



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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MEMORANDUM

TO: Regional Directors, Director – Air Permits, Director – Air Compliance, Director – Data Analysis and Planning, Director – Regulatory Affairs, Air Permit Managers, Air Compliance Managers

CC: Richard F. Weeks, Chief Deputy Director
James J. Golden, Deputy Director for Program Development

FROM: Michael G. Dowd – Director, Air Division *MGD*

SUBJECT: APG-570: Interim Guidance for Permit Applicability for Emergency Generators Participating in an Emergency Load Response Program

DATE: May 15, 2009

Purpose:

This policy provides interim guidance to air permitting and compliance staff concerning permit applicability for emergency generators. The policy expands the definition of "emergency" as currently defined under 9 VAC 5-80-1110 C to incorporate operation as part of an Independent System Operator's (ISO) Emergency Load Response Program. This policy does not apply to generators that are used for voluntary load response (i.e. load curtailment, demand response, or peak shaving). This guidance is not intended to cover every possible situation but should be applicable in most scenarios. Check with the regional air permit manager and/or the central office staff if a deviation from the guidance is considered to be necessary.

Background:

The 2009 Acts of the Assembly adds section numbered §10.1-1307.02 to the Code of Virginia, and requires the air board to adopt a general permit or permits for the use of back-up generation. The statute requires the definition of "emergency" to be expanded to include emergency generation sources that operate during periods in which the independent system operator has notified electric utilities that an emergency exists or may occur. The general permit or permits shall include a definition of "emergency" (developed by the board) that is compatible with the ISO's emergency operations manual. The upcoming general permit and revisions to Article 6 will include a definition for "emergency generation source" and "ISO-declared emergency" that was taken verbatim from the underlying legislation and as included in this guidance.

Applicability:

This guidance applies to generators that operate as emergency generators (as stated in 9 VAC 5-80-1110 under "emergency") **and** that operate in an ISO's emergency load response program, such as Pennsylvania New Jersey Maryland Interconnection, LLC (PJM).

Definitions:

New definitions:

1. "Emergency" means a condition that arises from sudden and reasonably unforeseeable events where the primary energy or power source is disrupted or disconnected due to conditions beyond the control of an owner or operator of a facility including:
 - a. A failure of the electrical grid,
 - b. On-site disaster or equipment failure,
 - c. Public service emergencies such as flood, fire, natural disaster, or severe weather conditions,
 - d. An ISO-declared emergency, where an ISO emergency is:
 - An abnormal system condition requiring manual or automatic action to maintain system frequency, to prevent loss of firm load, equipment damage, or tripping of system elements that could adversely affect the reliability of an electric system or the safety of persons or property.
 - Capacity deficiency or capacity excess conditions.
 - A fuel shortage requiring departure from normal operating procedures in order to minimize the use of such scarce fuel.
 - Abnormal natural events or man-made threats that would require conservative operations to posture the system in a more reliable state.
 - An abnormal event external to the ISO service territory that may require ISO action.
2. "Emergency generation source" means a stationary internal combustion engine that operates according to the procedures in the ISO's emergency operations manual during an ISO-declared emergency.
3. "Independent system operator (ISO)" means a person that may receive or has received, by transfer pursuant to §56-576, any ownership or control of, or any responsibility to operate, all or part of the transmission systems in the Commonwealth.
4. "ISO-declared emergency" means a condition that exists when the independent system operator (ISO) notifies electric utilities that an emergency exists or may occur and that complies with the definition of "emergency" adopted by the Board pursuant to 10.1-1307.02 B.

Implementation:

As of the date of this document, regional permitting shall use the new definition of “emergency” (as stated above) when evaluating emergency generator permit applicability. This definition will be incorporated in a general permit (required by law) and in Article 6. Uncontrolled emissions should be calculated based on 500 hours of operation as currently specified in 9 VAC 5-80-1320 B.2. Regional permitting should use the following steps:

1. If the unit is determined to be exempt from permitting:

The regional permitting staff should issue a permit exemption letter using the attached boilerplate. This boilerplate was designed to identify to the facility and DEQ that this emergency generator:

- a. Is participating in an ISO Emergency Response Program.
- b. Is being registered.
- c. Shall not be operated voluntarily for the purpose of peak-shaving, demand response, or as part of any other interruptible power supply arrangement with a power provider, other market participant, or system operator.

If the unit is subject to NSPS Subpart IIII, NSPS Subpart JJJJ, and/or MACT Subpart ZZZZ, the regional permitting staff should follow guidance document APG-569: Guidance to Implement and Enforce Non-delegated Federal Regulations. The “Example language” paragraph has been placed in the exemption boilerplate as an option.

2. If the unit requires a permit:

The regional permitting staff must include in the permit:

- a. All necessary conditions to show compliance with the permit and emergency status.
- b. A statement that the emergency generator is participating in an ISO Emergency Response Program; for example, this may be included in Condition 1 in the equipment list table.

If the unit is subject to NSPS Subpart IIII, NSPS Subpart JJJJ, and/or MACT Subpart ZZZZ, the regional permitting staff should follow guidance document APG-569: Guidance to Implement and Enforce Non-delegated Federal Regulations.

3. If the unit was already issued a permit because ISO emergencies were not included in the previous “emergency” definition:

If requested by the permittee, the regional permitting staff may consider issuing an exemption letter and rescinding the current permit **as long as there is no backsliding**. If an emergency generator was issued a permit with BACT conditions, this permit cannot be rescinded and an exemption cannot be granted.

Questions or comments on this guidance should be directed to the Office of Air Permit Programs.

EMERGENCY GENERATOR AND ISO EMERGENCIES
BOILERPLATE EXEMPTION LETTER

DATE

«MrMs» «FirstName» «MiddleInitial» «LastName»
«Title»
«Company»
«StreetName»
«City», «State» «Zip»

Location: «CountyCity»
[Registration No.: «RegNo»]
[AFS ID No. 51-«CountyNo»-«PlantNo»]

Dear «MrMs» «LastName»:

This letter acknowledges receipt of your [permit application][exemption request letter] dated «ApplDate». The Department of Environmental Quality (DEQ) «Region» staff has completed its initial review of your request to «Construct» and operate [an emergency generator rated at «Rating»][multiple emergency generators rated at «Rating», respectively] that also participates in PJM's Emergency Load Response Program (ELRP) at «Location».

Based on this review, it has been determined that the proposed project is exempt from the permitting requirements of Chapter 80, Article 6 of the Virginia Regulations for the Control and Abatement of Air Pollution as long as it is constructed and operated as described in your [application][exemption request letter]. The proposed project is not subject to Major Source New Source Review under Articles 8 or 9, and:

- [The proposed change does not meet the definition of "«Construction»" in 9 VAC 5-80-1110 C because {insert reason}.]
- [The proposed change is excluded from the definition of "modification" in 9 VAC 5-80-1110 C because {insert reason}.]
- [The proposed change is a reconstruction of a stationary source or emissions unit and the uncontrolled emissions based on 500 hours of operation resulting from the reconstruction will not increase (9 VAC 5-80-1320 A.1.b).]
- [The proposed change is a relocation of a portable emissions unit that is previously permitted and is suitable for the area to which it will be relocated (9 VAC 5-80-1320 A.1.c).]

- [The proposed change is the reactivation of a previously [permitted source which has not been permanently shutdown and it's applicable permit conditions revoked][grandfathered source which has not been permanently shutdown in accordance with 9 VAC 5-20-220 (9 VAC 5-80-1320 A.1.d).]
- [The proposed change is the use of an [alternative fuel][raw material] for which the emissions resulting from the use of the [alternative fuel][raw material] have been demonstrated to decrease (9 VAC 5-80-1320 A.1.e).]
- [The proposed change includes {list equipment}, which [is][are] exempt from permitting by size or source type as listed in 9 VAC 5-80-1320 B.]
- [The uncontrolled emissions based on 500 hours of operation of {list pollutants} from [the remainder of] the source for which [construction][relocation] is proposed is {list the "uncontrolled emissions" for each pollutant emitted} which is less that the exempt emission rates for those pollutants listed in 9 VAC 5-80-1320 C.]

Additionally, there are no HAPs or toxic pollutant emissions from the source[.][which would be subject to permitting under Article 6 because:]

- [All applicable HAPs emitted from the source are exempt from permitting under an applicable source-wide MACT standard (9 VAC 5-60-300 C.5 and 9 VAC 5-80-1320 F.)]

[Finally, the facility is not subject to any NSPS standards.] [Based on this review, it has been determined that the proposed project is exempt from the permitting requirements of Chapter 80, Article 6 of the Virginia Regulations for the Control and Abatement of Air Pollution as per 9 VAC 5-80-1320 B for generators of your size, fuel type, and number of hours of operation. However, the proposed generator is an affected facility under [40 CFR 60, New Source Performance Standard (NSPS)] [40 CFR 63, Maximum Achievable Control Technology, (MACT)], Subpart [Subpart ID], therefore subject to owner/operator requirements of the [NSPS] [MACT]. In summary, the unit is required to comply with certain federal emission standards and operating limitations over its useful life. The Department of Environmental Quality (DEQ) advises you to review the attached [NSPS] [MACT] to ensure compliance with applicable emission and operational limitations. As the owner/operator you are also responsible for monitoring, notification, reporting and recordkeeping requirements of the [NSPS] [MACT]. Notifications shall be sent to EPA, Region III.]

This decision concerning permit applicability is not binding upon the Department and is subject to change upon further review.

Although this «FacilityType» is not subject to permitting requirements, it is still subject to the registration requirements of 9 VAC 5-20-160 of the Regulations and subject to periodic inspections by the Department. [Please submit a completed Form 7 for registration purposes.] The information that you have submitted will be kept on file. **Please refer to the Registration Number on all future correspondence dealing with your facility.**

You are cautioned that this decision also should not be construed to mean that your operation is automatically in compliance with all aspects of the Regulations for the Control and Abatement of Air Pollution. Regional personnel will be constantly evaluating all sources for compliance with the Regulations.

Other than PJM's ERLP, as presented in the letter request, the engine-generator set shall not be operated voluntarily for the purpose of peak-shaving, demand response, or as part of any other interruptible power supply arrangement with a power provider, other market participant, or system operator, without first receiving permission from the DEQ.

Any owner claiming that a facility is exempt from the provisions of 9 VAC 5, Chapter 80, Article 6 shall keep records in accordance with 9 VAC 5-80-1320 A.4 as may be necessary to demonstrate to the satisfaction of the Department its continued exempt status. Records shall include, but are not limited to, the monthly hours of operation and reason for operation including participation in PJM's ELRP, documentation of a PJM declared emergency, emergency operation, testing of the unit, and/or maintenance. Total combined operating hours of the engine-generator set shall not exceed 500 hours per year.

If you have questions concerning this matter please contact «Engineer» at «RegPhone». Your concern for Virginia's Air Quality is appreciated.

Sincerely,

«APMName»
Regional Air Permit Manager

«APMInitials»/«EngnrInitials»/«FileName»

[encl: Form 7]

cc: file