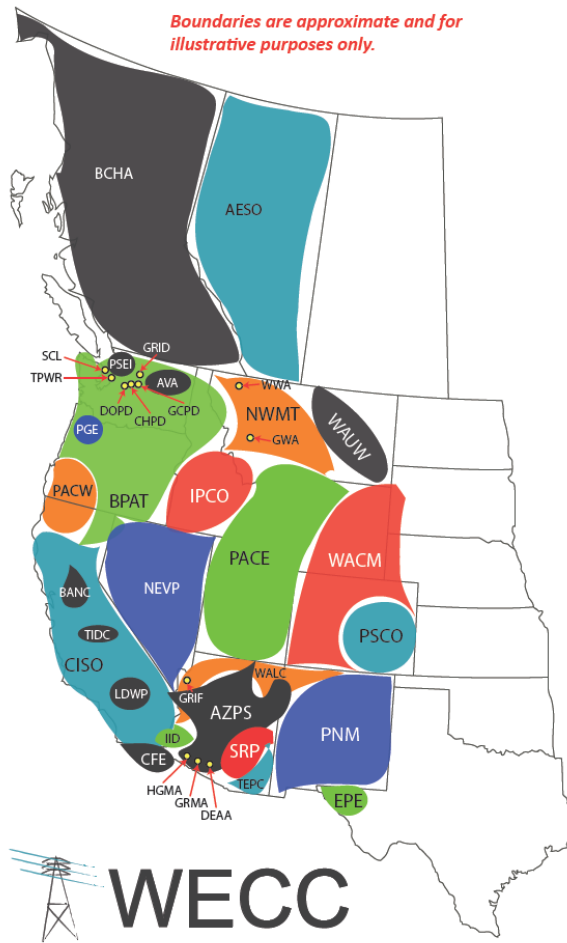
B. Sudden loss of an Import due to a forced outage of transmission equipment that causes an unexpected imbalance between generation and Demand on the Interconnection.

C. Sudden restoration of a Demand that was used as a resource that causes an unexpected change to the responsible entity's ACE. ”²⁸

In Texas, the Electric Reliability Council of Texas (ERCOT) is the single balancing authority, but in the Eastern Interconnect, there are 31 balancing authorities in the U.S. and 5 in Canada. In the Western Interconnection, there are 35 balancing authorities in the US, 2 in Canada, and 1 in Mexico. (Note that a balancing authority for a region may be a utility instead of a transmission operator (TO) or dispatch operator (DO)). A list and map of the 38 balancing authorities, grouped by region, is provided.

²⁷ ACE refers to the balancing authorities' area-control-error (ACE) equation to determine reliability under the NERC reliability standards, which require that all areas system operators maintain ACE within specific tolerances so that any balancing area does not negatively affect operations of interconnected areas. It is the difference between the desired net interchange schedule and the actual net interchange schedule.

²⁸ NERC Glossary of Terms.



Western Interconnection Balancing Authorities (38)

- AESO - Alberta Electric System Operator
- AVA - Avista Corporation
- AZPS - Arizona Public Service Company
- BANC - Balancing Authority of Northern California
- BCHA - British Columbia Hydro Authority
- BPAT - Bonneville Power Administration - Transmission
- CFE - Comision Federal de Electricidad
- CHPD - PUD No. 1 of Chelan County
- CISO - California Independent System Operator
- DEAA - Arlington Valley, LLC
- DOPD - PUD No. 1 of Douglas County
- EPE - El Paso Electric Company
- GCPD - PUD No. 2 of Grant County
- GRID - Gridforce
- GRIF - Griffith Energy, LLC
- GRMA - Sun Devil Power Holdings, LLC
- GWA - NaturEner Power Watch, LLC
- HGMA - New Harquahala Generating Company, LLC
- IID - Imperial Irrigation District
- IPCO - Idaho Power Company
- LDWP - Los Angeles Department of Water and Power
- NEVP - Nevada Power Company
- NWMT - NorthWestern Energy
- PACE - PacifiCorp East
- PACW - PacifiCorp West
- PGE - Portland General Electric Company
- PNM - Public Service Company of New Mexico
- PSCO - Public Service Company of Colorado
- PSEI - Puget Sound Energy
- SCL - Seattle City Light
- SRP - Salt River Project
- TEPC - Tucson Electric Power Company
- TIDC - Turlock Irrigation District
- TPWR - City of Tacoma, Department of Public Utilities
- WACM - Western Area Power Administration, Colorado-Missouri Region
- WALC - Western Area Power Administration, Lower Colorado Region
- WAUW - Western Area Power Administration, Upper Great Plains West
- WWA - NaturEner Wind Watch, LLC

Source: An Overview of WECC 2004-2022

NERC defines a TO as “the entity responsible for the reliability of its ‘local’ transmission system, and that operates or directs the operations of the transmission facilities. A Distribution Provider (DP) is “the entity that operates the “wires” between the transmission system and the end-use customer.”

Balancing authorities enforce reliability standards under the FPA. The FPA empowers NERC with FERC’s oversight to require compliance under a regime that can levy million dollar-a-day penalties for non-compliance. The current rule appears to require a specific NERC reliability standard be identified in reporting to justify the use of the 50-hour provision.²⁹ The identification of specific NERC standards may contravene NERC’s critical infrastructure protection standards; we suggest that EPA consult with NERC and the FERC regarding this requirement. For reasons that APPA discusses below, we recommend that this vague requirement be deleted in future revisions of the rule, if only because there are dozens of such “reliability standards” issued by NERC or alternatively, that the rule refer to these as reliability standards issued by NERC. NERC Reliability Standards define the reliability requirements for planning and operating the North American bulk power system and are developed using a

²⁹ 88 Fed. Reg. at 41,367.

results-based approach that focuses on performance, risk management, and entity capabilities. They are developed using an industry-driven, American National Standards Institute-accredited process that ensures the process is open to all persons who are directly and materially affected by the reliability of the North American bulk power system; transparent to the public; demonstrates the consensus for each standard; balances the interests of all stakeholders; provides for reasonable notice and opportunity for comment; and enables the development of standards in a timely manner.³⁰

D. APPA's Responses to Questions Regarding Recordkeeping and Reporting Requirements for the Use of Emergency Engines Operated under the 50-Hour Provision.

The Proposed Rule seeks to add electronic reporting provisions to simplify reporting by affected sources and to make the data more readily accessible.³¹ The Association recommends that provisions for reporting the dispatch of emergency engines need to be amplified to prevent confusion, particularly in the situation where the engine is dispatched by a balancing authority or transmission or dispatch operator.

1. APPA members believe that emergency engines are not frequently operated for anything other than operational and maintenance per the RICE regulations, their emissions are reported to state and local authorities if they are dispatched.

The current 50-hour provision requires owners or operators of engines to report annually if the engines meet certain conditions.³² However, EPA expresses concern that facilities were rarely reporting, based on the agency's review of available information arrayed in three excel spreadsheets in the docket illustrating the information facilities have reported under NSPS subparts IIII, JJJJ and NESHAP subpart ZZZZ.³³ The various electronic reports indicate facilities reported, training, testing, maintenance events, and power outages, but not with the frequency that agency expected. APPA reviewed these spreadsheets and was not as concerned as the agency that there were violations of reporting requirements for two reasons. First, if an engine was operated for demand response, it is quite likely that the records of its operation (including the reason it was dispatched) are maintained in records of the balancing authority or transmission and/or dispatch operator, per the fifth requirement of the 50 hr provision.³⁴ Second, APPA has learned from its members that these emergency standby engines are not operated frequently except to meet regular testing and maintenance requirements to assure their reliability.

The majority of emergency standby engines automatically record operational hours, and for those that do not, operational hours are recorded manually in logs or fuel use records. Those hours of operation are utilized with Web Factor and Information Retrieval database. Emission factors associated with engines of similar design and emission rates are used to compute

²⁸ See nercstg.nerc.com.

³¹ 88 Fed. Reg at 41,361.

³² See, e.g., 40 CFR 60,4211(f)(3)(1)(E).

³³ EPA-HQ-OAR-2022-0879-0002, EPA-HQ-OAR-2022-0879-0012 and EPA-HQ-OAR-2022-0879-0013.

³⁴ See, e.g., 40 CFR 60,4211(f)(3)(1)(E) of the CI NSPS.

emissions that are reported to state and local air pollution control authorities in annual emissions statements, generally in bulk for all RICE units. Because the existing recordkeeping and reporting requirements may not be well understood suggestions for revising them are below.

2. APPA suggests four clarifications to the existing reporting requirements that the EPA should consider.

APPA and our members believe that emergency engines may be dispatched more frequently to address anticipated local transmission issues due to increased intermittent generation and severe weather conditions. As such, APPA offers the following suggestions for modifying the current reporting regulations to address our concerns with the current reporting requirement.

First, the current identity of the “person” who is obligated to report the dispatch of an affected RICE engine is clouded by the reporting provision itself, and particularly its last provision transferring reporting obligations to the BA, or TA/DA that dispatched the engine. Emergency engine owners are likely to communicate that information to the NERC or possibly the local utility commission rather than EPA. The current rule specifies one of four entities have a reporting obligation– the plant, the owner of the allowance under a financial arrangement, the transmission operator, and/or the distribution operator. Presumably, the recipient of the report is a state permitting authority, although this is not actually clear. Ordinarily, such information would be included in the semiannual Title V report and the plant’s triannual National Emissions Inventory Report to the state air pollution control agency.³⁵

Therefore, APPA recommends that the existing reporting requirement should plainly require the owner/ operator of the affected RICE must report the hours of operation of the engine to its state permitting authority or another state official, or to EPA’s regional permit authority if the state does not administer its own Title V program. The report should include (i) the location of the plant; (ii) the identity of the point source or other identifying information; (iii) the hours of operation on an annual basis; (iv) whether the emergency engine was dispatched for use at the plant to address a local transmission problem or another reason or if the unit was dispatched under a DR agreement and if so, the identity of that entity and the purpose for which the owner/operator believes that the engine was dispatched; and (v) the emissions of regulated air pollutants that were released.

Second, we recommend that reporting obligations regarding which reliability standards the engine was dispatched should be deleted from the 50-hour provision because it is unlikely that either the plant operator or the state air pollution control authority would have access to information to determine which of the dozens of reliability standards applied. Further, we note that such reliability standards are not in EPA’s purview, and frankly, most EGU operators at municipally owned utilities would be hard-pressed to identify one of the dozens of NERC and local interconnect reliability standards, which we are told seem to be in a constant state of flux. If the date is established and someone wants to know, it can probably be researched.

³⁵ See 40 CFR §§ 60.4211(d)(3)(i)(E); 60.4211(d)(3)(i)(E); and §§ 63.6640(f)(4)(ii)(E).

Third, APPA urges the agency to retain the batch reporting requirements currently provided for in the annual reporting under the 50-hr. provision. We recommend that EPA also allow other entities, such as consultants or demand service providers, to file on behalf of sites using batch uploads. Indeed, as discussed above, it is our suspicion that these hours of operation and their related emissions are captured under other reporting obligations such as under the Energy Information Agency form 923, which includes fuel and generation levels at the plant level for ICE units. But we concede that singling out the use of the 50-hour exclusion will guarantee it gets highlighted, and it could help to obtain resources to address local transmission issues or plant issues if it recurs. EPA also needs to realize that sites with emergency engines include municipal facilities such as water and wastewater treatment plants, institutional facilities, and a whole range of other small type facilities with limited staff that may have less familiarity with using EPA's Compliance and Emissions Data Reporting Interface (CEDRI), and thus the agency needs to provide sufficient training opportunities, including online training, for plants on the information required, even if outside experts are hired to make the reports.

Fourth, in response to the agency's request for suggestions regarding the timing of the effective date, if EPA revises the current RICE rule, generally, and specifically with respect to the current rule's reporting requirements, APPA does not believe it would be reasonable for EPA to apply any rule change retroactively. With respect to changes to the reporting requirements themselves for operating units under the 50-hour non-emergency allowance, APPA believes that it would not be unreasonable for the changes to apply no sooner than 180 days of the publication of the electronic reporting form or 90 days of the EGU's annual reporting obligation, whichever occurs earlier.

However, in the interim, APPA's members would be amenable to non-binding guidance on reporting the dispatch of emergency engines under the 50-hour provision. APPA also believes that EPA can consider issuing guidance using the electronic reporting tool (ERT) rule for existing or updated forms to clarify existing reporting obligations, including perhaps a description of the circumstances in which the emergency engine was dispatched.³⁶

E. RICE Maintenance Requirements - EPA Should Consider Redefining “Annually” with Regard to Maintenance Requirements Applicable to ALL RICE, As No Less Than Thirteen Months from the Last Maintenance, or Alternatively, as Maintenance is Provided for in the Part 75 RATA Requirements.

The agency is proposing to replace the word “annually” in Tables 2c and 2d of the existing NESHAP RICE rule, which includes requirements for maintenance and inspections such as oil and filter changes, and belt/hose inspections, etc.) to “every 12 months,” by replacing the existing definition of annual maintenance.³⁷ This would mean this annual maintenance work done in October of one year, would need to be completed in October of the following year, and so on. APPA's members think that the proposed definition would be too rigid and instead that

³⁶ APPA also notes that EPA has proposed provisions to modernize reporting into the Air Emissions Reporting Rule on August 9, 2023, at proposed 40 CFR 51.25,³⁶ via CEDRI/CDX that would appear to address these and related issues in the future if it is finalized, using ERT available from EPA's ERT website.

³⁷ 88 Fed. Reg. at 41,365.

the agency should instead adopt requirements that are more flexible than “every 12 months. There can be difficulties meeting such a tight schedule, especially if scheduling maintenance with 3rd party servicing companies, or simply making sure that such maintenance can be accommodated during planned plant turn-arounds at the end of the summer or winter. Therefore, APPA suggests that EPA should adopt a definition of “annually” to mean “no longer than 13 months from the prior maintenance of the RICE, or in concert with the existing Part 75 annual relative accuracy testing audit requirements for completing maintenance during the same quarter every year.” This would prevent this annual preventive maintenance (PM) from being completed no closer than 9 months and no longer than 15 months from the previous annual PM.

In closing, APPA appreciates the opportunity to submit comments on the Proposed Rule. We want to emphasize that APPA’s members believe that the 50-hour provisions in the RICE Rules for emergency engines to operate in non-emergency situations to stabilize local transmission is important, and that their importance will increase as the nation transitions to new power sources and repairs/replaces/and expands the country’s existing electric transmission and distribution systems. If you have questions, please feel free to contact me at 202-467-2900 or email CSlaughter@PublicPower.org.

Respectfully submitted,

A handwritten signature in black ink that reads "Carolyn Slaughter". The signature is written in a cursive, flowing style.

Carolyn Slaughter,
Senior Director, Environmental Policy
The American Public Power Association