Dan Diorio

On behalf of the Data Center Coalition (DCC), I appreciate the opportunity to submit the attached comments on the Ecology Air Program's draft general order for permitting new data center capacity in or near the cities of East Wenatchee, Malaga and Quincy, Washington. Should additional information be helpful, please do not hesitate to contact me.

September 28, 2025

Philip Gent
Washington Department of Ecology
Air Quality Program
PO Box 47600
Olympia, WA 98504-7600

Re: Draft Data Center Permitting General Order

Dear Mr. Gent:

On behalf of the Data Center Coalition (DCC), I appreciate the opportunity to comment on the Ecology Air Program's draft general order for permitting new data center capacity in or near the cities of East Wenatchee, Malaga and Quincy, Washington ("the Draft Order"). DCC is the national membership association for the data center industry. Our members include leading data center owners and operators, as well as companies that lease large amounts of data center capacity.

DCC appreciates Ecology's initiative to streamline new source permitting for data centers but regrets that Air Program staff developed the Draft Order without outreach to the regulated community. Unfortunately, the Draft Order, in its current form, denies coverage to most data center projects in the target localities. DCC and its members would welcome the opportunity to engage with Ecology to offer perspective and subject matter expertise with the goal of expanding the coverage of the Draft Order to fulfill Ecology's goals for this initiative.

Ecology developed the Draft Order in response to broad concerns from DCC and its members that permitting a data center capacity addition takes longer and requires more resources in Washington than in any other state. DCC urged the Air Program to refine certain elements of Ecology's permitting guidance that were previously developed without industry engagement. The suggested revisions addressed the significant overestimation of data center emissions, which triggers onerous modeling requirements and unnecessarily restrictive permit conditions. DCC proposed these modifications to the guidance to expedite permitting timelines and ensure achievable operation limits while protecting human health. Air Program staff elected not to make these modifications and replied that a general order would be a good vehicle to achieve these goals. The Draft Order, however, still relies on the flawed permitting guidance to develop the current conditions. Further, the resulting applicability conditions of the general order, as written, are not applicable to most data center projects. To be an effective method for streamlining permitting, a general order must: 1) be broadly applicable to most data center projects, and 2) its requirements

must not increase the burden of building new capacity in such a way that it results in a more expensive path than the traditional permitting pathway. The Draft Order fails to meet both important standards.

The following applicability limits in the Draft Order severely limit its utilization and should be modified in the Final Order:

1. **Potential to Emit**

The Draft Order cannot be used to permit new capacity at an existing data center if the expanded facility would require a Title V permit.[1] As a practical matter that means that the pre-project allowable emissions of NOx must not exceed 76 tons per year.[2] But many data centers in the three localities covered by the Draft Order have allowable emissions exceeding 76 tons per year.[3] Therefore, the Draft Order cannot be used to permit a project at any of those data centers absent a reduction in the allowable emissions from the existing generators. Further, a facility that obtains coverage under the Draft Order may surrender any option for future growth, because Condition 2(d) in the Draft Order states: "Use of this General Order at a Title V facility is limited to 365 days or less."

This restriction is not due to actual expected emissions but is instead due to Ecology opting for a regulatory reform vehicle that cannot be used at a Title V source, as a matter of state law.[4] Improvements to Ecology's permitting guidance in lieu of the general order would achieve the big picture objective without disqualifying projects at larger data centers from coverage.

2. **Geographic limitations**

The Draft Order applies only to projects in or near three localities where Ecology had preexisting modeling studies showing that projects up to a certain size would protect the National Ambient Air Quality Standards (NAAQS). This approach reduced the agency workload burden to support the Draft Order, but it excludes projects in all other locations around Washington. Further, the Draft Order does not clearly specify the geographic limits on its applicability. DCC recommends clarifying the geographic limits and striving for consistent application to reduce ambiguity.

3. **Setback requirements**

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[1] Draft Order at 1.
[2] The Draft Order limits NOx emissions from the engines covered by the order to 23.85 tpy. Draft Order at 6.
[3] Examples include Microsoft datacenters in Malaga and East Wenatchee, Sabey datacenters in Quincy and East Wenatchee (NEED TO CONFIRM EAST WENATCHEE), the Oath datacenter in Quincy and the Vantage datacenter in Quincy.
[4] TSD at 1.

The Draft Order states that "All engines must be located at least 591 feet from the nearest secure access facility property line." DCC suggests clarifying whether this restriction only applies to engines covered by the Draft Order, or to all engines at a data center. All existing data centers in Quincy, Malaga and East Wenatchee have generators less than 591 feet from the nearest property line. For a new project, the 591-foot setback requirement would substantially increase the size of the parcel required to qualify for coverage. That is especially true for projects in Quincy, Malaga and East Wenatchee, where large parcels with good utility access carry high price tags or simply do not remain. The order has no value if project applicants determine that it imposes infeasible development criteria. The 591-foot setback requirement would compel that judgment call at most projects in Quincy, Malaga, and East Wenatchee.

It appears that this setback requirement is based on a screening-level modeling exercise that plotted the minimum distance at which emissions from one engine located in a short building would protect the one-hour NOx ambient standard. [5] Use of this screening-level model, while less time consuming to complete, results in overestimation of modeled impacts which appears to be driving this unrealistic setback distance. Further, several of the modeling assumptions are unrealistic and overly burdensome. For example, Ecology reduced the applicable limit for diesel particulates by 50 percent as part of developing Draft Order limitations. Reducing a limitation that is already among the most stringent in the nation by 50 percent will only serve to further constrain use of the Order.

DCC recommends using a more refined modeling technique (e.g., Monte Carlo analysis, etc.) and existing health risk thresholds along with realistic modeling assumptions to allow for a shorter setback requirement and the ability to operate multiple generators at a time. We request that Ecology also consult with data center operators in selecting the input assumptions for the model to ensure that these will provide adequate coverage for typical data center operations.

4. Capacity limitations

The Draft Order covers projects comprising no more than 21 large Tier 4 equivalent engines and specifies that the order may be applied to only one project at a data center. This increment of capacity may be adequate for a bitcoin mining operation or older data center designs, but limiting the size of a capacity addition to 21 engines is no longer cost-effective for most data center operators. One reason for the economies of scale is that data center capacity additions (2025 and beyond) typically rely on air cooling rather than water cooling. The power needed for air cooling must be supported by greater back-up generating capacity, which increases the number of engines needed to support a multi-tenant facility. For that and other reasons, data center owners currently seek to permit capacity

[5] TSD at 24

increments larger than 21 engines. If the Draft Order cannot support the newest and most environmentally protective design features for new capacity, applicants will not use it.

DCC encourages Ecology to revisit the 21-engine limit as it is unnecessarily restrictive and does not benefit air quality. The order could be revised to accommodate larger projects, without sacrificing air quality. For instance, Ecology could set limits on the capacity of the generators covered by the order, as opposed to the power capacity of the engines. The capacity of a generator automatically caps the maximum power output of the engine and is usually smaller than the capacity of the engine. Instead of limiting the number of engines, Ecology could limit the aggregate generating capacity of the engines covered by the Draft Order. This would enable applicants to have more flexibility in the size of the generators other than the 4423 bhp engine that Ecology modeled. Additionally, DCC recommends that Ecology seek input from the regulated community to ensure the aggregate generating capacity limit is set high enough to accommodate the newest data center project designs.

5. Operating Restrictions

The Draft Order limits engine operation for maintenance and testing to one generator operating at a time.[6] This limitation is problematic because data center testing and maintenance procedures require one-time or periodic use of multiple engines at the same time. Data security requirements in government and other contracts require this testing. Periodic major energy utility maintenance like transformer maintenance typically requires full or near-full load power production. The restriction disqualifies use of the order at facilities that must be prepared to accommodate energy maintenance needs and meet rigorous data security requirements.

The Draft Order is unclear if the "one engine at a time" restriction applies to commissioning of the generators. Adequate commissioning of the emergency generators is required to demonstrate that each unit is operating properly and synced with the data center electrical systems. This runtime is sometimes considerable and requires multiple generators to operate simultaneously. Unless the Draft Order clearly states that commissioning activities are exempt or includes a temporary condition allowing for commissioning activities during construction, the Draft Order cannot be used for any data center construction in the limited geographic regions.

6. Conclusion

DCC is concerned that the unrealistic applicability requirements negate the benefit of a general order. The Draft Order adds no value if project applicants cannot meet its requirements and would lead project applicants to pursue less burdensome options to permit the capacity, such as the traditional permitting process. DCC encourages Ecology to work with industry stakeholders to revise its permitting guidance pursuant to previous

[6] Draft Order Section 3.a.v.

recommendations provided by DCC and its members between November 2023 – January 2025. These refinements would enable Ecology to draft a general order that has practical use for projects across the state of Washington.

Thank you for this opportunity to comment. DCC and its members would appreciate any additional opportunity to partner with Ecology on these important topics. Please do not hesitate to reach out to me if additional discussion would be helpful.

Sincerely,

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