

**BOARD OF SUPERVISORS
BUSINESS MEETING
BOARD MEMBER INITIATIVE**

SUBJECT: Department of Environmental Quality (DEQ) Variance for
Data Centers in Loudoun County

2011 ELECTION DISTRICT(S): Countywide

2022 ELECTION DISTRICT(S): Countywide

CRITICAL ACTION DATE: April 21, 2023

STAFF CONTACT(S): Laura TeKrony, Legislative Aide to Chair Randall
Rachael Mai, Chief of Staff to Supervisor Turner
Kent Erwin, Chief of Staff to Supervisor Glass

PURPOSE: To understand the impact of the Department of Environmental Quality (DEQ) proposed local variance for data centers in Loudoun County and receive more information to inform the Board of Supervisors (Board), public, and staff.

RECOMMENDATION(S): Chair Randall, Supervisor Turner and Supervisor Glass recommend that the Board approve the letter to DEQ and the Data Center Coalition (Attachment 1) inviting proactive communication with the Loudoun County Government regarding the variance and policies affecting the County and requesting the public hearing on April 6, 2023, be moved to a location in Loudoun County.

BACKGROUND: The DEQ is considering the issuance of an order granting a local variance for data centers located in Loudoun County. A variance is an exception to a general rule. This notice was given in accordance with the requirements of §§ 10.1-1307 C and § 10.1-1307.01 A of the Code of Virginia.

DEQ is concerned that Loudoun County is an area in which there may not be enough electricity for data centers due to severe, localized constraints in electricity transmission. A transmission constraint issue exists in the area which may affect the ability to provide enough electricity to data centers through 2025. In particular, the period between March and July 2023 has been identified as a time of potentially acute stress on the transmission capacity of the grid.

This proposed order and local variance would provide data centers located in Loudoun County a measure of relief from existing regulations and permit provisions that limit the use of Tier II and

Tier IV emergency generators to periods of a PJM Interconnection LLC (PJM) declared emergency. The order would authorize the data centers' on-site generators to operate during times that fall short of a PJM declared emergency but when transmission constraints and strain on the electric grid nevertheless would be acute, thereby allowing the data centers to continue to serve their customers, maintain the integrity of internet, and alleviate demand on the electric grid during periods of stress. This order is being issued as a precautionary and redundant measure in the event that transmission constraints have a negative impact in the area.

Data centers would be required under the order and local variance to notify DEQ when they are operating a Tier II or Tier IV emergency generator under the order's provisions and to calculate the air pollution emitted by each generator during those times. The proposed variance would not relieve data centers of any federal Environmental Protection Agency environmental regulations or requirements, and each data center would still be subject to the annual emissions limits contained in their permits. This order and variance would expire by July 31, 2023.

In response to the notice received from DEQ dated March 6, 2023, regarding the proposed "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", the Board sent a letter to Mike Rolband, Director, Virginia DEQ with 14 questions (Attachment 2) on March 30, 2023.

This Board Member Initiative is to consider sending an additional letter to DEQ and the Data Center Coalition inviting proactive communication with the Loudoun County Government regarding the variance and policies that potentially pose significant noise and air pollution risks to Loudoun residents. Additionally, the letter requests the public hearing on April 6, 2023, be moved to a location in Loudoun County, because the proposed variance most directly impacts Loudoun County.

ISSUES: A new public hearing will be conducted in the Conference Room, Northern Regional Office, 13901 Crown Court, Woodbridge Virginia, at 11:00 a.m., on April 6, 2023. A timely response to the letter dated March 30, 2023, would help inform the public about the facts of the DEQ variance. Additionally, the variance is proposed to impact only Loudoun County data centers, but the public hearing is being held in Prince William County.

FISCAL IMPACT: There is no known fiscal impact with this item.

DRAFT MOTIONS:

1. I move that the Board of Supervisors approve the letter to DEQ and the Data Center Coalition shown as Attachment 1.

OR

2. I move an alternate motion.

ATTACHMENT(S):

1. Letter to DEQ and the Data Center Coalition
2. Letter to Mike Rolband, Director, Virginia DEQ



Loudoun County, Virginia

www.loudoun.gov

Loudoun County Board of Supervisors

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Telephone (703) 777-0204 • Fax (703) 777-0421

Mike Rolband
Director, Virginia DEQ
1111 East Main Street, Suite 1400
Richmond, Virginia 23219

Josh Levi
President, Data Center Coalition
josh@datacentercoalition.com

Director Rolband and Mr. Levi,

Members of the Loudoun County Board of Supervisors first learned of the proposed Department of Environmental Quality (DEQ) data center backup generator pollution variance only after DEQ issued its announcement seeking public comment. No one from the Governor's office, DEQ or the data center industry provided the Loudoun County Board of Supervisors with any advance notice of their discussions leading up to the announcement of the variance and its inherent and potentially significant noise and air pollution risk to Loudoun County residents.

Loudoun County cannot prevent DEQ from issuing such a variance. However, we do have statutory authority to enforce our zoning ordinance for noise, air pollution and permitted use constraints. We are sure you understand that we will always seek to protect Loudoun residents from decisions made by the Commonwealth or any administration that could have a negative impact on the health of our residents.

We have submitted written questions to DEQ and look forward to receiving answers. However, as a body, we also feel it would have been prudent and appropriate to engage the County of Loudoun as decisions that impact only Loudoun County were being made. In addition, we are unsure as to why in-person verbal comments are being conducted in Prince William County as this variance is exclusive to Loudoun County. We ask that the location be moved to Loudoun so that our residents' concerns can be heard.

As a Board, we are aware the data center industry did not request this variance. In fact, several data centers have already stated they will not operate their backup generators excessively – even if allowed by the variance.

In the future, we look forward to continuing the strong relations we have built, and continue to build, with the Loudoun Data Center Coalition. In the future, we invite DEQ to contact the County before drafting policy that exclusively impacts Loudoun County.

Sincerely,

The Loudoun County Board of Supervisors



Loudoun County, Virginia

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1 Harrison Street, S.E., MSC #1, 5th Floor, P.O. Box 7000, Leesburg, VA 20177-7000

Telephone (703) 777-0204 • Fax (703) 777-0421

March 30, 2023

Mike Rolband
Director
Virginia DEQ
1111 East Main Street, Suite 1400
Richmond, VA 23219

Dear Director Rolband,

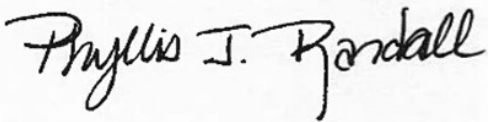
In response to the notice received from the Virginia Department of Environmental Quality (DEQ) dated March 6, 2023, regarding the proposed “order granting a temporary local variance for the operation of Tier II and Tier IV emergency generators by data centers located in Loudoun County during periods of PJM initiated alerts, warnings, or actions as a precautionary measure”, Loudoun County is continuing to consider the matter. As part of our ongoing consideration the following points of inquiry have been identified. Please direct these questions to the appropriate resource in your agency and a timely response is greatly appreciated.:

1. What was the origin of this variance and what is the actual need of enacting this variance?
2. If “this order and variance would expire by July 31, 2023” as specified in the notice, how and why was this specific time period selected for this particular variance?
3. Can this variance be extended in any way?
4. How does a PJM initiated alert, warning, or action get declared and what is the role of PJM, the electric utility, DEQ and any other parties in such an emergency?
5. Is there any scenario where data centers could run the Tier II or Tier IV Diesel Fire Generators 24 hours a day, 7 days a week and/or any amount of time in excess of the normal/average time by which these generators would normally be used upon signage of this variance?
6. Is there a scenario where all (4,000+) Tier II and/or Tier IV Diesel Fire Generators could be activated at the same time?
7. If this variance was enacted, how would DEQ inform the local Governing Body (Loudoun County) of the emergency alert, warning, or actions?
8. Will air quality testing occur before and/or after usage of the Tier II and/or Tier IV Diesel Fire Generators?

9. How will air quality as a result of this variance be reported and what is the timeline of such a report?
10. Who will air quality be reported to and/or who will collect that data?
11. What is the current air quality in Loudoun County and what is the anticipated air quality upon the result of enacting this variance?
12. What is the noise level of an active Tier II and/or Tier IV Diesel Fire Generator and how will noise levels be regulated for communities affected by the level of noise from an active generator due to their proximity to a data center in usage of a generator?
13. Is there any possibility that data centers adjacent to residential areas could be exempt from the enactment of this variance to avoid communities being effected by the noise level of an active Tier II and/or Tier IV Diesel Fire Generator?
14. In "Section E: Failure to Comply" it is indicated that "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, ect." What are the repercussions for a data center upon receiving a violation due to a failure to comply?

Thank you for your time and we look forward to hearing from you. If you have any questions or need clarification regarding these points of inquiry, please contact Mr. Freeman at John.Freeman@Loudoun.gov or 571-420-0671.

Sincerely,



Phyllis J. Randall
Chair At-Large



Koran T. Saines
Vice Chair

cc: Karen G. Sabasteanski
Office of Air Data Analysis and Planning, DEQ
PO Box 1105
Richmond, VA 23218