

EO 57

REGULATING CARBON AT THE STATE LEVEL

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[T]o study and recommend methods to reduce carbon emissions from electric power generation facilities....

Such methods shall align with the Virginia Air Pollution Control Board's power to promulgate regulations abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth.

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CARBON REGULATION AT THE STATE LEVEL

- 1) the establishment of regulations for the reduction of carbon pollution from existing electric power generation facilities pursuant to existing authority under Virginia Code § 10.1-1300 *et seq.*
- 2) the implementation and administration of carbon reduction regulations; and
- 3) the establishment of carbon reduction goals; and
- 4) the establishment of carbon reduction targets; and
- 5) the establishment of carbon reduction metrics; and
- 6) the establishment of carbon reduction reporting requirements; and
- 7) the establishment of carbon reduction monitoring requirements; and
- 8) the establishment of carbon reduction enforcement mechanisms; and
- 9) the implementation and administration of carbon reduction regulations; and
- 10) flexibility in achieving the goals of any carbon reduction regulation.

GUIDING PRINCIPLE

Pursuant to *existing* authority, the Air Pollution Control Board has broad authority to regulate carbon from the electric power generation facilities

BOARD'S CURRENT LEGAL AUTHORITY

VA CODE § 10.1-1308

“The Board, after having studied air pollution in the various areas of the Commonwealth ... shall have the power to promulgate regulations ... abating, controlling and prohibiting air pollution throughout or in any part of the Commonwealth....”

ARE CARBON EMISSIONS 'AIR POLLUTION'?

YES

- Carbon emissions are already regulated as an air pollutant in Virginia. (9 VAC 5-85-30)
- Example: Dominion's Greensville NGCC PSD permit annual emissions cap: 1,911,596 tons/yr

DOES ANYTHING RESTRICT THE BOARD'S AUTHORITY TO REGULATE CARBON?

NO

- The General Assembly can and has restricted the Air Board's regulatory authority elsewhere
 - Leaf burning on private property. (VA Code § 10.1-1308 A)
 - Stage 1 vapor recovery at gas stations. (VA Code § 10.1-1308 C)
 - Qualified fumigation facilities. (VA Code § 10.1-1308 D)
- No such limitation applies to carbon emissions

AIR BOARD'S REGULATORY POWER

VA CODE § 10.1-1308

- ✓ Power to regulate air pollution?
- ✓ Carbon emissions = air pollution?
- ✓ No statutory prohibition on regulating carbon?

STRUCTURE OF CARBON REGULATION

RATE V. MASS

Inherent issues with rate-based programs

- Limited options to improve emissions rate *at the smokestack*
- EPA's "ERC" model administratively unwieldy

STRUCTURE OF CARBON REGULATION

RATE V. MASS

Inherent benefits of mass-based programs

- No technology needed
- Market-based solution
- DEQ experience handling similar programs

STRUCTURE OF CARBON REGULATION

ALLOWANCE ALLOCATION

GOAL: Capture full economic value for Virginians

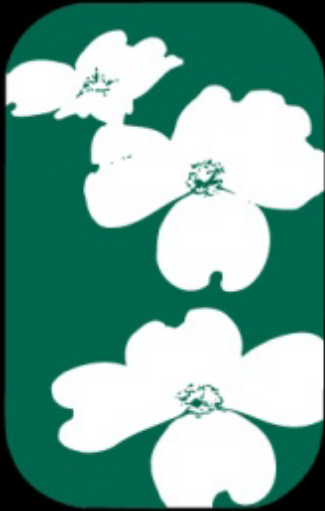
- RGGI-style auction likely needs legislation
- Alternative allocation recipients
 - Distribution Companies
 - VAEEC or similar clean energy-centered non-profit
 - Localities affected by climate change

STRUCTURE OF CARBON REGULATION

RECOMMENDATIONS

- Formally request the Air Board to promulgate a regulation that:
 - Imposes a state-wide mass cap
 - Covers *all* sources (new + existing)
 - Allocates allowances to maximize value for *ratepayers* by investing in EE/RE

QUESTIONS?



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