



March 6, 2019

Ms. Karen G. Sabasteanski
Office of Regulatory Affairs
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Submitted via DEQ email to: ghg@deq.virginia.gov and Karen.Sabasteanski@deq.virginia.gov

**Re: Comments on Reproposed Regulation for Emissions Trading Programs
(9VAC5-140)**

Dear Ms. Sabasteanski:

Veolia North America (“Veolia”) appreciates this opportunity to provide comments on the 9VAC5 Chapter 140 Regulation for Emissions Trading Programs (the “Regulation”) repropose by the Commonwealth of Virginia Department of Environmental Quality (“VADEQ”) and published in the Virginia Register of Regulations on February 4, 2019.

Veolia has entered into a long-term agreement with DuPont to provide central utility services at its Spruance Plant in Richmond, Virginia. Veolia’s scope includes the ownership, operation and maintenance of an adjacent combined heat and power (“CHP”) facility that supplies thermal energy to the Spruance Plant. Veolia is making significant investments in - and modifications to - the CHP facility, including converting its fuel from coal to natural gas. After the modifications, the vast majority of the facility’s useful energy will be delivered to the Spruance Plant as steam with only a small portion of its useful energy exported to the grid as electricity.

In our comment letter dated April 6, 2018, Veolia offered two recommendations that would clarify and modify the industrial exemption within the Regulation and ultimately further recognize the multiple economic, energy efficiency, and greenhouse gas reduction benefits provided by CHP systems. Veolia recommended that VADEQ:

- Reconsider common ownership as a key condition for exemption eligibility; and,
- Clarify the meaning of “primary use” by considering the magnitude of a CHP unit’s generation of useful thermal energy relative to electrical energy.

Veolia is pleased that VADEQ considered our recommendations, as echoed in several other comment letters, on the “industrial exemption” for CHP, and incorporated the concept of “total useful energy” into the applicability guidelines and eliminating the ownership condition.

The Regulation provides two paths for a source to qualify for the industrial exemption, as set forth below:

9VAC5-140-6040. Applicability.

B. Exempt from the requirements of this part is any CO2 budget source located at or adjacent to and physically interconnected with a manufacturing facility that, prior to January 1, 2019, and in every subsequent calendar year, met either of the following requirements:

- 1. Supplies less than or equal to 10% of its annual net electrical generation to the electric grid; or*
- 2. Supplies less than or equal to 15% of its annual total useful energy to any entity other than the manufacturing facility to which the CO2 budget source is interconnected.*

The addition of the second condition involving a threshold on “total useful energy” rather than just electrical generation is critical to addressing the concerns of industrial CHP units, including the Spruance Plant. Veolia anticipates that a “total useful energy” threshold of 15 percent is sufficient to enable industrial CHP units to continue to operate cost effectively.

Veolia also appreciates VADEQ broadening the scope of the industrial exemption by removing the previous language requiring that the industrial facility and the power-generating unit serving the facility to be under common ownership in order to qualify for the exemption. The new standard provides flexibility for operating arrangements when the power-generating unit and the industrial facility have been split up to gain operational and economic benefits.

Thank you for the opportunity to comment on the Regulation. Please contact me at christopher.mullen@veolia or (617) 502-4440 with any questions about these comments or if we can be of further assistance.

Sincerely,



Chris Mullen
Director of Energy Commodities and Contracts
Veolia North America

cc. Ned Bartlett