



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

DIVISION OF AIR QUALITY
STATE STREET COMMONS
100 W. WATER STREET, SUITE 6A
DOVER, DELAWARE 19904

ENGINEERING &
COMPLIANCE

PHONE
(302) 739-9402

August 21, 2022

Draft Permit: APC-2022/0048-CONSTRUCTION

BioEnergy Devco
1,451 HP (1,082 kW) Natural Gas-Fired Cummins Emergency Generator
28338 Enviro Way
Seaford, Delaware, 19973

ATTENTION: Jeff Deats
Facility Manager

Dear Mr. Deats:

Pursuant to 7 **DE Admin. Code** 1102, Section 2, approval of the Department of Natural Resources and Environmental Control (the Department) is hereby granted for the construction of one (1) 1,451 HP (1,082 kW) natural gas-fired Cummins Model C1000N6 emergency generator located at the BioEnergy Innovation Center in Seaford, Delaware, in accordance with the application submitted on Form Nos. AQM-1, AQM-2, AQM-3.3, and AQM-5 dated January 12, 2022 signed by Peter Ettinger, Chief Strategy Officer, cover letter dated January 12, 2022 signed by Brian Lyncha, P.E., Sr. Project Manager for Verdantas, LLC, and letter responses to information requests dated April 7, 2022 and May 12, 2022, both of which were signed by Peter Ettinger, Chief Strategy Officer.

This permit is issued subject to the following conditions:

1. General Provisions

- 1.1. This permit expires on **<insert date>**. If the equipment covered by this permit will not be constructed by **<insert previously referenced date>** an application for a new construction permit must be submitted by **<insert previously referenced date minus 45 days>**.
- 1.2. The project shall be constructed in accordance with the application described above. If any changes are necessary, revised plans must be submitted and supplemental approval issued prior to actual construction.
- 1.3. Representatives of the Department may, at any reasonable time, inspect this facility.
- 1.4. This permit may not be transferred to another location or to another piece of equipment or process.
- 1.5. This permit may not be transferred to another person, owner, or operator unless the transfer has been approved in advance by the Department. Approval (or disapproval) of the permit transfer

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will be provided by the Department in writing. A request for a permit transfer shall be received by the Department at least thirty (30) days before the date of the requested permit transfer. This request shall include:

- 1.5.1. Signed letters from each person stating the permit transfer is agreeable to each person; and
- 1.5.2. An Applicant Background Information Questionnaire pursuant to 7 Del C, Chapter 79 if the person receiving the permit has not been issued any permits by the Department in the previous five (5) years.
- 1.6. The applicant shall, upon completion of the construction, installation, or alteration, request that the Department grant approval to operate.
 - 1.6.1. A separate application to operate pursuant to 7 **DE Admin. Code** 1102 does not need to be submitted to the Department for the equipment or process covered by this construction permit. Upon a satisfactory demonstration by an on-site inspection that the equipment or process complies with all of the terms and conditions of this permit, the Department shall issue a 7 **DE Admin. Code** 1102 Operating Permit for this equipment or process.
 - 1.6.2. The applicant shall notify the Department sufficiently in advance of the demonstration and shall obtain the Department's prior concurrence of the operating factors, time period, and other pertinent details relating to the demonstration.
 - 1.6.3. The provisions of 7 **DE Admin. Code** 1102 Sections 2.1 and 11.3 shall not apply to the operation of equipment or processes for the purposes of initially demonstrating satisfactory performance to the Department following construction, installation, modification, or alteration of the equipment or processes.
- 1.7. The owner or operator shall not initiate construction, install, or alter any equipment or facility or air contaminant control device which will emit or prevent the emission of an air contaminant prior to submitting an application to the Department pursuant to 7 **DE Admin. Code** 1102, and, when applicable 7 **DE Admin. Code** 1125, and receiving approval of such application from the Department; except as exempted in 7 **DE Admin. Code** 1102 Section 2.2.

2. Emission Limitations

- 2.1. Air contaminant emission levels shall not exceed those specified in 7 **DE Admin. Code** 1100 and the following:
 - 2.1.1. Nitrogen Oxide (NO_x), Carbon Monoxide (CO), & Volatile Organic Compound (VOC) Emissions
Emissions of NO_x, CO, and VOCs from the emergency generator engine shall not exceed the applicable standards under Subpart JJJJ to 40 CFR Part 60 over the entire life of the engine. At the time of writing this permit, the standards are those listed in Table 1:

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Engine Type & Fuel	Maximum Engine Power	Manufacture date	Emission Standards ^a					
			g/HP-hr			ppmvd at 15% O ₂		
			NO _x	CO	VOC ^d	NO _x	CO	VOC ^d
Emergency	HP ≥ 130		2.0	4.0	1.0	160	540	86

Table 1: Applicable Emission Standards under Subpart JJJJ to 40 CFR Part 60

^a Owners and operators of stationary non-certified SI engines may choose to comply with the emission standards in units of either g/HP-hr or ppmvd at 15 percent O₂.

^d For purposes of this subpart, when calculating emissions of volatile organic compounds, emissions of formaldehyde should not be included.

2.1.2. Particulate Matter (PM_{Fit}) Emissions

Emissions of filterable particulate matter (PM_{Fit}) from the emergency generator engine shall not exceed 0.3 pounds per million British thermal units (MMBTU).

- 2.2. The owner or operator shall not cause or allow the emission of visible air contaminants and/or smoke from the emergency generator engine, the shade or appearance of which is greater than twenty (20%) percent opacity for an aggregate of more than three (3) minutes in any one (1) hour or more than fifteen (15) minutes in any twenty-four (24) hour period.
- 2.3. Odors from pollutants emitted by the emergency generator engine shall not be detectable beyond the plant property line in sufficient quantities such as to cause a condition of air pollution.

3. Operational Limitations

3.1. The owner or operator shall comply with the following operational limits:

3.1.1. The emergency generator engine shall only combust natural gas.

3.1.2. The generator shall only be operated in accordance with the definition of "emergency generator" and as an "emergency stationary internal combustion engine".

3.1.2.1. The term "emergency generator" means "a stationary generator used only during an emergency, during testing, and for maintenance purposes."

3.1.2.1.1. The term "emergency" means:

3.1.2.1.1.1. "An electric power outage due to: a failure of the electrical grid; on-site disaster; local equipment failure; or public service emergencies such as flood, fire, natural disaster, or severe weather conditions (e.g., hurricane, tornado, blizzard, etc.); or"

3.1.2.1.1.2. "When there is a deviation of voltage or frequency from the electrical provider to the premises of...5% or greater below, standard voltage or frequency."

3.1.2.1.1.3. It should be noted that the portion of the "emergency" definition which permits operation when there is "a deviation of voltage or frequency from the electrical provider to the premises of 3% or greater above...standard voltage or frequency" was

omitted because it does not comply with the more restrictive federal language in §60.4243(d)(2)(iii).

- 3.1.2.1.2. The term "testing" means "determining the capability of a generator to meet the specified requirements of this regulation or determining if the generator and any ancillary equipment associated with its use are functioning correctly."
- 3.1.2.1.3. The term "maintenance" means "the recurrent, periodic, or scheduled work necessary to repair, prevent damage, or sustain existing components of a generator or any ancillary equipment associated with its use."
- 3.1.2.2. The term "emergency stationary internal combustion engine" means "any stationary reciprocating internal combustion engine that meets all of the criteria in paragraphs (1) through (3) of this definition. All emergency stationary ICE must comply with the requirements specified in [§60.4243\(d\)](#) in order to be considered emergency stationary ICE. If the engine does not comply with the requirements specified in [§60.4243\(d\)](#), then it is not considered to be an emergency stationary ICE under this subpart."
 - 3.1.2.2.1. Paragraph (1) of the definition states that the "stationary ICE is operated to provide electrical power or mechanical work during an emergency situation. Examples include stationary ICE used to produce power for critical networks or equipment (including power supplied to portions of a facility) when electric power from the local utility (or the normal power source, if the facility runs on its own power production) is interrupted, or stationary ICE used to pump water in the case of fire or flood, etc."
 - 3.1.2.2.2. Paragraph (2) of the definition states that the "stationary ICE is operated under limited circumstances for situations not included in paragraph (1) of this definition, as specified in [§60.4243\(d\)](#)." Due to conflicts with requirements of 7 DE Admin. Code 1144, only the following portions of §60.4243(d) are permissible:
 - 3.1.2.2.2.1. Paragraph (1) of §60.4243(d), which states that "[t]here is no time limit on the use of emergency stationary ICE in emergency situations."
 - 3.1.2.2.2.2. Portions of Paragraph (2) of §60.4243(d), which states, in part, that the owner or operator "may operate [their] emergency stationary ICE for any combination of the purposes specified in [paragraphs \(d\)\(2\)\(i\) through \(iii\)](#) of this section for a maximum of 100 hours per calendar year." Due to conflicts with requirements of 7 DE Admin. Code 1144, only the following portions of §60.4243(d)(2) are permissible:
 - 3.1.2.2.2.2.1. Paragraph (i), which allows that the "[e]mergency stationary ICE may be

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operated for maintenance checks and readiness testing, provided that the tests are recommended by federal, state or local government, the manufacturer, the vendor, the regional transmission organization or equivalent balancing authority and transmission operator, or the insurance company associated with the engine. The owner or operator may petition the Administrator for approval of additional hours to be used for maintenance checks and readiness testing, but a petition is not required if the owner or operator maintains records indicating that federal, state, or local standards require maintenance and testing of emergency ICE beyond 100 hours per calendar year."

3.1.2.2.2.2. Paragraph (iii), which allows that the "[e]mergency stationary ICE may be operated for periods where there is a deviation of voltage or frequency of 5 percent or greater below standard voltage or frequency."

3.1.2.2.3. Paragraph (3) of the definition, which states that the "stationary ICE operates as part of a financial arrangement with another entity in situations not included in paragraph (1) of this definition only as allowed in [§ 60.4243\(d\)\(2\)\(ii\)](#) or [\(iii\)](#) and [§ 60.4243\(d\)\(3\)\(i\)](#)", is not permissible.

3.1.2.3. In the event that the owner or operator is uncertain whether the purpose of intended generator operation is permissible under these definitions, they shall contact the Department to discuss and obtain an official determination in writing prior to commencing said operation.

3.1.3. The generator may operate for an unlimited number of hours during an emergency, as the term is defined in 7 DE Admin. Code 1144.

3.1.4. The generator may operate for an unlimited number of hours during testing as the term is defined in 7 DE Admin. Code 1144.

3.1.5. The generator may operate for up to 100 hours per calendar year for maintenance checks and readiness testing, provided that the tests are recommended by federal, state or local government, the manufacturer, the vendor, the regional transmission organization or equivalent balancing authority and transmission operator, or the insurance company associated with the engine.

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- 4.1.3. Operating and maintaining the generator engine according to the manufacturer's emission-related written instructions.
 - 4.1.3.1. Records of conducted maintenance shall be kept to demonstrate compliance, but no performance testing is required. If you adjust engine settings according to and consistent with the manufacturer's instructions, your stationary SI internal combustion engine will not be considered out of compliance.
 - 4.1.3.2. If the generator engine is not operated and maintained according to the manufacturer's emission-related written instructions, the engine will be considered a non-certified engine, and compliance shall be demonstrated according to the requirements of §60.4243(a)(2)(iii), which states the following at the time of writing this permit:
 - 4.1.3.2.1. If you are an owner or operator of a stationary SI internal combustion engine greater than 500 HP, you must keep a maintenance plan and records of conducted maintenance and must, to the extent practicable, maintain and operate the engine in a manner consistent with good air pollution control practice for minimizing emissions.
 - 4.1.3.2.2. In addition, you must conduct an initial performance test within 1 year of engine startup and conduct subsequent performance testing every 8,760 hours or 3 years, whichever comes first, thereafter to demonstrate compliance.
- 4.2. Compliance with the visible emission standard established in Condition 2.2 shall be demonstrated by performing qualitative visible emission observations of the stack associated with the generator engine during any instance of operation for testing or maintenance purposes.
 - 4.2.1. The observation shall be conducted for no less than three (3) consecutive minutes, but when applicable shall be extended for a period of time sufficient to determine whether the generator engine is emitting visible air contaminants.
 - 4.2.2. The generator engine shall be operating (combusting natural gas) at the time of the observation. It is not necessary that the generator be supporting load.
 - 4.2.3. Observations shall not be required on days upon which the generator engine does not operate.
 - 4.2.4. This procedure does not require that the opacity of the emissions be determined.
 - 4.2.4.1. Since this procedure requires only the determination of whether a visible emission occurs and does not require the determination of opacity levels, observer certification according to the procedures of EPA Reference Method 9 (40 CFR 60, Appendix A) is not required.
 - 4.2.4.2. It is necessary that the observer is educated on the general procedures for determining the presence of visible emissions.
 - 4.2.4.3. At a minimum, the observer must be trained and knowledgeable regarding the effects of background contrast, ambient lighting, observer position relative to

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lighting, wind, and the presence of uncombined water (condensing water vapor) on the visibility of emissions.

- 4.2.5. If visible emissions are observed:
 - 4.2.5.1. The owner or operator shall take corrective action(s) to eliminate the cause of the opacity and repeat the qualitative observation to determine if the actions were effective.
 - 4.2.5.2. If corrective action does not eliminate the excess opacity observed during the qualitative visible emission observation, the generator shall be shut down until the cause of the opacity has been determined and corrected.
- 4.2.6. If no visible emissions are observed, no further action is required.
- 4.2.7. Each observation, and any associated actions taken to address observed opacity, shall be recorded and maintained in a manner suitable for review.
- 4.3. Compliance with the limitations established by Condition 3.1.1-3.1.8 shall be demonstrated as follows:
 - 4.3.1. Creating and maintaining a log to document each instance of generator operation, to include:
 - 4.3.1.1. The date(s) upon which the generator operated;
 - 4.3.1.2. The time of day at which the generator commenced operation;
 - 4.3.1.3. The hours of operation on the generator's hour meter at the time when the generator commenced operation;
 - 4.3.1.4. The time of day at which the generator ceased operation;
 - 4.3.1.5. The hours of operation on the generator's hour meter at the time when the generator ceased operation;
 - 4.3.1.6. The amount of time over which the generator operated;
 - 4.3.1.7. The purpose of generator operation (emergency, testing, maintenance, etc.); and
 - 4.3.1.8. When applicable, a brief description of each testing or maintenance performed shall also be recorded.
 - 4.3.2. Creating and maintaining a log to document the monthly and rolling twelve (12) month generator fuel usage (type and volume), total hours of operation, and hours of operation for testing or maintenance purposes. The rolling twelve (12) month fuel usage, total hours of operation, and hours of operation for testing or maintenance purposes shall be calculated and recorded each calendar month by recording the current calendar month's value (volume of fuel used, total hours of operation, & hours of operation for testing or maintenance purposes) and adding it to the sum of the previous eleven consecutive months for each.
- 4.4. Compliance with the requirements established by Conditions 2.3, 3.2, & 3.3 shall be based on information available to the Department which may include, but is not limited to the following:
 - 4.4.1. Monitoring results;

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- 4.4.2. Opacity observations;
 - 4.4.3. Review of manufacturer operation and maintenance manuals, copies of which shall be provided to the Department prior to commencing operation of the generator;
 - 4.4.4. Review of work orders generated from planned and unplanned maintenance and repair activities; and
 - 4.4.5. Inspection of the source.
- 4.5. The Department reserves the right to require that the owner or operator perform emission tests using methods approved in advance by the Department. In the event that testing is required, the owner or operator shall conduct performance test(s) and furnish the Department with a written report of the results of such performance test(s) in accordance with the following general provisions:
- 4.5.1. One (1) original hard copy and one (1) PDF copy of the test protocol shall be submitted a minimum of forty-five (45) days in advance of the tentative test date to the addresses in Condition 4.1.3. The tests shall be conducted in accordance with the State of Delaware and Federal requirements.
 - 4.5.2. The test protocol shall be approved by the Department prior to initiating any testing. Upon approval of the test protocol, the Company shall schedule the compliance demonstration with the Source Testing Engineer. The Department must observe the test for the results to be considered for acceptance.
 - 4.5.3. The final results of the testing shall be submitted to the Department within sixty (60) days of the test completion. One (1) original hard copy and one (1) PDF copy of the test report shall be submitted to the addresses below:

Original Hard Copy to:
Engineering & Compliance Section
Attn: Source Testing Engineer
715 Grantham Lane
New Castle, DE 19720

PDF Copy to:
Engineering & Compliance Section
E-mail of Source Testing Engineer
E-mail of Permit Engineer
dnrec_daq_stacktest@delaware.gov

- 4.5.4. The final report of the results must meet the following requirements to be considered valid:
 - 4.5.4.1. The full report shall include the emissions test report (including raw data from the test) as well as a summary of the results and a statement of compliance or non-compliance with permit conditions;
 - 4.5.4.2. Summary of Results and Statement of Compliance or Non-Compliance
 - 4.5.4.3. The owner or operator shall supplement the report from the emissions testing firm with a summary of results that includes the following information:
 - 4.5.4.3.1. A statement that the owner or operator has reviewed the report from the emissions testing firm and agrees with the findings.

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- 4.5.4.3.2. Permit number(s) and condition(s) which are the basis for the compliance evaluation.
- 4.5.4.3.3. Summary of results with respect to each permit condition.
- 4.5.4.3.4. Statement of compliance or non-compliance with each permit condition.

4.5.5. The results must demonstrate to the Department's satisfaction that the emission unit is operating in compliance with the applicable regulations and conditions of this permit; if the final report of the test results shows non-compliance the owner or operator shall propose corrective action(s). Failure to demonstrate compliance through the test may result in enforcement action.

5. Record Keeping Requirements

- 5.1. With the exception of the generator initial notification and documentation certifying compliance with the applicable emission standards, which shall be maintained in a readily accessible location in perpetuity, the owner or operator shall maintain all other records necessary for determining compliance with this permit in a readily accessible location for five (5) years and shall make these records available to the Department upon written or verbal request.
- 5.2. The following information shall be recorded, initialed and maintained in a format suitable for review and comparison against the applicable standard, limit, or other requirement:
 - 5.2.1. A log containing the information required by Condition 4.3.1.
 - 5.2.2. The following information on a monthly and rolling twelve (12) month basis:
 - 5.2.2.1. The type and volume of fuel combusted by the generator engine.
 - 5.2.2.2. The total hours of operation of the generator.
 - 5.2.2.3. The hours of operation of the generator for testing or maintenance purposes.
 - 5.2.3. A log of the visible emission observations, as required by Condition 4.2, to include:
 - 5.2.3.1. The date of each observation;
 - 5.2.3.2. The start and end time of each observation;
 - 5.2.3.3. Whether visible emissions were or were not observed during each observation; and
 - 5.2.3.4. If applicable, any corrective action(s) taken in response to observed visible emissions.
 - 5.2.4. Documentation from the manufacturer that the generator engine is certified to meet the applicable emission standards under Subpart 4J of 40 CFR Part 60.
 - 5.2.5. A copy of the initial notification submitted in accordance with Section 1.4 of 7 DE Admin. Code 1144.
 - 5.2.6. The manufacturer-provided operation and maintenance manual(s) or other maintenance plan used for the operation and maintenance of the emergency generator.

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- 5.2.7. Documentation of any planned or unplanned preventative maintenance or repair work performed on the emergency generator. This shall include, but is not limited to:
 - 5.2.7.1. Records of maintenance conducted in accordance with the manufacturer's emission-related written instructions; or
 - 5.2.7.2. Records of maintenance conducted in accordance with the other maintenance plan, which must, to the extent practicable, include procedures for maintaining and operating the engine in a manner consistent with good air pollution control practice for minimizing emissions.
- 5.2.8. If applicable, results of any performance testing of the generator that is required.

6. Reporting Requirements

- 6.1. Emissions in excess of any permit condition or emissions which create a condition of air pollution shall be reported to the Department immediately upon discovery by calling the Environmental Emergency Notification and Complaint number, (800) 662-8802.
- 6.2. In addition to complying with Condition 6.1 of this permit, any reporting required by 7 **DE Admin. Code** 1203 "**Reporting of a Discharge of a Pollutant or an Air Contaminant**", and any other reporting requirements mandated by the State of Delaware, the owner or operator shall, for each occurrence of excess emissions, within thirty (30) calendar days of becoming aware of such occurrence, supply the Department in writing with the following information:
 - 6.2.1. The name and location of the facility;
 - 6.2.2. The subject source(s) that caused the excess emissions;
 - 6.2.3. The time and date of the first observation of the excess emissions;
 - 6.2.4. The cause and expected duration of the excess emissions;
 - 6.2.5. For sources subject to numerical emission limitations, the estimated rate of emissions (expressed in the units of the applicable emission limitation) and the operating data and calculations used in determining the magnitude of the excess emissions; and
 - 6.2.6. The proposed corrective actions and schedule to correct the conditions causing the excess emissions.
- 6.3. Pursuant to the requirements of §60.7(a), the owner or operator of a source subject to the requirements of 40 CFR Part 60 shall furnish the Administrator written notification or, if acceptable to both the Administrator and the owner or operator of a source, electronic notification, as follows:
 - 6.3.1. A notification of the date construction of an affected facility is commenced postmarked no later than 30 days after such date. The notification must include the information in paragraphs (c)(1) through (5) of §60.4245(c), which include the information specified in Conditions 6.3.1.1 through 6.3.1.5 at the time of writing this permit.

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- 6.3.1.1. Name and address of the owner or operator;
 - 6.3.1.2. The address of the affected source;
 - 6.3.1.3. Engine information including make, model, engine family, serial number, model year, maximum engine power, and engine displacement;
 - 6.3.1.4. Emission control equipment; and
 - 6.3.1.5. Fuel used.
- 6.3.2. A notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date.
- 6.3.3. A notification of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in §60.14(e).
- 6.3.3.1. This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change.
 - 6.3.3.2. The Administrator may request additional relevant information subsequent to this notice
- 6.4. One original and one copy of all required reports, except those required by Conditions 4.5 and 6.3, shall be sent to the address below:

Division of Air Quality
State Street Commons
100 W. Water Street, Suite 6A
Dover, DE 19904

- 6.5. One (1) copy of the report required by Condition 6.3 shall be sent to the addresses specified in Table 2:

State of Delaware – DNREC Division of Air Quality State Street Commons 100 West Water Street, Suite 6A Dover, DE 19904 ATTN: Division Director	United States Environmental Protection Agency Region III, Enforcement & Compliance Assurance Division Air, RCRA and Toxics Branch (3ED21) Four Penn Center 1600 John F. Kennedy Boulevard Philadelphia, Pennsylvania 19103-2852
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Table 2: Addresses to which federally-required reports be sent

7. Administrative Conditions

- 7.1. This permit shall be made available on the premises.
- 7.2. Failure to comply with the provisions of this permit may be grounds for suspension or revocation.

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Sincerely,

Amy S. Mann, P.E.
Administrator
Engineering & Compliance Section

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pc: Dover File
 Jordan Matthews
 Kevin Njoroge

DRAFT