



501 South 5th Street
Richmond, VA 23219

office: 804-444-1000
www.westrock.com

March 6, 2019

VIA ELECTRONIC MAIL

Ms. Karen G. Sabasteanski
Virginia Department of Environmental Quality
1111 East Main Street, Suite 1400
P.O. Box 1105
Richmond, VA 23218

RE: Comments of WestRock Company on the Re-proposed Reduce and Cap Carbon Dioxide from Fossil Fuel Fired Electric Power Generating Facilities

Dear Ms. Sabasteanski,

WestRock is a global packaging solutions company with nine locations in the Commonwealth of Virginia, including four pulp and paper mills. In Virginia, we employ approximately 3,000 co-workers in family wage jobs and contribute more than \$1 billion directly to the state's economy annually through salaries, supplier spend, taxes, and energy purchases. The products we make in Virginia are shipped throughout the United States and around the world making WestRock the largest exporter by volume from the Port of Virginia.

On behalf of WestRock, I would like to offer the following comments on the Commonwealth of Virginia's re-proposed "Regulation for Emissions Trading." WestRock submitted comments on a prior version of this regulation, and a copy of these comments is enclosed. To the extent these comments are applicable to the revised regulation, WestRock requests that they be incorporated by reference. WestRock is a member of the American Forest & Paper Association (AF&PA), and we also incorporate AF&PA's comments into this letter.

Definition of Fossil Fuel-Fired

The revised rule has been changed from the version originally proposed by DEQ on January 8, 2018; however, the changes do not address WestRock's primary concern, which is that the regulation undermines internationally accepted principles of carbon accounting and in some cases regulates emissions from non-fossil fuels when they are co-fired with fossil fuels. As stated in WestRock's comments on the original proposed rule, emissions from non-fossil fuels, particularly those that are renewable and biogenic like biomass, should be unequivocally exempted from this rulemaking.

DEQ has requested comments on whether and how the current language of the proposed rule should apply to "CO₂ emissions from CO₂ budget units that do not combust fossil fuels exclusively." In the agency statement include in the Virginia Town Hall notice accompanying the re-proposed rule dated February 4, 2019, DEQ stated:

The department is seeking comment on whether 9VAC5-140-6050 C 1 should be amended to specify that the total CO₂ emissions related to CO₂ allowances only includes emissions resulting from the combustion of fossil fuel. Specifically, the department seeks input as to whether such an amendment to the standard requirements would provide clarity and consistency with the fossil fuel-focus of EO 11, or if such an amendment would be redundant because "fossil fuel-fired" is already defined in 9VAC5-140-6020 C and referenced in 9VAC5-140-6040 A, and is not needed to assure limitation of the rule to fossil fuel-fired facilities.

In the re-proposed rule, DEQ has altered the definition of "Fossil Fuel Fired" to lower the threshold of fossil fuel from 10% of fuels combusted to 5%, the revised rule is even more likely to include non-fossil (including renewable biomass) fuel emissions. The following language should be reinserted in the final rule to ensure that the re-proposed rule so that the final regulation does not exceed the scope established by RGGI: "The owners and operators of each CO₂ budget source and each CO₂ budget unit at the source shall hold CO₂ allowances from the combustion of fossil fuel available for compliance deductions under 9VAC5-140-6260, . . . "

Further, DEQ should revise the definition of "CO₂ Budget Source" in VAC 5-140-6020 (C) to reinsert the phrase "that has been generated as a result of combusting fossil fuel" and clarify the applicability of CO₂ allowances for emissions resulting from fossil fuels. Specifically, the definition should be revised as follows:

"CO₂ allowance" means a limited authorization by the department or another participating state under the CO₂ Budget Trading Program to emit up to one ton of CO₂ that has been generated as a result of combusting fossil fuel, subject to all applicable limitations contained in this part. CO₂ offset allowances generated by other participating states will be recognized by the department.

In summary, WestRock does not believe that the proposed definitions of "fossil fuel fired" or CO₂ allowance" in the re-proposed rule clearly exclude CO₂ emissions from non-fossil sources from regulation, and we strongly urge DEQ to amend the regulation to ensure it remains consistent with the fossil-fuel focus of EO 11 and the rulemaking process to date.

Impact on Biomass

The re-proposed rule states that if biomass (or some other non-fossil fuel) comprises a threshold percentage of the total heat input into an electric generating unit, the unit and its biogenic CO₂ emissions are not regulated. However, if biomass comprises less than a threshold percentage, biogenic CO₂ emissions are regulated, and a facility must remit allowances for all CO₂ emissions from that unit. As we noted in our prior comments, WestRock believes that this treatment of biogenic CO₂ emissions is arbitrary and capricious. Biomass carbon neutrality does not change based on the amount of biomass fired, nor does it change when biomass is co-fired with other fuels. The re-proposed rule's treatment of CO₂ emissions from the combustion of biomass represents a significant departure from current U.S. federal law, internationally-accepted carbon accounting protocols, and the existing RGGI model rule. Moreover, by regulating CO₂ emissions

from biomass, DEQ's current, draft regulation exceeds the stated scope of the RGGI Rule, which is specifically intended to "Reduce and Cap Carbon Dioxide from Fossil Fuel Fired Electric Generating Units."

Industrial Exemption

The intent of the re-proposed rule is to regulate emissions of fossil fuels from utility electric generating units. We appreciate DEQ's efforts to clarify that manufacturing facilities are exempt from regulation and offer three suggestions for ensuring that Section 6040(B) of the re-proposed rule clearly exempts industrial facilities that generate steam and electricity.

- First, we propose that the reference to "CO₂ budget source" be removed and the first segment of this language refer to "source". We believe that removal of this language offers more clarity to manufacturers as it more clearly distinguishes between those facilities impacted by the rule and those that are not. In addition, we recommend that the definition of CO₂ budget source be amended for consistency to read: "CO₂ budget source" [except as exempted in 9 VAC 5-140-6040B] means a source that includes one or more CO₂ budget units." Adoption of this language would further clarify how facilities that qualify for this exemption are affected under the rule.
- Second, we believe that the language dealing with the industrial exemption should extend to facilities regardless of the date they commenced operation; megawatt units of measure should be included with respect to the sales, purchases, and generation; and permitting requirements should be clarified to ensure that the facility is not required to pay a permit modification fee. Further, we believe that DEQ should provide guidance to facilities as to how it intends to facilitate inclusion of this language into existing permits.

Overall, WestRock supports the concept of net electrical generation. We recognize that many manufacturers generate and consume electricity on site, but also are able to sell a portion to the grid. In addition to the specific recommendations offered above, we support higher thresholds for net electrical generation and total useful energy due to the benefits that combined heat and power (CHP) offer. These concepts are more fully described in our original comments that are attached.

- Third, the last sentence with respect to an operating permit needs clarification. We request that DEQ remove the reference to "CO₂ budget source" and retain "source" to be consistent with our previous recommendation. Further, we believe that since this is an exemption to the regulation that DEQ wants to include in a facility's operating permit, DEQ must ensure that the facility is not required to pay the permit modification fee for such inclusion. DEQ could elect to incorporate this language as an administrative change. We believe that DEQ should provide guidance to facilities as to how it intends to facilitate inclusion of this language into existing permits.

To summarize, we believe that the language of Section 6040(B) should be amended to read as follows:

B. Exempt from the requirements of this part is any 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.

For the purpose of subdivision 1 of this subsection, annual net electrical generation shall be determined as follows:

$(ES - EP) / EG \times 100$ (note the printed version does not print the subtraction sign)

Where:

ES = electricity sales to the grid from the CO₂ budget source (megawatts)

EP = electricity purchases from the grid by the CO₂ budget source and the manufacturing facility to which the CO₂ budget source is interconnected (megawatts)

EG = electricity generation (megawatts)

Such source shall request an operating permit containing the applicable restrictions under this subsection. DEQ will incorporate this language as an administrative amendment to the facility operating permit.

Treatment of Repairs, Upgrades, and New Construction at Exempted Facilities

WestRock supports the incorporation of the proposed the industrial exemption as it applies on a facility basis and not to individual emission units. As such, modifications or newly constructed units at an exempt facility would be exempt as long as the facility still qualifies for the exemption.

Thank you for the opportunity to comment on the re-proposed RGGI regulation.

Sincerely,



Nina E. Butler

Chief Sustainability Officer

Enclosures