

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
AIR DIVISION**

**INTRA AGENCY MEMORANDUM**

**TO:** File

**FROM:** Mary E. Major  
Environmental Program Manager

**SUBJECT:** Meeting Minutes - Technical Advisory Committee Concerning Qualified Energy Generators using Biomass (Rev. Cg)

**DATE:** May 14, 2010

**INTRODUCTION**

A meeting of the technical advisory committee concerning qualified energy generators using biomass was held in the 2nd Floor Conference Room C, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia. A record of meeting attendees is attached.

**Start:** 12:30 a.m.

**End:** 1:45 p.m.

**Subcommittee Members Present:**

Mr. Tony Banks, Virginia Farm Bureau Federation  
Mr. Matt Faulconer, Rappahannock Electric Cooperative  
Mr. Ken Moss, Piedmont BioProducts, LLC  
Ms. Donna L. Wirick, Intrinergy  
Ms. Patty Buonviri, Air Toxics Coordinator, DEQ  
Ms. Mary E. Major, Office of Regulatory Affairs, DEQ

**Subcommittee Members Absent:**

Dr. Foster A Agblevor, Ph.D., Biological Systems Engineering, Virginia Tech  
Mr. Donald Bishop, Cumberland, VA  
Mr. Randy Bush, Virginia Forest Products Association  
Mr. Ian Heatwole, Weyers Cave, VA  
Mr. Oren Heatwole, Dayton, VA  
Mr. H. Dean Price, Red Birch Energy, LLC  
Mr. Paul R. Howe, Virginia Forestry Association  
Ms. Kathleen VanDerhyde

Ms. Rebekah Remick, Minor NSR Coordinator, DEQ  
Mr. Jerome Brooks, Compliance Manager, DEQ

**Public Attendees:**

Mr. Rick Thomas, Timmons Group

**SUMMARY OF DISCUSSION**

Discussion: Ms. Major began the meeting by reviewing the items to be discussed during the meeting; (1) changes made to the draft as a result of comments received from regional offices and committee members since the last meeting and (2) the implications of the federal proposed boiler MACT.

**Item 1.** Primary changes to the draft include:

1. Changes the term operate to test so that one clearly understand that this is only a permit to test a facility until a determination can be made as to whether the emissions exceed the permitting threshold values.

9VAC5-520-20 Terms defined:

A. Adds the following definitions:

"Agricultural processed co-products"

"Construct and test"

"Postmark"

"Potential to emit"

B. Modifies several definitions:

"Construction wood waste"

"Exempt facility"

"Municipal solid waste"

"Permit emission thresholds"

"Pilot test facility"

C. Deletes the following definitions:

"Demolition waste"

"Forest"

9VAC5-520-40 Applicability

Deleted paragraph C to clarify that only new facilities, not existing facilities could qualify for the GP. Any pilot test facility built at an existing source would require an existing source permit modification, not a new biomass GP. Other references to existing sources are deleted throughout the document to clarify this point.

9VAC5-520-50 General

Paragraph B. Added "new source review" before the word permit. This is done in other sections to clarify this point.

9VAC5-520-120 Granting authorization to test under the general permit

Paragraph D. Added the phrase "including electronic documentation" to clarify that in many instances notification or transfer of information via email or other electronic methods is acceptable. This is done in other sections to clarify this point. The Registrar of Regulations may be providing appropriate language regarding the reference to electronic documentation in regulations.

Throughout the rest of the document wording is added or deleted to provide clarity. Section 190 is reformatted to provide ease of reading.

Ms. Major also provided the members a rework of section 180, the operating schedule. Under new language the implications of testing results over the permit threshold limits are clarified.

1. If testing results indicate that the facility is major it will need to shut down immediately.

2. If testing results indicate that the facility is subject to permitting, a complete application will need to be submitted to the department within 30 days. The source will be allowed to operate under the conditions of the initial application to test until such time as the permit is issued. Once issued, the facility will be required to operate according to the conditions of the permit. If no complete application is received within the 30 day timeframe, the facility will be required to stop operations.

3. The department has 90 days to issue the permit.

## **Item 2.** Implications for federal proposed boiler MACT.

EPA is proposing an area source NESHAP for industrial, commercial and institutional boilers that would regulate all new boilers combusting biomass regardless of size. As proposed, the regulation contains limits for particulate matter and carbon monoxide. New units would need to be in compliance with the standards upon start-up. There are several exemptions proposed in the rule including one for research and development units. In conjunction with this proposal, EPA is also proposing a new definition of non-hazardous solid waste to be used to identify whether non-hazardous secondary materials burned as fuels or used as ingredients in combustion units are solid waste. As a result it's possible that some biomass previously regulated as a fuel could now be solid waste regulated under Section 129 of the Clean Air Act (incinerator rules) if combusted. In conjunction with the other proposed regulations, EPA is also proposing to amend the regulation for commercial and industrial solid waste incinerators (CISWI).

Ms. Major also explained that DEQ was reviewing the language in Parts II and III of the draft pertaining to General Provisions and General Permit Administrative Procedures for clarity. The group decided that an additional meeting was not necessary to review any additional changes to the draft that may result from the review. The group indicated that a review of the changes could be done via email and any concerns addressed electronically. It was also agreed that if no objections were raised during this final

review it would be determined that the group had reached consensus regarding the content of the draft regulation.

The meeting ended at 1:45.

### **DOCUMENT DISTRIBUTION**

The following documents were distributed to the committee prior to or at the meeting:

1. Draft #6 of the Biomass General Permit
2. New language for 9VAC5-520-180

TEMPLATES\GEN-PERMIT\GP08  
REG\GEN-DEV\Cg-GP08-6

Attachments



QUALIFIED ENERGY GENERATOR GENERAL PERMIT (9VAC5 CHAPTER 520)

9VAC5 CHAPTER 520.  
QUALIFIED ENERGY GENERATOR GENERAL PERMIT FOR A BIOMASS PILOT  
TEST FACILITY.

Part I Definitions.

- 9VAC5-520-10. General.
- 9VAC5-520-20. Terms defined.

Part II General Provisions.

- 9VAC5-520-30. Purpose and basis.
- 9VAC5-520-40. Applicability.
- 9VAC5-520-50. General.
- 9VAC5-520-60. Existence of permit no defense.
- 9VAC5-520-70. Circumvention.
- 9VAC5-520-80. Enforcement of a general permit.

Part III General Permit Administrative Procedures.

- 9VAC5-520-90. Requirements for granting an authorization to operate under the general permit.
- 9VAC5-520-100. Applications for coverage under the general permit and notices of termination.
- 9VAC5-520-110. Required information for initial applications.
- 9VAC5-520-120. Granting an authorization to ~~operate~~ construct and test under the general permit.
- 9VAC5-520-130. Transfer of authorization to ~~operate~~ construct and test under the general permit.

Part IV General Permit Terms and Conditions.

- 9VAC5-520-140. General permit.
- 9VAC5-520-150. General terms and conditions.
- 9VAC5-520-160. Process requirements.
- 9VAC5-520-170. Permit emission thresholds.
- 9VAC5-520-180. Operating schedule.
- 9VAC5-520-190. Compliance determination and verification by emission testing.
- 9VAC5-520-200. Recordkeeping requirements.
- 9VAC5-520-210. Reporting requirements.
- 9VAC5-520-220. Compliance.
- 9VAC5-520-230. Enforcement.

PART I.  
Definitions.

QUALIFIED ENERGY GENERATOR GENERAL PERMIT (9VAC5 CHAPTER 520)

9VAC5-520-10. General.

A. For the purpose of applying this chapter in the context of regulations of the board and related uses, the words or terms shall have the meanings given them in 9VAC5-520-20.

B. Unless specifically defined in the Virginia Air Pollution Control Law or in this chapter, terms used shall have the meaning given them by 9VAC5-10-20 (general definitions, Regulations for the Control and Abatement of Air Pollution), 9VAC5-170-20 (definitions, Regulation for General Administration), or commonly ascribed to them by recognized authorities, in that order of priority.

9VAC5-520-20. Terms defined.

"Agricultural processed co-products" means residual plant materials or products extracted from plant materials. This does not include products created as a result of a chemical reaction in which the plant materials have been intentionally chemically altered such as, but not limited to, biodiesel or glycerin.

"Biomass" means organic material that is available on a renewable or recurring basis, including:

1. Forest-related materials, including uncontaminated mill residues, logging residues, forest thinning, slash, brush, low-commercial value materials or undesirable species, and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement;

2. Agricultural-related materials, including orchard trees, vineyard, grain or crop residues, including straws, aquatic plants and agricultural processed co-products and waste products, including fats, oils, greases, whey, and lactose;

3. Animal waste, including manure and slaughterhouse and other animal processing waste;

4. Solid woody waste materials, including landscape trimmings, waste pallets, crates and manufacturing, construction, and demolition wood wastes, excluding pressure-treated, chemically treated or painted wood wastes and wood contaminated with plastic;

5. Crops and trees planted for the purpose of being used to produce energy;

6. Landfill gas, wastewater treatment gas, and biosolids, including organic waste byproducts generated during the wastewater treatment process; and

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7. Municipal solid waste, excluding tires and medical and hazardous waste.

"Biosolids" means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing, or distribution in accordance with 12VAC5-585 (Biosolids Use Regulations).

"Construct and test" means to construct a pilot test facility and associated equipment, to conduct appropriate testing in accordance with 9VAC5-520-180 in order to determine the uncontrolled emissions rate from the facility. If the facility is determined to be exempt from new source permitting in accordance with 9VAC5-520-170, the pilot test facility may continue to operate in accordance with the terms and conditions of 9VAC5-520-180 9 A.

"Construction wood waste" means solid wood waste that is produced or generated during construction, renovation, remodeling, or repair of ~~pavements, houses, commercial buildings and other structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials shall be in accordance with the regulations of the Virginia Waste Management Board.~~

"Clean wood" means uncontaminated natural wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or uncontaminated mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated with glues, binders or resins.

"Contaminated" means, in reference to wood, wood products or wood residues, those that are painted, pigment-stained, chemically treated (other than with fungicide, glue, binder or resin), or pressure-treated with preservative compounds including, but not limited to chromate copper arsenate, pentachlorophenol, or creosote.

~~"Demolition waste" means that solid waste produced by the destruction of structures, or their foundations, or both, and includes the same materials as construction waste.~~

"Demolition wood waste" means solid woody waste resulting from the destruction of structures, and includes the same materials as construction wood waste.



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"Exempt facility" means a pilot test facility that has uncontrolled emissions below the permit emissions threshold values in 9VAC5-520-170 and is not required to obtain an air quality permit but must operate according to the terms and conditions set forth in 9VAC 5-180 9 a.

~~"Forest" means an uncultivated growth of trees and underbrush on a tract of undeveloped public or private land. Growth of trees and underbrush in a forest may be managed for fire prevention, forest health, and watershed improvement purposes, and may be thinned, harvested or reseeded for those purposes. This definition does not include trees cultivated for commercial harvesting.~~

"Garbage" means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

"General permit " means, for a biomass pilot test facility, the terms and conditions in Part IV (9VAC5-520-160 et seq.) of this chapter that meet the requirements of Part III (9VAC5-520-90 et seq.) of this chapter and issued under the provisions 9VAC5-80-1030 and 9VAC5-80-1250 of Part II of 9VAC5-80 (Permits for Stationary Sources).

"Hazardous waste" means a hazardous waste as defined in 9VAC20-60, (Hazardous Waste Management Regulations).

"Landfill" means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill as defined in Part I (9VAC20-80-10 et seq.) of 9VAC20-80 (Solid Waste Management Regulations).

"Landscape trimmings" means trees, tree branches, bushes and shrubs, and clippings from tree branches, bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Landscape trimmings do not include collected leaves, grass, or grass clippings.

"Manufacturing wood waste" means uncontaminated solid woody waste and wood residue that is generated by one or more manufacturing processes. Such waste includes but is not limited to bark, sawdust, chips, scraps, slabs, millings, and shavings, but does not include process waste, by-product or co-product in which the wood or residue has been chemically treated, such as that resulting from pulp and paper production or from cellulose production.

"Municipal solid waste" means household, commercial/retail, or institutional waste. Household waste includes garbage, trash and refuse discarded by residential dwellings, hotels, motels, and other similar permanent or temporary housing. Commercial/retail waste includes all solid waste discarded by stores, offices, restaurants, warehouses, nonmanufacturing activities at industrial facilities, and other

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similar establishments or facilities. Institutional waste includes materials discarded by schools, by hospitals (nonmedical), by nonmanufacturing activities at prisons and government facilities, and other similar establishments or facilities. Household, commercial/retail, and institutional waste does include yard waste. Household, commercial/retail, and institutional waste does not include used oil; sewage sludge; wood pallets; construction and demolition wastes (~~which include railroad ties and telephone poles~~); clean wood; industrial process or manufacturing wastes; medical waste; or motor vehicles (including motor vehicle parts or vehicle fluff).

"NAAQS" means the national ambient air quality standards.

"New source review (NSR) permit" means a permit issued under the new source review program.

"New source review (NSR) program" means a preconstruction review and permit program (i) for new stationary sources or modifications (physical changes or changes in the method of operation), (ii) established to implement the requirements of §§ 110 (a)(2)(C), 112 (relating to permits for hazardous air pollutants), 165 (relating to permits in prevention of significant deterioration areas), and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act and associated regulations, and (iii) codified in Article 6 (9VAC5-80-1100 et seq.), Article 7 (9VAC5-80-1400 et seq.), Article 8 (9VAC5-80-1605 et seq.) and Article 9 (9VAC5-80-2000 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources).

"NO<sub>x</sub>" means nitrogen oxides as defined in 9VAC5-30-70 (Ambient Air Quality Standards).

"Permit emission thresholds" means the value at which a permitting determination can be made for a pilot test facility based upon the quantity of emissions from that facility in accordance with the requirements of 9VAC5-520-170.

"Permittee" means the owner of a facility covered under this general permit.

"Pilot test facility" means a facility that (i) is being operated to obtain emissions testing data in order to determine if a source is subject to a new source permit, and (ii) includes the qualified energy generator and any fuel preparation, storage, and handling emission units.

"PM" means particulate matter as defined in 9VAC5-10 (General Definitions).

"PM<sub>10</sub>" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as defined in 9VAC5-30-60 (Ambient Air Quality Standards).

"PM<sub>2.5</sub>" means fine particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as defined in 9VAC5-30-65 (Ambient Air Quality

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Standards).

"Postmark" means an official mark on a piece of mail or date mark on electronic communications, which records the date and place of mailing or origination of an electronic communication.

"Potential to emit" means an emission rate based on the maximum capacity of a pilot test facility to emit a toxic pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit a toxic pollutant, including air pollution control equipment, and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or its effect on emissions is state or federally enforceable. Fugitive emissions shall be included in determining a pilot test facility's potential to emit.

"Qualified energy generator" means a commercial facility located in the Commonwealth (i) with the capacity annually to generate no more than 5 megawatts (MW) of electricity, or that produces the equivalent amount of energy in the form of fuel, steam, or other energy product, that is generated or produced solely from biomass; and (ii) that is sold to an unrelated person or stationary source or used in a manufacturing process. For the purposes of this chapter the phrase "capacity annually to generate no more than 5 MW of electricity" shall mean a nameplate capacity equal to or less than 5 MW that is operated in conjunction with a pilot test facility.

"Reasonable time" means business operating hours unless in response to a complaint.

"Refuse" means all solid waste products having the characteristics of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up of spills or contamination or other discarded materials.

"SO<sub>2</sub>" means sulfur dioxide as defined in 9VAC5-30-30.

"State operating permit" means a permit issued under the state operating permit program.

"State operating permit program" means an operating permit program (i) for issuing limitations and conditions for stationary sources, (ii) promulgated to meet the EPA's minimum criteria for federal enforceability, including adequate notice and opportunity for the EPA and public comment prior to issuance of the final permit, and practicable enforceability, and (iii) codified in Article 5 (9VAC5-80-800 et seq.) of Part II of 9VAC5-80 (Permits for Stationary Sources).

"Solid woody waste" means waste consisting of uncontaminated wood and wood product, including tree stumps, trees, or tree limbs (any of which may be whole or cut).

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Solid woody waste does not include wood or wood products mixed with soil or other non-wood materials such as plastic, metal, cement or mineral fibers.

"Uncontrolled emissions or uncontrolled emissions rate" means the emission rate from an emissions unit when operating at maximum capacity without air pollution control equipment. Air pollution control equipment includes control equipment that is not vital to its operation, except that its use enables the owner to conform to applicable air pollution control laws and regulations. Annual uncontrolled emissions shall be based on the maximum annual rated capacity (based on 8,760 hours of operation per year) of the emissions unit, unless the emissions unit or stationary source is subject to state and federally enforceable permit conditions that limit the annual hours of operation. Enforceable permit conditions on the type or amount of material combusted, stored, or processed may be used in determining the uncontrolled emission rate of an emissions unit or stationary source. The uncontrolled emission rate of a stationary source is the sum of the uncontrolled emission rates of the individual emissions units. Secondary emissions do not count in determining the uncontrolled emission rate of a stationary source.

"VOC" means volatile organic compound as defined in 9VAC5-10 (General Definitions).

"Wood product" means manufactured wood such as plywood, particleboard, fiberboard, hardboard, oriented strand board, and engineered structural products, made from clean wood with or without glue, binder or resin. Wood product does not include products made with other non-wood materials such as plastic, metal, cement or mineral fibers.

"Wood residue" means, in reference to logging, manufacturing or milling processes, woody waste that is generated by cutting, chipping, grinding, shaping or smoothing of wood or wood products. Wood residue includes bark, chips, edging sawdust, shavings or slabs and may include small amounts of glue, binder or resin from wood products. Wood residue does not include woody waste mixed with soil or other non-wood materials such as plastic, metal, cement or mineral fibers.

"Yard waste" means collected leaves, grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

PART II.  
GENERAL PROVISIONS.

9VAC5-520-30. Purpose and basis.

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A. The purpose of the general permit is to allow the owners of pilot test facilities that are not major sources in the biomass energy generation industry, to construct and ~~operate test~~ within the terms and conditions of this general permit that forms the legally enforceable basis for the requirements of the Virginia Air Pollution Control Law and the regulations of the board.

B. This general permit is being issued under the authority of and 9VAC5-80-1250 of 9VAC5-80 (Permits for Stationary Sources).

C. This chapter does not require any permittee to apply for coverage under the general permit but provides the opportunity for a permittee to apply for coverage if the facility meets the applicability criteria in 9VAC5-520-40 and all other requirements of this chapter.

9VAC5-520-40. Applicability.

A. This chapter applies to each biomass qualified energy generator that is a pilot test facility for which construction or ~~operation~~ testing is commenced after the issue date of this general permit.

B. This chapter applies throughout the Commonwealth of Virginia.

~~C. Nothing in this section shall prevent any owner of a stationary source from obtaining authorization to operate test a pilot test facility while operating the remainder of the source under any permit issued pursuant to 9VAC5-80 (Permits for Stationary Sources).~~

~~D.~~ Any qualified energy generator that is a major source or is located at a major source, as defined in Articles 1, 7, 8, or 9 of Part II of 9VAC5-80 (Permits for Stationary Sources), shall not be eligible for this general permit.

~~E.~~ Any qualified energy generator subject to § 129 of the federal Clean Air Act shall not be eligible for this general permit.

~~F.~~ Any qualified energy generator that has initially applied for and received this general permit can apply for this general permit again for a different biomass fuel if the initial biomass fuel was found to be exempt. Once a qualified energy generator is permitted for a certain biomass fuel as required by 9 VAC 5-80 (Permits for Stationary Sources), the qualified energy generator can no longer apply for this general permit and must be permitted as required by 9 VAC 5-80 (Permits for Stationary Sources).

9VAC5-520-50. General.

A. A pilot test facility desiring authority to ~~operate~~ construct and test under the

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general permit shall register with the department as required under 9VAC5-20-160.

B. No provision of this chapter shall limit the power of the board to issue an ~~operating~~ new source review permit pursuant to 9VAC5-80 (Permits for Stationary Sources).

C. By the adoption of this chapter, the board confers upon the department the administrative, enforcement and decision making authority enumerated herein.

D. The promulgation of amendments to this regulation shall invalidate any authorization to ~~operate~~ construct and test under the general permit one year after the effective date of the amendments. Owners may reapply for authorization to ~~operate~~ construct and test under the amended general permit and the department may grant the authorization to ~~operate~~ construct and test as provided in 9VAC5-520-150.

E. Any decisions of the board or department made pursuant to this chapter may be appealed pursuant to 9VAC5-170-200 of 9VAC5-170 (Regulation for General Administration), § 10.1-1318 of the Virginia Air Pollution Control Law, and the Administrative Process Act.

9VAC5-520-60. Existence of permit no defense.

The existence of a permit under this chapter shall not constitute a defense of a violation of the Virginia Air Pollution Control Law or the regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

9VAC5-520-70. Circumvention.

A. No owner shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air pollutants emitted, conceals or dilutes an emission of air pollutants which would otherwise violate this chapter. Such concealment includes, but is not limited to, either of the following:

1. The use of gaseous diluents to achieve compliance with a visible emissions standard or with a standard which is based on the concentration of a pollutant in gases discharged to the atmosphere.

2. The piecemeal carrying-out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

B. This section does not prohibit the construction of a stack.

9VAC5-520-80. Enforcement of a general permit.

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A. The following general requirements apply:

1. Pursuant to § 10.1-1322, failure to comply with any term or condition of the general permit shall be considered a violation of the Virginia Air Pollution Control Law.

2. Authorization to ~~operate~~ construct and test under the general permit may be revoked if the owner does any of the following:

a. Knowingly makes material misstatements in the application for coverage or any amendments thereto.

b. Violates, fails, neglects or refuses to comply with (i) the terms or conditions of the permit, (ii) any applicable requirements, or (iii) the applicable provisions of this chapter.

3. The department may suspend, under such conditions and for such period of time as the department may prescribe any authorization to ~~operate~~ construct and test under the general permit for any of the grounds for revocation contained in subdivision 2 of this subsection or for any other violations of the regulations of the board.

4. Upon revocation of the authorization to ~~operate~~ construct and test under the general permit, the owner may request reauthorization to ~~operate~~ construct and test under the general permit and the department may grant the request at its discretion upon resolution of the issues that led to revocation.

B. The following requirements apply with respect to penalties:

1. An owner who violates or fails, neglects or refuses to obey any provision of this chapter or the Virginia Air Pollution Control Law, any applicable requirement, or any permit term or condition shall be subject to the provisions of § 10.1-1316 of the Virginia Air Pollution Control Law.

2. Any owner who knowingly violates any provision of this chapter or the Virginia Air Pollution Control Law, any applicable requirement, or any permit term or condition shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.

3. Any owner who knowingly makes any false statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.

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C. The following requirements apply with respect to appeals:

1. The department will notify the applicant in writing of its decision, with its reasons, to deny, suspend or revoke the authorization to operate under the general permit in accordance with the Administrative Process Act.

2. Appeal from any decision of the department under subdivision 1 of this subsection may be taken as provided by 9VAC5-170-200 of 9VAC5-170 (Regulation for General Administration), § 10.1-1318 of the Virginia Air Pollution Control Law, and the Administrative Process Act.

D. The following requirements apply with respect to inspections and right of entry:

1. The director, as authorized under § 10.1-1307.3 of the Virginia Air Pollution Control Law and 9VAC5-170-60 of 9VAC5-170 (Regulation for General Administration), has the authority to require that air pollution records and reports be maintained on site and be made available upon request and to require owners to develop, maintain, and make available such other records and information as are deemed necessary for the proper enforcement of the general permit.

2. The director, as authorized under § 10.1-1307.3 of the Virginia Air Pollution Control Law, has the authority, upon presenting appropriate credentials to the owner, to do the following:

a. Enter without delay and at reasonable times any business establishment, construction site, or other area, workplace, or environment in the Commonwealth; and

b. Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the department or its representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited, or otherwise interfered with, the department shall have the power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

E. The board may enforce the general permit through the use of other enforcement mechanisms such as consent orders and special orders. The procedures for using these mechanisms are contained in 9VAC5-170-80 and 9VAC5-170-120 of 9VAC5-170 (Regulation for General Administration), and in §§ 10.1-1307 D, 10.1-1309, and 10.1-1309.1 of the Virginia Air Pollution Control Law.



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PART III.  
GENERAL PERMIT ADMINISTRATIVE PROCEDURES.

9VAC5-520-90. Requirements for granting an authorization to operate under the general permit.

A. The department may grant an authorization to construct and ~~operate~~ test under the general permit for a pilot test facility that meets the applicability criteria in 9VAC5-520-40 and the operating limitations in 9VAC5-520-180.

B. The general permit will be issued in accordance with § 2.2-4006 A 9 of the Administrative Process Act.

9VAC5-520-100. Applications for coverage under the general permit.

A. Owners of a pilot test facility that qualifies for the general permit may apply to the department for coverage under the terms and conditions of the general permit.

B. The application shall meet the requirements of this chapter and include all information necessary to determine qualification for and to assure compliance with the general permit.

C. Any application form, report, compliance certification, or other document required to be submitted to the department under this chapter shall meet the requirements of 9VAC5-520-200 (Recordkeeping requirements) and 9VAC5-20-230 (Certification of documents).

D. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in an application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

9VAC5-520-110. Required information for initial applications.

A. The department will ~~furnish~~ make application forms available to applicants. The information required by this section shall be determined and submitted according to procedures and methods acceptable to the department.

B. Each initial application for coverage under the general permit shall include, but not be limited to, the following:

1. Information specified in Air Permit Application Form, Pilot Test Facility General Permit, form 520.

2. Additional information that the department deems necessary to implement and enforce other requirements of the regulations of the board or to

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determine the applicability of such requirements.

3. Any additional information or documentation that the department deems necessary to review and analyze the air pollution aspects of the source.

4. A document certification with all applicable requirements completed by a responsible official. ~~shall be included with each initial application for coverage.~~

9VAC5-520-120. Granting an authorization to ~~operate~~ construct and test under the general permit.

A. The department may grant authorization to ~~operate~~ construct and test under the conditions and terms of the general permit to sources that meet the applicability criteria set forth in 9VAC5-520-40.

B. Granting an authorization to ~~operate~~ construct and test under the general permit to a facility covered by the general permit is not subject to the public participation procedures under § 2.2-4006 A 9 of the Administrative Process Act.

C. A response to each ~~complete~~ approved application for coverage under the general permit will be provided according to 9VAC5-520-140

D. Facilities covered under a general permit will be issued a letter, a certificate, or any other document, including electronic documentation, which would attest that the facility is authorized to ~~operate~~ test under the general permit. The document will be accompanied by a copy of the general permit and the application submitted by the permittee.

E. The letter, certificate or other document, along with the copy of the general permit, application shall be retained by the department and at the pilot test facility.

9VAC5-520-130. Transfer of authorizations to ~~operate~~ construct and test under the general permit.

A. No person shall transfer an authorization to ~~operate~~ construct and test under the general permit from one pilot test facility to another or from one piece of equipment to another.

B. In the case of a transfer of ownership of a pilot test facility, the new owner shall comply with any permit issued or authorization to ~~operate~~ construct and test under the general permit granted to the previous owner. The new owner shall notify the department of the change in ownership within 30 days of the transfer.

C. In the case of a name change of a pilot test facility source, the owner shall comply with any permit issued or authorization to ~~operate~~ construct and test under the

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general permit granted under the previous source name. The owner shall notify the department of the change in source name within 30 days of the name change.

PART IV.  
GENERAL PERMIT TERMS AND CONDITIONS.

9VAC5-520-140. General permit.

A. Any owner whose application is approved by the director ~~may~~ shall receive the following permit and shall comply with the requirements in it and be subject to all requirements of this chapter and the regulations of the board.

B. In compliance with the provisions of the Virginia Air Pollution Control Law and regulations adopted pursuant to it, owners of qualified energy generators are authorized to ~~operate~~ construct and test under the authority of this permit, except those where board regulations or policies prohibit such operation.

C. The authorization to ~~operate~~ construct and test under this permit shall be in accordance with the cover letter to this permit, 9VAC5-520-150 (General terms and conditions), 9VAC5-520-160 (Process requirements) 9VAC5-520-170 (Permit emission thresholds), 9VAC5-520-180 (Operating schedule), 9VAC5-520-190 (Testing), 9VAC5-520-200 (Recordkeeping requirements), 9VAC5-520-210 (Reporting requirements), 9VAC5-520-220 (Compliance certifications), and 9VAC5-520-230 (Enforcement).

9VAC5-520-150. General terms and conditions.

A. The permittee is authorized to ~~shall~~ construct and ~~operate~~ test a qualified energy generator located within the boundaries of the Commonwealth of Virginia, in accordance with the approved permit application and conditions of this permit ~~located within the boundaries of the Commonwealth of Virginia~~, except those where board regulations or policies prohibit such activities.

B. The permittee shall comply with the terms and conditions of this permit prior to commencing any physical or operational change or activity that will result in making the facility subject to the new source review program.

9VAC5-520-160. Process requirements

A. Each pilot test facility shall comply with visible emissions and fugitive dust/emissions standards of ~~Article 1 of Part II of 9VAC5-40 (Existing Stationary Sources)~~ and Article 1 of Part II of 9VAC5-50 (New and Modified Stationary Sources). No owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

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B. Each pilot test facility shall comply with the odor standards of ~~Article 2 of Part II of 9VAC5-40 (Existing Stationary Sources)~~ and Article 2 of Part II of 9VAC5-50 (New and Modified Stationary Sources). Under no circumstances shall the biomass qualified energy generator or associated raw material storage or handling cause an odor objectionable to individuals of ordinary sensibility.

C. The pilot test facility's fuel preparation and storage operations shall be observed visually once per week ~~when in operation~~ to determine if there are any visible emissions excluding stack emissions. The presence of visible emissions shall indicate the need for prompt corrective action. The applicant shall keep a log of the observations. The log shall include the name of the observer, the date and time of the observations, the presence of visible emissions or lack thereof, and the date, time, and description of corrective actions taken whenever visible emissions were observed.

9VAC5-520-170 Permit emission threshold.

A. In determining whether a pilot test facility is exempt from minor source permitting under this chapter the pilot test facility must be determined to be exempt under the provisions of both subsections 1 and 2.

1. A pilot test facility that measures uncontrolled emissions below the threshold values specified in Table 520-1 qualifies as an exempt facility. All pilot test facilities and ancillary equipment shall be considered in the aggregate. A pilot test facility that measures uncontrolled emissions at or above the threshold values specified in Table 520-1 shall obtain a permit according to the applicable provisions of the new source review program.

TABLE 520-1.  
PERMITTING THRESHOLD VALUES

Pollutant	Combined Units (tons/year)
PM	25
PM <sub>10</sub>	15
PM <sub>2.5</sub>	10
NO <sub>x</sub>	40
SO <sub>2</sub>	40
CO	100
VOC	40

a. The PM, PM<sub>10</sub>, and PM<sub>2.5</sub> limits listed in Table 520-1 contain filterable and condensable particulates.

b. Permit threshold values for combined units listed in Table 520-1 include the qualified energy generator and any fuel preparation/storage emission units.

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2. Any pilot test facility with measurements that result in a potential to emit any toxic pollutant below threshold values specified in Article 5 of 9VAC5-60 (Hazardous Air Pollutant Sources) qualifies as an exempt facility. All pilot test facilities and ancillary equipment shall be considered in the aggregate. Any pilot test facility with measurements that result in a potential to emit any toxic pollutant at or above the threshold values specified in Article 5 of 9VAC5-60 (Hazardous Air Pollutant Sources) shall obtain a permit according to the applicable provisions of the new source review program.

~~C-B.~~ No applicant shall cause or allow to be discharged into the atmosphere from any pilot test facility any visible emissions in excess of the following:

1. Visible emissions from each stack, vent or duct of each qualified energy generator ~~and any fuel preparation/storage emission units~~ shall not exceed 10 percent opacity as determined by Reference Method 9.

2. The opacity standard prescribed under this subsection shall apply at all times except during periods of startup, shutdown, and malfunction.

9VAC5-520-180. Operating schedule.

The operating schedule of this permit shall be as follows:

1. Within 30 days after receipt of a pilot test facility general permit application (Form 520), the DEQ Regional Office will notify the applicant of the status of the application with a review letter.

a. If a complete application is received the review letter will state if the applicant is approved for the pilot test facility general permit. If approved, the applicant has 18 months from the date of the review letter to commence construction of the pilot test facility and its equipment.

b. If a complete application is not received, the applicant has 30 days to submit the additional information needed for a complete application. If the additional information is not received within 30 days, the application will be returned to the applicant and the application will be withdrawn. Within 30 days after receipt of the additional information, DEQ will respond with another review letter that will state if the applicant is approved for the pilot test facility general permit. If approved, the applicant shall commence construction of the pilot test facility no later than 18 months from the date of the review letter.

2. Within the approved 18 months, the applicant shall notify the DEQ Regional Office of the actual date on which construction of the pilot test facility commenced within 30 days after such date.

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a. The applicant may apply for another 18 month extension to commence construction on the pilot test facility based upon a satisfactory demonstration that an extension is justified.

b. Only one extension is allowed and shall be limited to commencing construction on the pilot test facility.

3. The applicant shall notify the DEQ Regional Office in writing or electronically of the anticipated startup date of the pilot test facility postmarked not more than 60 days nor less than 30 days prior to such date.

4. The applicant shall notify the DEQ Regional Office in writing or electronically of the actual startup date of the pilot test facility within 15 days after such date. The applicant shall operate and perform all testing needed to comply with this permit no later than 12 months from the actual startup date.

5. For each biomass fuel to be utilized, the applicant shall perform (or acquire) a certified fuel test as required by 9VAC5-520-190A.

6. At least 30 days prior to testing, the applicant shall:

a. Notify the DEQ Regional Office in writing or electronically of the anticipated date of the performance tests of the pilot test facility;

b. Submit a stack test protocol and visible emissions evaluation test protocol to the DEQ Regional Office; and

c. Submit the results of the certified fuel test or tests to the DEQ Regional Office.

7. The stack testing and visible emissions evaluation tests shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after startup of the permitted facility according to 9 VAC 5-520-190 B and C as appropriate.

8. All results shall be submitted to the DEQ Regional Office in writing or electronically no later than 45 days after test completion of the stack tests and visible emissions evaluation.

9. Within 60 days, the DEQ Regional Office will review the results and notify the applicant writing or electronically of the status of the pilot test facility.

a. If the pilot test facility is exempt from the minor source permitting requirements of Article 6 of 9VAC5-80 (Permits for Stationary Sources), the DEQ Regional Office will issue the applicant an exemption letter. At that time, this pilot test

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facility general permit will terminate and the pilot test facility will be authorized to operate under the terms and conditions set forth in the exemption letter.

b. If the pilot test facility is not exempt from the minor source permitting requirements of Article 6 of 9VAC5-80 (Permits for Stationary Sources), the applicant shall obtain a permit as required by 9VAC5-80 (Permits for Stationary Sources).

(1). An application for a new source review permit shall be submitted within 30 days; if no application is received within the timeframe the facility will be required to shut down.

(2.) The facility shall be authorized to continue to operate according to the terms and conditions of the test and operate application until such time as a new source review permit is issued. Once a permit is issued the facility will be required to operate according to the terms and conditions of the permit.

(3). All new source review permits shall be issued within 90 days from receipt of a complete application.

10. The pilot test facility general permit will terminate 12 months from the startup date as determined under 9VAC5-520-180 4.

9VAC5-520-190. Compliance determination and verification by emission testing.

A. A certified fuel test is required.

1. The permittee shall have a sample ~~of fuel~~ analyzed for each type of biomass used during the pilot test period.

2. The results of the fuel analysis shall be used to identify specific constituents of the fuel requiring further emissions testing.

3. The results shall be ~~reported~~ submitted to the DEQ Regional Office in writing or electronically prior to testing. The submittal shall include:

- a. Fuel analysis,
- b. Name of company and individual collecting the sample,
- c. Identification of sampling method used,
- d. Sample (volume or mass),
- e. Number of samples taken,

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- f. Date sample collected,
- g. Location of fuel when sample was taken,
- h. Date of analysis, and
- i. Name of company and individual conducting the analysis.

B. A test protocol for a certified stack test shall be submitted at least 30 days prior to testing.

1. The test protocol shall include information necessary to evaluate the emissions from the pilot test facility and include, but not be limited to, operating rates or production rates as appropriate.

2. The details of conducting the tests shall be arranged with the DEQ Regional Office.

C. A certified stack test or other alternative method of evaluation acceptable to the department shall be conducted for each qualified energy generator stack to determine the quantity of pollutants from each biomass fuel.

1. Performance tests shall be conducted for all criteria pollutants (PM, PM<sub>10</sub>, PM<sub>2.5</sub>, NO<sub>x</sub>, SO<sub>2</sub>, CO, and VOC)

2. Performance tests shall be conducted for any toxic pollutants that were found to be contained in the biomass fuel as stated in the certified fuel test.

3. A pilot test facility utilizing a combustion process shall test for any toxic pollutants that are created from combustion (including but not limited to acetaldehyde, acrolein, benzene, formaldehyde, hydrochloric acid, hydrogen fluoride, naphthalene, trichloroethylene, and xylene).

3. The tests shall be performed ~~and demonstrate compliance~~ within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility.

4. Test shall be conducted in accordance with EPA methods or an alternative method approved by DEQ.

5. One copy of the test results shall be submitted to the DEQ Regional Office within 45 days after test completion and shall conform to the test report format in subsection E of this section.

~~6D~~. A certified visible emissions evaluation shall be conducted.



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1. Concurrently with the certified stack test, Visible Emission Evaluations in accordance with 40 CFR Part 60, Appendix A, Method 9, shall also be conducted on each qualified energy generator.

2. Each test shall consist of 30 sets of 24 consecutive observations (at 15 second intervals) to yield a six minute average.

3. The details of the tests shall be arranged with the DEQ Regional Office.

4. The permittee shall submit a test protocol at least 30 days prior to testing.

5. The evaluation shall be performed, reported, and demonstrate compliance within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after start-up of the permitted facility.

6. Should conditions prevent concurrent opacity observations:

a. The DEQ Regional Office shall be notified in writing or electronically, within seven days.

b. Visible emissions testing shall be rescheduled within 30 days.

c. Rescheduled testing shall be conducted under the same conditions (as possible) as the initial performance tests.

7. One copy of the test result shall be submitted to the DEQ Regional Office within 45 days after test completion and shall conform to the test report format in subsection F of this section.

DE. The test report format for non-visible emissions evaluations shall include the following:

1. A report cover containing:

- a. The plant name;
- b. The plant location;
- c. Units tested at the source identified by the agency that have been issued reference numbers;
- d. Test dates;
- e. The name of the individual conducting the test;
- f. The address of the individual conducting the test; and
- g. The report date.

2. A certification, including the date certified, which has been signed by:

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- a. A test team leader or a certified observer;
  - b. The test reviewer; and
  - c. A responsible company official.
3. A copy of approved test protocol.
4. A summary including:
  - a. The reason for testing;
  - b. Test dates;
  - c. Identification of the unit tested including the maximum rated capacity for each unit.
  - d. For each emission unit, a table showing:
    - (1) The operating rate;
    - (2) Test methods;
    - (3). The pollutants tested; and
    - (4) Test results for each run, including the run average; and
    - ~~(5) The pollutant standard or limit.~~
  - e. Process and control equipment data for each run and the average, as required by the test protocol;
  - f. A statement that the test was conducted in accordance with the test-protocol, or identification and discussion of deviations, including the likely impact on results; and
  - g. Any other important information as determined by the DEQ Regional Office.
5. A description of source operation including:
  - a. A description of the process;
  - b. A description of control devices, if necessary;
  - c. A process and control equipment flow diagram; and
  - d. A description of sampling port location and a dimensioned cross section. A protocol shall be attached that includes a sketch of the stack (elevation view) showing sampling port locations, upstream and downstream flow disturbances and their distances from ports; and a sketch of stack (plan view) showing sampling ports, ducts entering the stack and stack diameter or dimensions.
6. Test results, including:
  - a. Detailed test results for each run;
  - b. Sample calculations; and

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c. A description of collected samples, including audits, when applicable .

7. An appendix, including:

- a. Raw production data;
- b. Raw field data;
- c. Laboratory reports;
- d. Chain of custody records for laboratory samples;
- e. Calibration procedures and results;
- f. Project participants and contact information;
- g. Observers' names (including their industry and agency affiliation),
- h. Related correspondence; and
- i. Standard procedures.

~~EE~~. The test report format for visible emissions evaluations shall include the following.

- 1. A report cover containing:
  - a. The plant name;
  - b. The plant location;
  - c. Units tested at the source identified by the agency that have been issued reference numbers;
  - d. Test dates;
  - e. The name of the individual conducting the test;
  - f. The address of individual conducting test; and
  - g. The report date.
- 2. A certification, including the date certified, which has been signed by:
  - a. A test team leader or a certified observer; and
  - b. A responsible company official.
- 3. Copy of approved test protocol.
- 4. A summary including:
  - a. The reason for testing;
  - b. Test dates;
  - c. Identification of the unit tested including the maximum rated capacity for each unit;
  - d. Summarized process and control equipment data for each run and the average, as required by the test protocol;
  - f. A statement certifying that the test was conducted in accordance with the test-protocol or, if not conducted according to protocol, identification and discussion of deviations, including the likely impact on results; and
  - g. Any other important information.

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5. A description of source operation including:

- a. A description of the process;
- b. A description of control devices, if necessary;
- c. A process and control equipment flow diagram; and
- d. A description of sampling port location and a dimensioned cross section. A protocol shall be attached that includes a sketch of the stack (elevation view) showing sampling port locations, upstream and downstream flow disturbances and their distances from ports; and a sketch of stack (plan view) showing sampling ports, ducts entering the stack and stack diameter or dimensions.

6. The detailed test results for each run.

7. An appendix including:

- a. The names of project participants and their titles;
- b. The observers' names (including their industry and agency affiliation)
- c. Related correspondence; and
- d. Standard procedures.

9VAC5-520-200. Recordkeeping requirements.

A. The permittee shall maintain records on site for each emission unit or groups of emission units sufficient to determine the actual emissions of the pilot test facility.

1. Records shall include but not be limited to emission data and operating parameters during emissions testing.

2. The content and format of such records shall be ~~arranged~~ determined in consultation with the DEQ Regional Office.

3. These records shall be available for inspection by the department and shall be current for the most recent 5 years.

B. The permittee shall prepare and maintain the following information: ~~to demonstrate compliance with 9VAC5-520-190 with respect to testing, the permittee shall prepare and maintain the following information:~~

1. Records of monitoring information including:

- a. The date of sampling or measurements;
- b. The place as defined in the authorization to operate under this general permit;

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- c. The time of sampling or measurements;
  - b. The date or dates analyses were performed;
  - c. Each biomass utilized and the rate of consumption;
  - d. The company or entity that performed the analyses;
  - e. The analytical techniques or methods used;
  - f. The results of such analyses;
  - g. The operating conditions existing at the time of sampling or measurement;
  - h. Results of all stack tests, visible emission evaluations, and certified fuel tests;
  - i. The copies of all notifications submitted to the DEQ Regional Office;
  - j. The operating schedule as stated in 9VAC5-520-~~190~~180;
  - k. All visible emission records as required in 9VAC5-520-170 and 200 E; and
  - l. Documentation that the unit does not exceed the 5 MW nameplate capacity threshold.
2. Records of all monitoring data and support information shall be retained for 5 years and available on-site for inspection by the DEQ during the pilot test trial period.

C. In order to ensure the proper operation of the pilot test facility, the permittee shall perform the following:

1. Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance to the pilot test facility. These records shall be maintained on site for 5 years and shall be made available to department upon request.

2. Maintain verification that personnel operating the pilot test facility are properly trained to do so.

9VAC5-520-210. Reporting requirements.

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A. The permittee shall comply with the reporting requirements in this section. Any document (including reports) required by a permit term or condition to be submitted to the department shall contain a document certification signed by a responsible official that meets the requirements of 9VAC5-520-100 BC.

B. The permittee shall furnish written notification to the department of the following dates relative to the requirements of 9VAC5-520-490 180:

1. The actual date on which construction or installation of any ~~emission unit~~ pilot test facility commenced, postmarked within 30 days after that date;

2. The anticipated startup date of the pilot test facility, postmarked not more than 60 days nor less than 30 days prior to such date;

3. The actual startup date of the pilot test facility postmarked within 15 days after that date;

4. The test protocol, postmarked at least 30 days prior to the date that testing commences; and

5. Test results, no later than 45 days after test completion of the stack tests and visible emissions evaluation.

9 VAC 5-520-220. Compliance.

A. Whenever it is necessary for the purpose of the regulations of the board, the board or an agent authorized by the board may at reasonable times enter an establishment or upon property, public or private, for the purpose of obtaining information or conducting surveys or investigations as authorized by § 10.1-1315 or § 46.2-1187.1 of the Code of Virginia. Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the department to perform the following:

1. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of this permit.

2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of this permit.

3. Inspect at reasonable times any facilities, equipment (including monitoring equipment), practices, or operations regulated or required under this permit.

4. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with this permit or applicable requirements.

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9VAC5-520-230. Enforcement.

A. Violation of this permit is subject to the enforcement provisions including, but not limited to, those contained in 9VAC5-170 (Regulation for General Administration) and §§ 10.1-1309, 10.1-1309.1, 10.1-1311 and 10.1-1316 of the Virginia Air Pollution Control Law.

B. If any condition, requirement or portion of this permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of this permit.

C. The permittee shall comply with all conditions of this permit. Any noncompliance with this permit constitutes a violation of the Virginia Air Pollution Control Law and is grounds (i) for enforcement action or (ii) for suspension or revocation of the authorization to operate under this permit.

D. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

E. The authorization to ~~operate~~ construct and test under this permit may be suspended or revoked for cause as specified in 9VAC5-520-80. The filing by a permittee of a (i) request for reauthorization to operate under this permit, or (ii) notification of termination, planned changes or anticipated noncompliance does not stay any condition of this permit.

F. The owner of the qualified energy generator may be subject to enforcement action under 9VAC5-520-80 for operation without a permit if the facility is later determined by the department not to qualify for the conditions and terms of this permit.

G. This permit does not convey any property rights of any sort, or any exclusive privilege.

H. The permittee shall furnish to the department, within 30 days of notification, any information that the department may request in writing to determine whether cause exists for suspending or revoking the authorization to operate under this permit or to determine compliance with this permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by this permit and, for information claimed to be confidential, the permittee shall furnish such records to the department along with a claim of confidentiality meeting the requirements of 9VAC5-170-60.

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9VAC5-520-180. Testing ~~Operating~~ schedule.

~~The operating schedule of this permit shall be as follows: 10~~

~~A. All testing must be completed within The pilot test facility general permit will terminate 12 months from the startup date as determined under 9VAC5-520-180 4 D.~~

4 B. Within 30 days after receipt of a pilot test facility general permit application (Form 520), the DEQ Regional Office will notify the applicant of the status of the application with a review letter.

a 1. If a complete application is received the review letter will state if the applicant is approved for the pilot test facility general permit. If approved, the applicant has 18 months from the date of the review letter to commence construction of the pilot test facility and its equipment.

b2. If a complete application is not received, the applicant has 30 days to submit the additional information needed for a complete application. If the additional information is not received within 30 days, the application will be returned to the applicant and the application will be withdrawn. Within 30 days after receipt of the additional information, DEQ will respond with another review letter that will state if the applicant is approved for the pilot test facility general permit. If approved, ~~the applicant shall commence construction of the pilot test facility no later than 18 months from the date of the review letter~~ the provisions of subdivision A 1 of this subsection shall apply.

2 B. Within the approved 18 months, the applicant shall notify the DEQ Regional Office of the actual date on which construction of the pilot test facility commenced within 30 days after such date.

a 1. The applicant may apply for another 18 month extension to commence construction on the pilot test facility based upon a satisfactory demonstration that an extension is justified.

b 2. Only one extension is allowed and shall be limited to commencing construction on the pilot test facility.

3 C. The applicant shall notify the DEQ Regional Office in writing or electronically of the anticipated startup date of the pilot test facility postmarked not more than 60 days nor less than 30 days prior to such date.

4 D. The applicant shall notify the DEQ Regional Office in writing or

electronically of the actual startup date of the pilot test facility within 15 days after such date. The applicant shall operate and perform all testing needed to comply with this permit no later than 12 months from the actual startup date.

5 E. For each biomass fuel to be utilized, the applicant shall perform (or acquire) a certified fuel test as required by 9VAC5-520-190A.

6 F. At least 30 days prior to testing, the applicant shall:

a 1 . Notify the DEQ Regional Office in writing or electronically of the anticipated date of the performance tests of the pilot test facility;

b 2. Submit a stack test protocol and visible emissions evaluation test protocol to the DEQ Regional Office; and

c 3. Submit the results of the certified fuel test or tests to the DEQ Regional Office.

7 G. The stack testing and visible emissions evaluation tests shall be performed within 60 days after achieving the maximum production rate at which the facility will be operated but in no event later than 180 days after startup of the permitted facility according to 9 VAC 5-520-190 B and C as appropriate.

8 H. All results shall be submitted to the DEQ Regional Office in writing or electronically no later than 45 days after test completion of the stack tests and visible emissions evaluation.

9 I. Within 60 days, the DEQ Regional Office will review the results and notify the applicant writing or electronically of the status of the pilot test facility.

1 . If test results demonstrate that the pilot test facility is a major source the facility will cease operation immediately.

a 2. If test results demonstrate that the pilot test facility is exempt from the minor source permitting requirements of Article 6 of 9VAC5-80 (Permits for Stationary Sources), the DEQ Regional Office will issue the applicant an exemption letter. At that time, this pilot test facility general permit will terminate and The pilot test facility will be authorized to operate under the terms and conditions set forth in the exemption letter; At that time, this the pilot test facility general permit will terminate and.

b 3. If testing demonstrates that the pilot test facility is not exempt from the minor source permitting requirements of Article 6 of 9VAC5-80 (Permits for Stationary Sources), the applicant shall obtain a permit as required

by 9VAC5-80 (Permits for Stationary Sources).

(1) a. An application for a new source review permit shall be submitted within 30 days of notification that the permitting thresholds have been exceeded; if no application is received within the timeframe the facility will be required to shut down.

(2) b. The facility shall be authorized to continue to operate according to the terms and conditions of the test and operate application until such time as a new source review permit is issued. Once a permit is issued the facility will be required to operate according to the terms and conditions of the permit.

(3) c. All new source review permits shall be issued within 90 days from receipt of a complete application.

~~10. The pilot test facility general permit will terminate 12 months from the startup date as determined under 9VAC5-520-180 4.~~