

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY**

**AN ORDER GRANTING A TEMPORARY LOCAL VARIANCE  
FOR THE OPERATION OF TIER II AND TIER IV EMERGENCY GENERATORS BY  
DATA CENTERS LOCATED IN LOUDOUN COUNTY  
DURING PERIODS OF PJM INITIATED ALERTS, WARNINGS, OR ACTIONS AS A  
PRECAUTIONARY MEASURE**

**SECTION A: PURPOSE**

This order of the Department of Environmental Quality is issued for the purpose of granting a variance for data centers located in Loudoun County that operate Tier II emergency generators under this order in lieu of the State Air Pollution Control regulations. The variance would temporarily allow Tier II and Tier IV emergency generators to operate during times PJM has initiated a "Maximum Generation Emergency/Load Management Alert" and any subsequent Alerts, Warnings (including a "Post-Contingency Local Load Relief Warning"), or Actions for Loudoun County, or portions of the county, to provide a precautionary and redundant measure.

**SECTION B: DEFINITIONS**

"Affected data centers" are data centers located within Loudoun County.

"Board" means the State Air Pollution Control Board.

"Code" means the Code of Virginia.

"Data center" means a facility that centralizes an organization's shared information technology operations and equipment for the purposes of storing, processing, and disseminating data and applications. A data center's design is based on a network of computing and storage resources that enable the delivery of shared applications and data. The key components of a data center design include routers, switches, firewalls, storage systems, servers, and application-delivery controllers.

"Department" means the Department of Environmental Quality, an agency of the Commonwealth described in § 10.1-1183 of the Code.

"Director" means the Director of the Department of Environmental Quality as defined in § 10.1-1300 of the Code.

"Order" means this order granting the local variance.

"PJM" means PJM interconnect, the independent system operator and regional transmission organization that coordinates the movement of wholesale electricity in all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia.

"PJM Manual 13" means PJM Manual 13: Emergency Operations, Revision 86, November 3, 2022.

"Regulations" means 9VAC5 Chapters 10 through 80.

"Tier II emergency generator" means an engine that is subject to the Tier II emissions standards under 40 CFR Part 89.112 that can be operated only for periodic testing and under the emergency conditions defined in 9VAC5-80-1110 C.

"Tier IV" means a generator that complies with the strict EPA-mandated emissions standards for off-highway diesel engines manufactured after 2015 and that are manufactured with a selective catalytic reduction system as an integral component of the engine under 40 CFR Part 60, Subpart IIII.

"Variance" means the variance to the regulations issued by means of this order.

### **SECTION C: AUTHORITY**

1. Chapter 13 of Title 10.1 of the Code creates the Department and vests in it the authority to supervise and control various aspects of air pollution in the Commonwealth. It also creates the Board and vests it with the authority to promulgate regulations "abating, controlling and prohibiting" air pollution.

2. Pursuant to its authority, the Board has promulgated its regulations, which first took effect March 17, 1972, and have since been amended.

3. Pursuant to §§ 10.1-1307(C), 10.1-1307(E), and 10.1-1307.01 of the Code and as set forth in 9VAC5-170-140 and 9 VAC 5-170-170, the Department may issue an order granting local variances to any provisions of the regulations after an investigation and public hearing and shall grant the variance by issuing an order.

4. Orders of the Department are enforceable pursuant to §§10.1-1309, 10.1-1316 and 10.1-1320 of the Code.

### **SECTION D: VARIANCE**

The Department has carefully reviewed all the relevant materials in this matter, including the information provided by the public through oral and written comments, and the report provided by the Department staff. Having considered such information, the Department finds that the issuance of this order granting the local variance is appropriate under the circumstances and warranted by local conditions. Therefore, pursuant to § 10.1-1307(C) of the Code and 9VAC5-170-140, the Department issues this order granting the following local variance:

1. Notwithstanding the definition of "emergency" in 9VAC5-80-1110(C), or any other regulations of the Board, or the terms of any permit to the contrary, an emergency shall be deemed to have occurred, and Tier II and Tier IV emergency generators serving data centers

located within Loudoun County shall be allowed to operate, when PJM initiates a "Maximum Generation Emergency/Load Management Alert" for Loudoun County under procedures established in Section 2.3 of PJM Manual 13.

2. In addition, notwithstanding the definition of "emergency" in 9VAC5-80-1110(C), or any other regulations of the Board, or the terms of any permit to the contrary, an emergency shall be deemed to have occurred, and Tier II and Tier IV emergency generators serving data centers located within Loudoun County shall be allowed to operate when PJM initiates a "Post Contingency Local Load Relief Warning" for Loudoun County under procedures established in Section 5.4 of PJM Manual 13.

3. This local variance shall apply only during periods when a "Maximum Generation Emergency/Load Management Alert" or higher level of Alert, Warning, or Action, as described in Section 2.3 of PJM Manual 13, or a "Post Contingency Local Load Relief Warning" as described in Section 5.4 of PJM Manual 13, is in effect, and only within the portions of Loudoun County for which such a PJM Alert, Warning (including a "Post-Contingency Local Load Relief Warning"), or Action has been called.

4. Each affected data center shall notify the Department within three hours of commencing to operate its Tier II and Tier IV emergency generators under the terms of this order and local variance.

5. Each affected data center shall notify the Department within three hours of ceasing to operate its Tier II and Tier IV emergency generators under the terms of this order and local variance. In addition, each affected data center shall provide to the Department as soon as practicable a calculation of the emissions of air pollutants from its Tier II and Tier IV emergency generators during the periods they operated under the provisions of this order and local variance.

6. This order and local variance shall become effective on the date on which it is signed by the Director of the Department of Environmental Quality.

7. This order and local variance shall expire on July 31, 2023.

8. The Department may modify, rewrite, or amend this order and local variance with the consent of the affected data centers, for good cause shown by affected data centers, or on its own motion after notice and a public comment period and hearing in accordance with §10.1-1307 C of the Code and 9VAC5-170-140.

9. The Department may revoke this order and local variance in accordance with §10.1-1307 C of the Code and 9VAC5-170-140 for any reason permitted under its statutory authority.

## **SECTION E: FAILURE TO COMPLY**

Failure by affected data centers to comply with any of the terms of this order and local variance shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department as a result of such violations. Nothing herein shall affect

appropriate enforcement actions by any other federal, state, or local regulatory authority.

It is so ordered:

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE COMMONWEALTH OF VIRGINIA**

\_\_\_\_\_ BY: \_\_\_\_\_  
Date Michael S. Rolband, Director

REG\VAR-FIN\FV-DATA CENTERS\FV-ORDER-VAR-PRO-c.DOC