

Virginia Loggers Association
5251 Tavern Lane
Goochland, VA 23063
"Voice for Virginia's Professional Loggers"

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March 6, 2019

David K. Paylor, Director, Virginia Department of Environmental Quality
Michael G. Dowd, Director, Air and Renewable Energy Division Virginia
Department of Environmental Quality
1111 E. Main Street
Richmond, VA 23219

Re: Virginia Loggers Association Comments Opposing Reproposed 9VAC5-140.
Regulation for Emissions Trading Programs (Rev. C17) (adding 9VAC5-140-6010
through 9VAC5-140-6440).

Dear Director Paylor and Director Dowd:

Virginia Loggers Association provides comments regarding the Commonwealth of Virginia's repropoed "Regulation for Emissions Trading Program" for the CO2 Budget Trading Program (the "Regulation"). The Regulation is intended to facilitate Virginia's entry into the Regional Greenhouse Gas Initiative (RGGI). We have previously filed comments on earlier versions of the proposed Regulation on March 14, 2018 and April 8, 2018 and hereby incorporate those comments by reference.

The Virginia Loggers Association is 501 C (6) trade organization made up of 350 businesses engaged and dependent upon the natural, renewable and carbon- neutral resource i.e. forests. Forests are the largest carbon sinks on the globe and with sustainable forest policies; biomass is the best resource available for our long term energy needs and other society stables.

Virginia Loggers Associations consists of logging businesses, mills and many other types of businesses across the Commonwealth of Virginia. Virginia forests are a major source for several Dominion Resource plants, pulp & paper mills, lumber mills, plywood mills and more.

Any effort to minimize the importance of our carbon-neutral, natural and renewable forest resources impacts our businesses and future policy decisions about this resource. The impact of even including any biomass as part of the efforts in 9VAC5-140 would potentially cause irreversible harm to our industry and those who engaged in this resource.

Virginia Loggers Association associates also are subject to a wide variety of Clean Air Act (CAA) and other federal and state regulatory programs. Those programs consistently impose more and more stringent standards and permitting requirements on our facilities. Virginia Loggers Association members have made significant investments to achieve and go beyond compliance with these requirements. Our investments have dramatically reduced emissions of greenhouse gas (GHG) and other pollutants regulated under the CAA.

Our comments request that the Regulation be revised to make clear that it only GHG emissions from fossil fuel combustion and those new and existing industrial facilities are clearly exempt from any allowance obligations.

The Regulation Should Apply Only to GHG Emissions from Fossil-Fuel Combustion and Not to Emissions From Biomass Combustion

The GHG reduction Regulation consistently has been directed at reducing GHG emissions from “fossil fuel” combustion, as is clear from the applicability provisions and earlier Administration statements, such as the Attorney General’s May 12, 2017 official advisory opinion on the Regulation. Many comments in the docket describe and document the GHG reduction benefits of renewable carbon neutral biomass energy. Further, both the RGGI and California’s cap and trade program do not require allowances for emissions from eligible biomass combustion, and numerous international and domestic programs recognize the carbon neutrality of biomass. In addition, just last month, Congress enacted, and the President signed appropriations legislation reaffirming that federal regulatory policy should reflect the carbon neutrality of forest-based renewable biomass.¹

We believe the Department of Environmental Quality’s intent is that emissions from biomass combustion do not require allowances. We recommend that irrespective of how “fossil-fuel fired” is defined, and whether a unit co-fires biomass with fossil fuel, the allowance requirements should be amended to make explicit that allowances are only required for emissions from the combustion of fossil fuel and that none are required for emissions from combustion of biomass fuel. This change will prevent unintended consequence and provide needed clarity. Specifically, the phrase “that have been generated as a result of combusting fossil fuel” should be put back into section 9VAC5-140-6050 C 1 as it was in the previous version of the Regulation.

From its Inception, the Regulation Was Intended to Regulate Only Electric Generation Facilities

The history of the Regulation makes clear that from its inception, it was intended to cover electric generation facilities and not manufacturing facilities that may generate some electricity for their manufacturing operations. Moreover, we are unaware of any other RGGI state where industrial facilities are subject to an allowance obligation. If Virginia did regulate

¹ Section 428 of the Department of Interior, Environment, and Related Agencies Appropriations Act, 2019, Division E of Public Law 116-6, the “Consolidated Appropriations Act of 2019.”

industrial facilities, it would be inconsistent with those states and put industrial facilities in Virginia at a serious competitive disadvantage.

The Regulation Should be Amended to More Clearly Exempt Industrial Facilities

In light of the competitive disadvantage that Virginia industrial facilities would face if they were subject to the Regulation, it should clearly exempt those facilities from the applicability requirements.

The Regulation does include an exemption for certain industrial facilities, however it applies only to units existing as of the beginning of 2019. That limitation should be removed, as there is no reason that new industrial facilities in Virginia should be subject to the adverse economic impact of having to obtain allowances for their emissions. Again, this would put those facilities at a serious competitive disadvantage and will make it much more difficult to attract new investments to the Commonwealth that can make substantial economic and other contributions to the Commonwealth's communities.

In any case, if the limitation is retained, the Regulation should be clear that modifications or changes, including but not limited to require for efficient operations and maintenance or replacement of equipment, do not cause the facility to lose the exemption.

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In summary, we request that the Regulation apply only to GHG emissions from fossil-fuel combustion, and that new and existing units at industrial facilities be clearly exempt from the Regulation. If you have any questions about these comments, please contact Ron Jenkins at 804 677 – 4290 or by email at info@valoggers.org.

Sincerely,



Ron Jenkins
Executive Director

CC: Vance Wright, President

