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## Final Regulation Agency Background Document

<b>Agency name</b>	State Air Pollution Control Board
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	Part VII of 9VAC5-140
<b>VAC Chapter title(s)</b>	Regulation for Emissions Trading
<b>Action title</b>	Repeal CO <sub>2</sub> Budget Trading Program as required by Executive Order 9 (Revision A22)
<b>Date this document prepared</b>	June 8, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Executive Order 9 (2022), "Protecting Ratepayers from the Rising Cost of Living Due to the Regional Greenhouse Gas Initiative," requires that the department re-evaluate Virginia's participation in the Regional Greenhouse Gas Initiative (RGGI) and begin regulatory processes to end it. Specifically, the order requires that the department develop a regulation for the State Air Pollution Control Board's consideration to repeal the regulation requiring Virginia's participation in RGGI (Part VII of 9VAC5-140), and take all necessary steps so that any proposed regulation to the State Air Pollution Control Board can be immediately presented for consideration for approval for public comment in accordance with the Board's authority pursuant to § 10.1-1308 of the Code of Virginia. This regulatory action repeals Part VII of 9VAC-140, and adds transition language in a new section in order that the repeal be implemented without disruption to affected facilities or the market.

### Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

- ABD - Agency Background Document
- APA - Virginia Administrative Process Act
- ASNH - Affordable and Special Needs Housing
- CCR - cost containment reserve
- CECFPA - Clean Energy and Community Flood Preparedness Act
- CFPF - Community Flood Preparedness Fund
- COATS - CO<sub>2</sub> Allowance Tracking System
- CO<sub>2</sub> - carbon dioxide
- CO<sub>2</sub>-e - CO<sub>2</sub> equivalent
- DCR - Virginia Department of Conservation and Recreation
- DEQ - Virginia Department of Environmental Quality
- DHCD - Virginia Department of Housing and Community Development
- DOE - Virginia Department of Energy
- ECR - emissions containment reserve
- EGU - electric generating utility
- EPA - U.S. Environmental Protection Agency
- GHG - greenhouse gas
- HIEE - Housing Innovations in Energy Efficiency
- IRA - Inflation Reduction Act
- IRP - integrated resource plan
- JCAR - Joint Commission on Administrative Rules
- EO-9 - Executive Order 9 (2022)
- kWh - kilowatt hour
- MATS - Mercury and Air Toxics Standards
- MWe - megawatt electrical
- NO<sub>x</sub> - nitrogen oxides
- PDC - planning district commission
- PJM - PJM Interconnection
- REC - renewable energy certificate
- RGGI - Regional Greenhouse Gas Initiative
- RPS - Renewable Energy Portfolio Standards
- RVRLF - Resilient Virginia Revolving Loan Fund
- SCC - State Corporation Commission
- SO<sub>2</sub> - sulfur dioxide
- U.S. DOE - U.S. Department of Energy
- VCEA - Virginia Clean Economy Act
- VEJA - Virginia Environmental Justice Act
- WDR - Weatherization Deferral Repair

### Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On June 7, 2023, the State Air Pollution Control Board took final action to repeal the CO<sub>2</sub> Budget Trading Program, Part VII of 9VAC5-140 (Regulation for Emissions Trading). The regulatory action is to be effective as provided in the Administrative Process Act.

## Mandate and Impetus

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.*

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The mandate and necessity for this regulatory change are described in EO-9 as follows:

Virginia's participation in the Regional Greenhouse Gas Initiative (RGGI) risks contributing to the increased cost of electricity for our citizens. Virginia's utilities have sold over \$227 million in allowances in 2021 during the RGGI auctions, doubling the initial estimates. Those utilities are allowed to pass on the costs of purchasing allowances to their ratepayers. Under the initial bill "RGGI rider" created for Dominion Energy customers, typical residential customer bills were increased by \$2.39 a month and the typical industrial customer bill by was raised by \$1,554 per month. In a filing before the State Corporation Commission, Dominion Energy stated that RGGI will cost ratepayers between \$1 billion and \$1.2 billion over the next four years.

Simply stated, the benefits of RGGI have not materialized, while the costs have skyrocketed. Re-evaluation of the Initiative represents a meaningful step toward alleviating this financial burden on the Commonwealth's businesses and households. Regulations must be evaluated in view of the costs and benefits to all Virginians.

According to the U.S. DOE, Virginians pay on average \$2,323 per year in non-transportation energy costs, which is higher than the national average of \$1,850. The index for electricity rose by more than 13% over the last 12 months, the largest single-year increase since 2006, while the natural gas index rose by 38.4%--the biggest 12-month jump since October 2005. In July 2022 alone, electricity prices rose 1.7% and natural gas prices 8.2%. Considering that Virginia obtains most of its electricity from natural gas, rising natural gas prices have forced electricity prices even higher.

Dominion Energy has filed for 16 rate adjustments over a 12-month period ending July 1, 2022. In May 2022 alone, Dominion filed for a rate increase with the State Corporation Commission (SCC) that could result in monthly rate increases between 12-20% due to rising fuel costs. The cumulative impact of those adjustments results in an increase of \$0.022423/kilowatt hour or 18% in Dominion's rates that it charges for delivered electricity. This assumes final SCC approval of the fuel rate adjustment and its agreement to Dominion's request to amortize the fuel adjustment over three years.

According to the most recent data supplied by the Federal Energy Information Administration (2020), the average annual household consumption of electricity in Virginia is 13,140 kilowatt hours. Historically, the average energy consumption in Virginia has increased by 1.38% per year. The cumulative impact of the adjustments described above would increase the average household's bill by approximately \$294 per year, but will increase as consumption continues to increase.

The current energy framework in Virginia allows energy providers to also charge ratepayers for the transition and expansion of clean energy infrastructure. For example, the SCC recently approved an application by Dominion for cost recovery associated with its proposed Coastal Virginia Offshore Wind Project. The project consists of 176 wind turbines, each designed to generate 14.7 megawatts, to be located about 27 miles off the coast of Virginia Beach. The project is expected to have a capital cost of \$9.8 billion and will likely be the largest capital investment, and single largest project, in Dominion's history. The SCC approved a revenue requirement of \$78.702 million for the rate year of September 1, 2022, to August 31, 2023, to be recovered through a new rate adjustment clause. Over the projected 35-year lifetime of the project, for a residential customer using 1,000 kilowatt-hours of electricity per month, the rate adjustment is projected to result in an average monthly bill increase of \$4.72 and a peak monthly bill increase of \$14.22 in 2027. Most recently, on April 14, 2023, the SCC issued an order approving

\$89.154 million in costs associated with various solar energy projects. These are examples of upward pressure on utility costs with a direct impact on consumers.

These energy cost increases are coming at a time that Virginians can least afford them. As of June 2022, inflation has risen 9.1% on an annual basis, the highest increase in over 40 years. According to the Bureau of Labor Statistics, consumer energy prices are up 41.6% in the last year. The rate of inflation for energy is more than four times the inflation rate of all food items and the Consumer Price Index.

Real wage growth has not kept pace with this rapid inflation, and real wages decreased by 1% in June 2022; over the last year they have decreased 3.6%. This hurts Virginia families, and those families and individuals who can least afford increases in energy costs. According to the American Council for an Energy Efficient Economy, "Black households spend 43% more of their income on energy costs, Hispanic households spend 20% more, and Native American households spend 45% more. Low-income households (those with incomes 200% of the federal poverty level) spend three times more of their income on energy costs than non-low income households."

EO-9 directed the department to provide the Governor with a full report re-evaluating the costs and benefits of participation in RGGI in view of all available data. As detailed above, it is clear that in effect participation in RGGI operates as a direct tax on households and businesses. Since the consumers are utility-captive ratepayers that do not have the opportunity to switch electric providers, they are unable to avoid the pass-through of RGGI costs—whether through a direct rate adjustment clause or incorporation into the base rate of their electricity bill. Emission allowance prices have increased over 146% since Virginia joined RGGI in 2020, and these substantial increases are expected to continue, which in turn will result in increased rates to ratepayers.

The original analysis and consignment auction approach for RGGI was designed on the basis that proceeds would be returned to offset the cost of compliance, and have little impact on electricity prices. However, since this is not how the program was implemented in Virginia, the costs of compliance with RGGI have materialized in higher electricity rates for Virginians. The impact of RGGI and the other factors discussed above on the current state of electricity costs shows a substantial burden placed on Virginians that must be addressed.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

### Statutory Authority

Section 10.1-1308 of the Virginia Air Pollution Control Law (Title 10.1, Chapter 13 of the Code of Virginia) authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

### Promulgating Entity

The promulgating entity for this regulation is the State Air Pollution Control Board.

### State Requirements

EO-9 specifically directs the Director of the Department of Environmental Quality, in coordination with the Secretary of Natural and Historic Resources, to present to the State Air Pollution Control Board a

regulation amendment to repeal 9VAC5-140 in accordance with the board's authority pursuant to § 10.1-1308 of the Code of Virginia.

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

As described in the Mandate and Impetus section of this document, EO-9 describes the necessity for this regulatory change in order to protect public health, safety, and welfare.

### Substance

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

The purpose of this regulatory action is to repeal Part VII of 9VAC5-140 in its entirety, while adding a transition section so that the repeal will be effected smoothly.

### Issues

*Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

The primary advantage to the public include reduced residential and commercial energy costs.

The primary advantages to the Commonwealth are reduced energy costs. The Commonwealth will also benefit from greater certainty and transparency in the energy markets.

There are no disadvantages to the public or the Commonwealth associated with this regulatory change.

### Requirements More Restrictive than Federal

*List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.*

There are no applicable federal requirements.

### Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

Department of Housing and Community Development (DHCD); Department of Conservation and Recreation (DCR) Flood Preparedness Fund.

Localities Particularly Affected

No locality will be particularly affected by this action.

Other Entities Particularly Affected

Organizations that receive funding from DHCD and DCR; any fossil fuel-fired unit that serves an electricity generator with a nameplate capacity equal to or greater than 25 MWe.

**Public Comment**

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
1. About 600 commenters	General support for the proposal.	Support for the proposal is appreciated.
2. About 1900 commenters	General opposition to the proposal.	The commenters' concerns are acknowledged; responses to specific issues raised are addressed below.
3. Virginia Senate Democratic Caucus	<p>As current members of the Virginia General Assembly who voted for the CECFPA in 2020 or voted against changes to that same law in 2022 and 2023, we write to reiterate our position of support for Virginia's participation in RGGI and to officially include our letter from September 8, 2022, in the current public comment period. Virginia's participation in RGGI is mandated by law. Only a change in the law that passes both chambers of the General Assembly and is signed by the Governor can remove Virginia's participation. No proposed regulation, emergency regulation, regulatory act, or any subsequent administrative process can do so.</p> <p>RGGI is working for Virginians. Virginia's participation in RGGI is driving down air pollution and improving public health, while the proceeds it generates help Virginians across the state. As lawmakers, we urge you to follow the law, not contradict it. Through the General Assembly's</p>	<p>DEQ respectfully disagrees with any assertion that the proposal is unlawful. The board originally adopted Part VII of 9VAC5-140 (the CO<sub>2</sub> Budget Trading Program regulation) to voluntarily participate in RGGI in 2019 pursuant to Va. Code § 10.1-1308 (and § 10.1-1322.3). The General Assembly passed the CECFPA in 2020. DEQ amended the regulation</p>

	<p>passage of the CECFPA, it is our clear intent that Virginia participate in RGGI. This proposed repeal is outside the scope of your duties as the Board, and unsupported by actual data. We ask that you vote against this unlawful and misguided proposal.</p>	<p>in 2020 in accordance with the CECFPA. Neither the CECFPA nor any other provision of law limit the board's discretion to repeal the regulation, and thereby withdraw from RGGI, pursuant to Va. Code § 10.1-1308.</p>
<p>4. Virginia Senate Democratic Caucus</p>	<p>Virginia's participation in RGGI is already driving significant reductions in air pollution. With two full years of participation completed, Virginia's annual CO<sub>2</sub> emissions have already dropped by 16.8%. This significant drop follows a decade in which Virginia's emissions did not decline, as shown in DEQ's report.</p>	<p>The commenters correctly note that air pollution in Virginia continues its downward trend. These reductions cannot necessarily be attributable to participation in RGGI, but are far more likely the result of other federal and state pollution control measures such as the NO<sub>x</sub> SIP Call, the Clean Air Interstate Rule (CAIR), and the Virginia Clean Economy Act (VCEA). Virginia will continue to meet its obligations under federal and state law, and pursue the consistent downward trend in all air pollutants, including carbon emissions.</p> <p>With the understanding that air pollution levels fluctuate, note that CO<sub>2</sub> attributable to Virginia on a consumption basis actually increased since joining RGGI in 2021 by 3.7M tons, mainly due to an increase in demand and electricity imports.</p>
<p>5. Virginia Senate Democratic Caucus</p>	<p>By reducing air pollution, RGGI will continue to improve Virginia's air quality and provide significant public health benefits to the state. From 2009-2014, participating RGGI states realized \$5.7B in economic benefits due to improved air quality, resulting in fewer asthma attacks, premature deaths, and missed days of school and work.</p>	<p>DEQ is well aware of the health and welfare impacts of carbon and criteria pollutant emissions. Our dedicated efforts to reduce all forms of air pollution are showing</p>

		<p>results: Virginians are now breathing the cleanest air in 20 years. This is not to say that there is no room for improvement--the federal Clean Air Act requires that air pollution continually improve. We will continue to meet our obligations under federal law, and continue the constant and consistent downward trend in emissions of all air pollutants. In addition to meeting federal law, DEQ is bound by state laws such as the VCEA. Indeed, the steep downward trajectory the VCEA requires of CO<sub>2</sub> emissions from the electric generating sector makes participation in RGGI redundant and unnecessary.</p> <p>The issue is not whether carbon pollution is a problem, but how to best address it. The amount of pollution reduction specifically attributable to RGGI--if any--is not sufficient to justify Virginia's continued participation.</p> <p>As discussed elsewhere, while air pollution levels fluctuate from year to year, CO<sub>2</sub> actually increased on a consumption basis in Virginia since joining RGGI by 3.7M tons.</p>
<p>6. Virginia Senate</p>	<p>Virginia's participation in RGGI has generated \$589M to support low-income energy efficiency programs and flood resiliency planning and projects in Virginia. Energy</p>	<p>These types of projects are important for protecting public health</p>



<p>Democratic Caucus</p>	<p>efficiency upgrades are the best way to lower electricity bills, and Virginia’s funds are directed to helping those households most in need. A recent study showed that just through 2030, staying in RGGI could upgrade 130,000 homes, saving low-income households about \$676 per year on utility bills, while creating 2100 jobs for local communities. Virginia’s participation in RGGI is the only consistent state funding for localities to perform resiliency work. 98 projects have already been approved, totaling nearly \$100M, helping coastal and inland communities across the state. This work is just getting started and maintaining RGGI’s consistent funding is critical to Virginia’s resilient future.</p>	<p>and welfare; however, RGGI is not the only possible source of funding for them, nor is RGGI the most efficient or transparent means of obtaining this type of funding. Other sources of funding are available, both state and federal, without the additional costs and complex means of creating and distributing the revenue that the RGGI program imposes. For example, the 2022 Inflation Reduction Act is making \$369B available for energy security and climate change programs, including potentially millions of dollars for Virginia.</p> <p>Appropriations and funding distributions for these types of projects are rightly the purview of the General Assembly, and not a third-party organization. The General Fund continues to be a source of funding for these types of projects absent any dedicated funding.</p>
<p>7. Virginia Senate Democratic Caucus</p>	<p>RGGI is a proven tool to reduce utilities’ reliance on fossil fuels, which benefits customers by helping avoid high electricity bills caused by volatile fossil fuel costs. A study of RGGI’s first 10 years found that electricity prices in RGGI states dropped by almost 6% while they went up by almost 9% throughout the rest of the country.</p>	<p>RGGI operates as a direct tax because all fees paid are passed through to ratepayers. Utilities and their shareholders do not bear any of the cost of RGGI allowances because they pass along these costs directly to their ratepayers, who, in turn, are unable to avoid them because they do not have the opportunity to switch</p>

		<p>electric providers in a competitive market. Other states that participate in RGGI designed their systems to provide rebates to their ratepayers. Unlike the other RGGI states, however, Virginia's electricity costs are, as required by state law, managed by the SCC, which allows utilities to recover costs from consumers. The original RGGI program regulation was designed to return proceeds to the ratepayers through a consignment auction but the General Assembly in the CECFPA allowed the funds to go toward grant programs. The costs of compliance of participation in RGGI are materializing in higher electricity rates for all ratepayers, and future rate increases due to RGGI are expected and will be tied to allowance prices which, although difficult to predict, have been trending significantly higher.</p>
<p>8. Northern Virginia Regional Commission</p>	<p>The Commission on behalf of our 13 local governments representing more than 2.5 million residents has on several occasions submitted comments in favor of remaining in RGGI. Here is the link to our comments that were submitted as early as January 2021:  <a href="https://www.novaregion.org/DocumentCenter/View/13301/Letter-to-Air-Board-re-RGGI">https://www.novaregion.org/DocumentCenter/View/13301/Letter-to-Air-Board-re-RGGI</a></p>	<p>We agree that the projects cited by the commenter are important and necessary. We disagree that RGGI is the best means of funding them.</p> <p>As discussed in the response to comment 3, the board has the legal authority to withdraw from RGGI in the same way in which it was allowed to join.</p>

<p>9. Alex Aleshire</p>	<p>Instead of abandoning RGGI altogether, exploring policy improvements would be more beneficial in continuing to meet net zero goals with the lowest cost on individuals and businesses. With the cap in the system getting smaller each year, companies are expected to lower GHG emissions and create more environmentally friendly practices. However, for companies highly reliant on fossil fuels, allowing banking of permits purchased through the auction can prevent price spikes. If companies are able to hold permits for later use, they are able to garner maximum gains from trade and will not need to increase costs for service users.</p> <p>Utilizing a price collar can aid investment planning and create more stable prices in the long run. As the economy shifts, emissions can be reduced below a cap or increased as necessary. Allowances can be purchased with an allowance reserve and sold at agreed-upon prices to reduce price volatility. While this system can have less certain emissions reductions, the financial security can play a large role in getting more businesses on board and expand additional efforts to limit GHG emissions.</p> <p>While free allowances prevent the opportunity to generate revenue for RGGI initiatives, they can play an important role in garnering support for the program and limiting cost on service users. As Virginia has been a member of RGGI for a couple of years, allocating some free allowances to services like Dominion should remain independent of the total cost of reducing emissions. As RGGI continues to have helpful economic impacts on the state, free allowances could be helpful in gaining support necessary to prevent further efforts to dismantle the program. Additionally, with climate change effects continuing to get worse, the price to pay for the moment is significantly lower than the long-term cost.</p> <p>One common condemnation of RGGI is the influence other states have had on Virginia's policies. Many constituents against the program feel liberal states with different systems, resources, and economies have had too much control over Virginia's policies and without Virginia's best interest in mind. With Congress' failing to pass cap-and-trade climate legislation at a federal level, the states have no choice but to develop their own strategies. Investing in and supporting federal policy efforts would be an understandable move forward.</p>	<p>The commenter's suggestions are interesting and appreciated; however, they do not comport with the stated goal of the regulatory action.</p>
<p>10. Damian Pitt, VCU</p>	<p>Virginia's participation in RGGI has generated over \$500M over 2021-2022, half of which is directed by state code to support low-income energy efficiency programs. This average of \$125M/year is more than double the amount of money otherwise available from federal, state, and utility programs. Our projections indicate that staying in RGGI through 2030 will produce \$2.5-3.3B in total revenue resulting in \$1.25-1.65B in new low-income energy efficiency funding over the decade. This revenue would</p>	<p>As discussed in the response to comment 6, energy efficiency programs and resiliency measures are costly, and they should be funded in an open and transparent way, not through a third</p>

	<p>fund energy efficiency improvements to over 100,000 low-income homes, up to as much as 130,000 homes in the high revenue scenario. This would result in from 1.5-2T Btu in annual energy savings by 2030, or 455,000-590,000 MWh of electricity. Based on the current EPA reported carbon co-efficient for electricity generated in the SERV Virginia-Carolina sub-region (626 lb/MWh), these energy savings from RGGI-funded low-income energy efficiency upgrades translate to 140,000–185,000 tons of CO<sub>2</sub>-e per year. These air pollution savings are not accounted for in the administration's plans to remove Virginia from RGGI. The energy efficiency upgrades also result in substantive bills savings for low-income Virginia households. According to our research, the average household energy savings from RGGI-funded energy efficiency projects has been about 15M Btu/year, or 4500 kWh of electricity. At Virginia's current average electricity rate of \$0.12/kWh, this translates to over \$540 in customer bill savings per household per year. Projecting electricity rates forward, based on the average annual growth rate of 2.17% per year that Virginia has experienced over the past two decades, we find that the average customer bill savings would be \$626/year by the year 2030. Thus, by staying in RGGI, and providing energy-efficiency upgrades to 100,000-130,000 homes, Virginia could generate between \$70-\$80M/year in low-income bill savings by 2030. The energy efficiency funds could go a long way toward addressing the problem of energy burden in low-income communities. Households are considered to have high energy burden if they spend more than 6% of their income on home energy costs (heating, cooling, etc.), or severe energy burden if those costs exceed 10% of their income. In Virginia, the average low-income household spends 7% of their income on those energy costs, while extremely low-income households spend 17%, compared to only 2% on average for families that not low-income. Virginia has approximately 579,000 low-income households located in Census tracts with a high average low-income energy burden, and about 154,000 low income housing households in Census tracts with a severe average low-income energy burden. This problem is acute in rural Virginia, as the average energy burden for low-income residents exceeds the severe threshold across most of southwest Virginia, Southside, Northern Neck, and Eastern Shore. There are also concentrations of high to severe low-income energy burden in some urban areas, particularly in Hampton, Newport News, Norfolk, Portsmouth, and Richmond. In some census tracts, the average energy burden for low-income households is above 20%, or more than double the severe energy burden threshold. Continuing to invest RGGI revenue in low-income energy efficiency projects will also have tremendous spin-off economic benefits for Virginia. According to an economic impact analysis conducted by VCU's Center for Urban and Regional Analysis, the projected \$1.25-1.65B in energy efficiency revenue would have a statewide economic impact of \$2.03-2.67B. Every</p>	<p>party. Other sources of funding are available, both state and federal, without the additional costs and complex means of creating and distributing the revenue that the RGGI program imposes.</p>
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	<p>dollar spent on low-income energy efficiency produces another 67 cents in additional economic impacts, as contractors purchase materials and equipment from local suppliers, and as workers spend their wages at local businesses. This new economic activity would create and sustain up to 2,000 new jobs, at an average salary of over \$50,000, and would increase the state GDP by up to \$1.75B. In summary, remaining in RGGI through 2030 would fund energy efficiency improvements to 100,000-130,000 low-income homes, saving between 455,000-590,000 MWh of electricity and reducing carbon emissions by 140,00-185,000 tons CO<sub>2</sub>-e/year. This would help address the energy burden challenges facing low-income households across the state, while providing a boost to the state GDP and sustaining up to 2,000 new jobs.</p>	
<p>11. Virginia Energy Efficiency Council (VAEEC)</p>	<p>RGGI provides irreplaceable funding for energy efficiency improvements in low-income housing. Virginia is the only RGGI state that dedicates 50% of its carbon-trading funds to make both new and existing low-income housing more energy-efficient. This funding stream has resulted in \$125M annually for weatherization providers and affordable housing developers to provide safe, affordable and energy-efficient homes to low-income families like never before.</p> <p>The Secretary of Natural and Historic Resources has stated that RGGI funds don't actually help anyone. This assertion is false, as shown by the data from a recent report from the VCU Wilder School. If Virginia continues to participate in the RGGI program through 2030, the estimated total revenue over the decade (2021-2030) will be in the range of \$2.5-3.3B, resulting in between \$125-165M/year for low-income energy efficiency programs. These RGGI funds could provide energy efficiency upgrades to up to 130,000 homes, leading to over 590,000 MWh in annual electricity reductions and \$89M in annual customer bill savings, for an average of \$676 in annual energy savings per household. For every dollar spent from the RGGI energy efficiency fund, \$1.66 would be generated in economic benefits to the local economy. The expenditure of these RGGI energy efficiency funds would have a statewide economic impact of between \$2.03-2.67B over the course of the decade (2021-2030), including up to \$1.75B in Value Added, and would create and sustain up to 2,115 new jobs.</p> <p>Administration officials have also suggested that other funding sources could be found to replace RGGI funds, however, that has not come to fruition. During the 2023 General Assembly, no additional funding for low-income energy efficiency programs was included in the Governor's amended budget, nor requested by any member of the General Assembly. Instead, the Governor's budget included a deduction from these energy efficiency funds for flooding recovery.</p>	<p>We agree that these types of projects are important for protecting public health and welfare; however, RGGI is not the only possible source of funding for these types of projects, nor is it the most efficient or transparent means of obtaining this type of funding; see the response to comment 6.</p>

	<p>The estimated \$125M annual revenue from RGGI for energy efficiency programs far exceeds the total funding otherwise available via existing state, federal, and utility programs. The authors of the VCU report estimated that all other low-income energy efficiency programs in Virginia provide less than \$55M annually combined. In other words, RGGI energy efficiency funds provide more than double what all other programs in the state offer to help low-income Virginians make their homes more safe, comfortable, and energy-efficient.</p> <p>RGGI funding has been a game-changer for the most vulnerable in our communities, as well as for the nonprofits that provide them with safe, affordable, and energy-efficient housing. Virginians can't afford to have these programs disappear, which is why we ask the board to embrace, not eliminate, the positive results from participation in RGGI.</p>	
<p>12. Levar M. Stoney, Mayor, City of Richmond</p>	<p>We cannot escape the environmental impacts of climate change that are taking shape in cities across the country like mine, that's why I'm proud of the work that has gone into developing the RVAgreen 2050 plan. This framework is the City of Richmond's equity-centered climate action and resilience planning initiative to reduce GHG emissions 45% by 2030, achieve net zero GHG emissions by 2050 and help our community adapt to Richmond's climate impacts of extreme heat, precipitation, and flooding. However, local governments alone cannot solve the climate crisis. RGGI is a commonsense, market-based, cost-effective, and critically important program that cuts harmful carbon pollution while delivering a multitude of benefits to communities across Virginia. The proceeds from RGGI will fund vital programs including community flood preparedness and mitigation efforts as well as low-income energy efficiency and housing programs. Richmond has received \$1,246,047 in RGGI CFPF funding that is increasing flood protection and improving public safety in some of the most vulnerable and underserved neighborhoods in our community. 80 low-income households in our community are receiving approximately \$720,000 in much needed health and safety repairs from the RGGI funded Weatherization Deferral Repair program. The repairs will help these households qualify for weatherization services that will lower utility bills and make the homes more comfortable. I urge the Board to continue Virginia's participation in RGGI.</p>	<p>These projects are indeed important and necessary. We disagree that RGGI participation is the best means of achieving them. For further discussion, see the response to comment 6.</p>
<p>13. Albemarle County Board of Supervisors</p>	<p>Albemarle County urges you to support Virginia's continued participation in RGGI. Since its inception, RGGI emissions have reduced by more than 50%, twice as fast as the nation as a whole, and has so far raised nearly \$6B to invest into local communities. RGGI incentivizes the lowest cost means of reducing carbon pollution from power plants. Although there may be a variety of factors leading to reduced emissions, one peer-reviewed study concluded that RGGI has "induced a substantial reduction in the emissions, all else equal." In addition, RGGI states have outpaced the rest of the country in terms of economic</p>	<p>See the response to comment 4 for a discussion of emissions. As discussed in the response to comment 4, RGGI has not necessarily been the driver behind emissions reductions in Virginia, and while the projects</p>

	<p>growth while saving ratepayers money through lower electricity prices than the rest of the country. In other words, Virginia's participation in RGGI is a triple win for our state's economy, residents' pocketbooks, and the environment. Although RGGI was projected to bring \$75M/year to the state prior to joining, Virginia has financially benefitted six times that the original projection so far: approximately \$452M. As leaders in our County, we want to ensure that our residents and all Virginians can enjoy a thriving economy, a clean environment, and healthy communities for many generations.</p>	<p>funded by RGGI are indeed important, see the response to comment 6.</p>
<p>14. Virginia Beach Vision, Inc.; Chesapeake Alliance</p>	<p>We oppose withdrawal from RGGI without an alternative, dedicated, reliable, recurring funding source first being established to continue Virginia's financial partnership with localities to support flood protection projects across the state. Governor Youngkin's proposed one-time, General Fund allocation of \$25M, to provide loans, not grants, to help facilitate local protection projects, is not sufficient to meet this immediate, significant, and growing need. Recurrent flooding is a threat to the properties, lives, and economies of communities across the state. Cost estimates for protecting Hampton Roads alone from flooding and sea level rise exceed \$40B. Addressing these challenges will require financial participation at all levels of government; local, state, and federal.</p> <p>Since the state's participation in RGGI began 18 months ago, Hampton Roads localities have received more than \$51M in project funding support. On the southside, our cities have received: \$27,463,800 to the City of Norfolk for the Ghent-Downtown-Harbor Park protection barrier system and other projects; \$6,946,662 to the City of Virginia Beach for the First Colonial Road &amp; Oceana Blvd. stormwater improvements; \$1,345,358 to the City of Chesapeake for several projects including structural floodwalls, stormwater system upgrades, and creating a resiliency plan; \$527,949 to the City of Portsmouth for data-driven and equity-driven resilience strategy; \$282,990 to the City of Suffolk for the Finney Outfall to Nansemond River drainage area study and others. Continued state funded grant support is critical to our cities and the state's economic future. At risk regionally are our military facilities, the Port of Virginia, the supply chain network, and the tourism industry.</p>	<p>As discussed in the response to comment 6, these projects are important and necessary, but participation in RGGI is not an open and transparent means of obtaining that funding.</p>
<p>15. Thomas Jefferson Institute for Public Policy</p>	<p>RGGI is just a carbon tax, which has cost Virginia energy generators and their customers half a billion dollars in two years with more costs to come for 2023. The makeup of Virginia's atmosphere has not been changed by one molecule because the state belongs to RGGI and collects this tax. It has thus had zero impact on the world's atmosphere, which continues to see rising levels of CO<sub>2</sub> and other targeted emissions from fossil fuels. In the U.S., the market was moving away from coal and other fossil fuels long before RGGI came to Virginia, but worldwide demand for coal set a record in 2022. Absent any impact on the air we breathe or the level of GHGs it contains,</p>	<p>Support for the proposal is appreciated. As discussed in the response to comment 4, emissions reductions are not necessarily attributable to RGGI. See also the response to comment 6 for a discussion of funding, and the response to</p>

	<p>RGGI remains a tax to fund two spending programs important to large constituency groups. The beneficiaries include the government bureaucracies and private contracting entities that actually get to spend the tax dollars. About half of the money is to be spent on public works projects to improve flood control or coastal storm resilience. The proceeds from RGGI dedicated to these purposes represent a small amount of the total program spending—state, federal and local--and the 2023 General Assembly just approved additional dollars toward those purposes from the general fund. The work will continue if RGGI goes away. The rest of the money is to be spent on programs to improve energy efficiency or conservation in buildings, mainly in homes. Again, such programs have been supported by the taxpayers for decades and indeed the electricity ratepayers of Virginia’s two largest electric companies pay another monthly surcharge to subsidize such programs. A body of contractors make their living doing this work and the individual recipients often do see substantially lower personal costs. But the utility-run programs have a long history of failing broader cost-benefit analyses, especially of any benefit to general ratepayers. There is no evidence the RGGI-funded programs are evaluated or measured on these tests. Regardless, with billions being spent in Virginia on new wind, solar and battery assets, claims that such programs reduce the need for new generation are without foundation. The General Assembly likely will continue to impose that other energy efficiency tax on customers. One tax to subsidize those questionable activities is enough.</p> <p>At some point the courts will likely be asked to rule on whether the Board, which adopted RGGI through regulatory action, has the ability to repeal it through the same grant of authority. Chapter 1219 of the 2020 Acts of Assembly dictated certain elements of that regulation (overriding the normal APA) and directed which programs would benefit from RGGI tax proceeds, but then merely authorized the executive branch to proceed. No language indicated that this regulation could not be repealed later.</p>	<p>comment 3 for more detail on legal authority issues.</p>
<p>16. Climate Action Alliance of the Valley (CAAV)</p>	<p>The General Assembly established RGGI participation through legislation; it has thus far declined to repeal or amend that law. Regulatory action cannot overcome the legislative mandate. DEQ’s authority to regulate comes from legislation, not merely from Executive Action. RGGI auction proceeds must, by law, be used for flood resilience and for energy efficiency programs to reduce energy costs for low and moderate income residents.</p> <p>Virginia's power plant emissions have consistently decreased since joining RGGI; they dropped 16.8% overall, compared to 2020 pre-RGGI levels. This result contrasts favorably with the prior decade, during which Virginia’s emissions were "fairly constant" with "no discernible trend." Within six years, participating RGGI states experienced decreased air pollution, realizing \$5.7B in public health</p>	<p>As discussed in the response to comment 3, the board has the legal authority to withdraw from RGGI.</p> <p>Details on emissions levels may be found in the response to comment 4.</p> <p>As the commenter correctly notes, large utilities can and do pass their expenses to their customers; RGGI</p>



	<p>benefits. CO<sub>2</sub> emissions dropped 12.8% from 2020-21 and 11% between the 1st half of 2021 and the same period of 2022. RGGI proceeds are providing safe, affordable and energy-efficient homes to low-income families in ways never possible before and dedicated funding to localities to plan for and prevent recurrent flooding. Staying in RGGI through 2030 could upgrade 130,000 homes, saving \$89M annually with average annual savings of \$676 per household, and sustaining more than 2,000 jobs. RGGI ensures that power plant owners steadily reduce reliance on fossil fuels, protecting customers from these volatile commodities. RGGI is helping Virginia build a strong low-carbon economy.</p> <p>An argument that RGGI proceeds are a utility or carbon tax is inaccurate. During RGGI's quarterly auctions utilities buy carbon offset credits. Under Virginia's regulated monopoly utility model, large utilities can pass along those expenses to their customers, as they can for virtually all of their project and operating costs. They can, and do, receive a healthy profit as well. RGGI requires those for-profit utilities to help all Virginians mitigate the adverse effects of the carbon they emit. It also incentivizes them to reduce their reliance on fossil fuels, thus encouraging a transition to fuels that do not emit carbon or other GHGs.</p> <p>RGGI funding is addressing Virginians' energy burden through energy efficiency home improvements. There are over 154,000 low-income households in Census tracts where average low-income energy burden is severe. Cost-effective energy efficiency upgrades can cut low-income electricity bills by about 30%. The over \$260M RGGI proceeds thus far provided for energy efficiency and weatherization programs for the first two years; this funding dwarfs all of the other available funding. There is no replacement funding for the low-income energy efficiency programs that RGGI provides. Staying in RGGI at least through 2030 could upgrade 130,000 homes, saving \$89M annually with average annual savings of \$676 per household, sustaining more than 2,000 jobs.</p> <p>Flooding damages will cost the state \$79.1B if left unchecked. RGGI is assisting Virginia communities in increasing their preparedness for, and resilience in the face of, increasing and recurrent flooding that is happening as a result of the climate emergency. If not addressed, flood damages from 2020-2099 will result in a \$79.1B decline in economic output. To date, applications have sought \$137M and \$97.7M has been awarded across three grant rounds of the CFPF. Over two years of Virginia's participation, RGGI has generated over half a billion dollars for crucial resilience projects. In total, \$235.6M has been allocated to CFPF. RGGI is the sole source of revenue for the CFPF, the only dedicated state funding source for critical flood resilience planning and project implementation, and it prioritizes nature-based solutions. Significantly, 25% of</p>	<p>costs are thus borne by all utility customers. More detail on the mechanics of energy costs is found in the response to comment 7.</p> <p>Energy efficiency and resiliency efforts are indeed important and necessary, but participation in RGGI is not an open and transparent means of obtaining that funding; see the response to comment 6.</p>
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	<p>proceeds from the CFPF are set aside for low-income geographies. The CFPF funds capacity-building and planning initiatives that most federal grant programs do not. These initial steps are necessary in order to pursue larger funding sources for project implementation.</p> <p>The massive flooding in Buchanan County illustrates why investments in flood prevention and resilience are more cost-effective than funding each flooding event, particularly when federal emergency management funds are denied to community residents. The Governor’s recent budget amendment report proposed a nearly 10X expansion over the biennium of the Resilient Virginia Revolving Loan Fund (established using \$25M from CFPF). Unfortunately, that program has yet to issue a single loan or grant, or even had its operations outlined. Projected expenditures total in excess of \$97M. If RGGI funds aren’t used to reduce these expenses, another source must be found. RGGI funds can address the potential problems on a prioritized basis before flooding happens. Without those funds, costs like these will only escalate and will be borne by Virginia taxpayers.</p> <p>Two Board members abstained from voting during the meeting on the NOIRA because of their concern that the Board could not legally vote to end Virginia’s participation via regulation. The current Attorney General’s representative at that meeting provided no rationale that such action would be legal. The purpose of the Board and DEQ’s role and responsibilities strongly argue against either entity supporting this proposed regulatory change. Public opinion to date has been overwhelmingly in favor of Virginia’s continued RGGI participation.</p> <p>CAAV endorses and concurs with the comments by the VEEC of March 2, 2023.</p>	
<p>17. The American Lung Association in Virginia (ALA)</p>	<p>Ozone and particle pollution can harm the health of all Virginians and at particular risk are children, older adults, pregnant people and those living with chronic diseases. They can cause premature death and other serious health effects. Climate change is one of the most urgent threats to human health of the 21st century. Reduction of harmful pollutants caused by burning fossil fuels is critical to improving health today and ensuring a stable climate for future generations. Climate change is a public health issue and one that creates disproportionate impacts across Virginia’s diverse communities. Climate change is making the job of cleaning our air much more difficult as temperatures rise and drive conditions for unhealthy ozone pollution days, among other health challenges.</p> <p>ALA supports measures to reduce all emissions that contribute to climate change. A July 2020 study in Environmental Health Perspectives concluded, based on particle pollution reductions, "RGGI has provided considerable child health benefits to participating and neighboring states beyond those conventionally</p>	<p>The commenter's concerns are acknowledged. As discussed in greater detail in the response to comment 5, the protection of public health and welfare through the control of GHG and other forms of air pollution can be more effectively realized and measured outside of the RGGI program.</p>

	<p>considered. Moreover, those health benefits are estimated to have significant economic value." Participation in RGGI allows for CO<sub>2</sub> emissions to decline in a planned and predictable way. Since RGGI started emissions have already reduced more than 50%. Through the auction process, it allows funds to be raised to be reinvested into local communities. When the General Assembly passed legislation authorizing participation in RGGI it also outlined initiatives where the revenues should be invested, including low-income energy efficiency programs and CFPF.</p> <p>All people are entitled to breathe healthy air and to be free of the adverse health effects of air pollution. ALA encourages Virginia to continue the commitment to fight climate change and remain actively participating in RGGI.</p>	
<p>18. Friends of Holmes Run</p>	<p>Now is not the time to cut off this critical source of non-tax revenue for the local jurisdictions and citizens that are experiencing increased flooding due to climate change. In 2021, Virginia received \$102.4M for CFPF. Over the next 10 years, RGGI proceeds could generate upwards of \$750M for the CFPF. Regional RGGI funding reduces the burden on taxpayers and shortens the timeline for getting critical flood control projects done in local watersheds. Without RGGI funds, local jurisdictions would have to revert to the bad old days of completely relying on taxpayer revenues for major flood control projects. This is puzzling; we presume raising taxes runs counter to administration priorities. Nor does RGGI offer cities and counties any sort of free ride; local jurisdictions still must come up with matching funds.</p> <p>The flood-mitigation aspects of the RGGI program are especially relevant to residents in older, urbanized watersheds. That's because money that Virginia receives from the auctions has been allocated to programs for flood control and adaptation. Our watershed is highly armored and channelized. It passes through a mix of established suburban and commercial areas that were developed long before modern stormwater management practices. As a result, the recent trend of more frequent and intense rainstorms has turned the vast web of local tributaries into a network of runways for accelerating stormwater as they drain from impervious surfaces into Cameron Run, Hunting Creek and the Potomac. Alexandria's existing urban sewer infrastructure cannot keep up with these intense storm events, which leads to backups in the system and flooding. This flooding contributes to human health and safety issues as roads become impassable and emergency vehicles have difficulty getting to where their services are needed. As properties become damaged, insurance rates and property replacements become greater or out of reach, especially for the most vulnerable populations. Flooding also causes total vehicle losses. These are just some examples of the impacts of intense storms, ones who have no name or record; our region and Virginia must further prepare for impacts from hurricanes and tropical storms.</p>	<p>DEQ agrees that stormwater management projects are important and necessary. We disagree that RGGI is the best means of achieving them. (See the response to comment 6.)</p> <p>Dominion passes the costs of RGGI to its ratepayers, including individual household consumers. This means that the burden of participation ultimately rests with the ratepayers. (See the response to comment 5.)</p> <p>As discussed in the response to comment 3, the board has the legal authority to repeal the carbon trading regulation.</p>

	<p>As a centralized funding source, RGGI is a more fair and equitable source of funding for addressing such cross-jurisdictional challenges. Inland streams are necessary for clean water, and they run under every highway and through every neighborhood. But they also can be a source of flooding. As long as streams cross property lines and magisterial boundaries, we must do the same in our stormwater management and flood mitigation. As a downstream community, Alexandria has \$170M worth of large capacity stormwater projects. They have no choice but to fix the problems they inherit from upstream. RGGI funding is an ingenious way of not taxing citizens of any one jurisdiction, but rather relying on fees from GHG emitters such as Dominion (which, we understand, has a profit surplus and, as such, should not be allowed to pass along RGGI fees to their customers).</p> <p>Virginia’s participation in RGGI is a matter of law, and as with any law, any objection to RGGI should properly be addressed by the General Assembly.</p>	
<p>19. The Nature Conservancy</p>	<p>RGGI is reducing total collective CO<sub>2</sub> emissions from participating states' power sectors by 30% over 10 years. While RGGI alone will not lessen the effects of climate change, that is not a reason for Virginia to withdraw. Every state has the responsibility to develop and execute a plan to substantially reduce GHG emissions to avoid the worst impacts of climate change. We can only achieve this goal if we all work together. We cannot excuse ourselves from acting by saying individual states' actions are insufficient. Virginia must continue to lead by participating in RGGI and other effective policies, so that other governments will follow, and together our actions will add up to a positive impact. CO<sub>2</sub> is globally dangerous in high concentrations. We need to ensure that we are reducing overall levels, not local levels. By pooling our power sector CO<sub>2</sub> emissions with those of other participating states, we ensure that we are reducing the regional CO<sub>2</sub> emissions in the most economically efficient manner possible. For the entire region, overall CO<sub>2</sub> emissions drop each year because the number of total RGGI allowances drops each year.</p> <p>The process of bidding for allowances is entirely transparent, reliable, and fully visible. Businesses thrive on certainty. When qualifying businesses know their state participates in RGGI, they can plan for purchasing allowances. When businesses know that it costs more to emit CO<sub>2</sub>, they find ways to emit less</p> <p>The cost of allowances affects utilities' decisions about which types of energy to generate and sell into the PJM market. When a monopoly investor-owned utility generates electricity, it doesn't sell directly to its captive customers. It sells the electricity on the multistate PJM market with other generators; then the same utility buys the electricity back from the PJM market with other utilities in the PJM territory.</p>	<p>While air pollution emissions continue their downward trajectory, thanks to various federal and state initiatives, it is not certain what, if any, reductions are directly attributable to participation in RGGI; see the response to comment 4.</p> <p>DEQ agrees that businesses thrive on certainty, which is why the continual increasing cost of allowances is troublesome.</p> <p>The commenter correctly states that the PJM generally favors the generation, distribution and sale of lower cost options. However, this does not protect the captive customers in Virginia from bearing the additional costs of RGGI--a situation unique among the PJM and RGGI states.</p>

	<p>This leads to a fair market price. The generators who bid their electricity into the market at the lowest price are first in line to sell it (and the way this market works, they also get the highest profit). Except on high-demand days, electricity that is very expensive to generate doesn't get bought. RGGI allowance prices are added into the costs of a Virginia utility's generated electricity, making its bids on the PJM market more expensive. This gives a Virginia utility the incentive to generate cleaner energy so that it does not need to pay for as many RGGI allowances, and it can move to the front of the line to sell its cheaper energy in the PJM market. This happens even as a utility passes the cost of allowances on to its customers. Monopoly utilities pass the cost of everything on to their customers, but the PJM market gives them an incentive to keep their prices low.</p> <p>The need for energy efficiency for low-income housing is enormous, vastly exceeding current funding. Approximately 579,000 low-income households are located in Virginia census tracts where the average energy burden for low-income households is high. The funding for low-income energy efficiency from non-RGGI sources, including utility programs, federal programs, and state programs, is expected to total \$55M annually for the next few years. RGGI revenue for low-income energy efficiency is more than double that annually, averaging \$125M/year so far. If Virginia stays in RGGI through 2030, RGGI funds could directly improve the energy efficiency of over 100,000 low-income Virginia households, saving them an average per household of \$540 annually on energy bills.</p> <p>DEQ's assertion in response to public comments that the General Assembly will fund important resiliency and energy efficiency programs was not borne out in the 2023 Session. No additional energy efficiency programs were proposed or funded. The Governor's Budget proposed diverting \$11.4M of RGGI revenues away from DHCD's HIEE program, and the House version of the budget expanded that to \$18M. As of this writing, the budget has not been finalized.</p> <p>Sixty-six percent of Virginia voters support staying in RGGI. For the good of the state, please keep Virginia in RGGI.</p>	<p>We agree that electric efficiency and resiliency projects are important and needed, and that they are appropriately the purview of the General Assembly. The fact that the General Assembly did not choose to address these issues directly in the most recent session is no guarantee that they will not do so in future sessions, particularly when the RGGI tax funds are no longer available. See the response to comment 6.</p>
<p>20. Chesapeake Climate Action Network</p>	<p>The CECFPA requires Virginia to participate in the allowance auction process through RGGI. This year, 61 legislators affirmed that the Act requires Virginia to participate in RGGI, and that removal via the Board is improper and illegal. The Act is not a vague directive for state agencies to administer RGGI when and as they see fit. It is a mandate. Following the APA process does not change the powers bestowed upon the Board.</p> <p>During the NOIRA comment period, over 95% of comments expressed opposition to the proposed repeal. Recent polling from the Watson Center indicating that 66% support versus 24% opposed. This support crosses partisan lines.</p>	<p>As discussed in the response to comment 3, the board has the legal authority to implement the repeal.</p> <p>Whether RGGI participation has a measurable effect on emissions is discussed in the response to comment 4.</p>

	<p>Participation in RGGI directly and significantly reduces GHG emissions and is necessary to meet the emissions reduction goals of the VCEA. Since RGGI was founded, emissions from power plants in RGGI states have dropped by 50%, double the amount in non-RGGI states. This shows that nationwide trends of fuel switching or improvements in energy efficiency cannot account for the reductions achieved by RGGI states. It is also evident that RGGI reduces emissions, because that is precisely its mechanism: over time there are fewer carbon allowances available to fossil fuel generators. It is plainly wrong to argue that RGGI does not result in emissions reductions. Meeting these climate goals is paramount to protecting Virginia’s lands, peoples, and economy. Without significant emissions reductions worldwide, the flooding associated with sea level rise will inflict \$79B of damages to Virginia, the equivalent of losing one in every ten dollars. As the first southern state to join RGGI, Virginia set an example that may inspire neighboring states to follow, facilitating a drop in regional emissions reductions that can make a meaningful difference.</p> <p>The emissions reductions caused by RGGI have tangible health benefits. In its initial 5 years, up to 830 lives were saved, over 8000 asthma attacks were avoided, and nearly 40,000 lost work days were avoided. It is further estimated that hundreds of preterm deaths were avoided due to RGGI. This resulted in over \$5.7B in benefits to participating states. With stricter emissions caps nearly a decade later, the health and associated economic benefits are far greater.</p> <p>Virginians experience catastrophic flooding on a regular basis, which will be made worse by the effects of climate change. The first phase of the Coastal Resilience Master Plan, looking only at Virginia's coast, found that 360,000 Virginians live in homes subject to coastal flooding, a number which will increase by 160% to 943,000 by 2080. The number of non-coastal residents who have and will experience flooding is not included, but devastating floods in southwest Virginia demonstrate that flooding is a statewide issue. Thankfully, we currently have plans to invest significantly in resilience efforts through CFPF.</p> <p>In just over two years, participation in RGGI has accrued \$265,378,391 for CFPF, which allows localities to design projects that best protect communities from current and future flooding. Much of this funding is yet to be distributed, but the first three rounds of CFPF grants have touched every corner of the state. RGGI is the only source of revenue that pro-actively prepares for flooding, rather than providing relief after the damage has occurred. An earnest effort to improve the state’s resilience to flooding must include maintained participation in RGGI and the CFPF.</p>	<p>As discussed in the response to comment 5, health and welfare benefits are realized through both longstanding existing programs, and in response to state mandates with future requirements.</p> <p>Energy efficiency and resilience are discussed in the response to comment 6.</p> <p>DEQ is fully committed to meeting VEJA, which is a state law applying to all state agencies, not just DEQ. Furthermore, according to § 10.1-1183 B 4, one of the purposes of DEQ is to further environmental justice. Withdrawing from RGGI does not affect those goals; the ability of the state to fund environmental projects in EJ areas is under the purview of the General Assembly.</p> <p>With regard to polling and characterizing public comments, note that the same, if not better, carbon reduction results will be achieved through the VCEA.</p>
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<p>21. About 1540 sponsored emails</p>	<p>An unlawful repeal is not the way to go. Virginia residents are highly invested in our clean energy future. We need to take action on the very real and present dangers of climate change and need to ensure we all have clean air to breathe. The actions we take at this moment will determine the quality of life for generations to come. RGGI is a proven solution that is already working for Virginia. It is reducing air pollution in Virginia and there is no reason for the Board to abandon its responsibilities, rollback progress, and allow power plants to pollute our air more. Virginia's participation in RGGI is not for the Board to decide. The General Assembly made this decision, and only the General Assembly can change it. Virginians want clean energy and clean air, and that's what RGGI is doing for Virginia.</p>	<p>The commenters' concerns are acknowledged. The repeal is not unlawful; see the response to comment 3.</p>
<p>22. Roanoke Regional Chamber of Commerce</p>	<p>The Chamber supports an "all of the above" energy approach that balances the need for environmental responsibility with reliable and affordable energy prices for all Virginia consumers. We believe that Virginia's membership in RGGI places Virginia—and our region—at a competitive disadvantage compared to non-participating states as it relates to economic development. RGGI acts as a tax on all consumers regardless of what steps a person or business may take to reduce energy consumption or their carbon footprint. This can inhibit energy-intensive business attraction and expansion, with the main beneficiaries being our competitor states. Resilient energy infrastructure can be produced without burdening residential and business consumers with artificially inflated energy prices. Decarbonization of our electric grid can be accomplished in a less burdensome manner.</p>	<p>Support for the proposal is appreciated.</p>

<p>23. James River Association (JRA)</p>	<p>Our 2021 State of the James report found that the effects of climate change will increasingly impact the overall health of the river and our watershed communities. Virginia's participation in RGGI plays a key role in addressing these impacts by reducing carbon emissions and helping communities prepare for flooding. Absent alternatives for an emissions reduction program and dedicated flood resilience funding, removing Virginia from RGGI would leave the James River and our communities at greater risk.</p> <p>Rising levels of GHG emissions are driving the acceleration of climate change. As a market-based, cap and invest cooperative initiative, RGGI has produced results. DEQ's report regarding the costs and benefits of RGGI participation agrees that the RGGI region has a long track record of emissions reductions. Since its inception, RGGI emissions have reduced by more than 50%--twice as fast as the nation as a whole--and raised over \$4B to invest in communities. While Virginia's participation has been proximately brief, we have already realized a 16.8% reduction in CO<sub>2</sub> emissions relative to pre-RGGI emissions in 2020. Modeling predicts that RGGI participation, coupled with closure of remaining coal electric facilities and renewable energy generation standards, will put the state on a path to net-zero carbon emissions by 2045. Moreover, an emissions reduction program akin to RGGI is not simply complimentary but, in fact, necessary to meet our carbon free power sector targets. As DEQ's report makes clear, "[i]n the absence of any such program, emissions may not reduce sufficiently to achieve these goals."</p> <p>Removing Virginia from RGGI would significantly handicap the resources available for communities facing localized flood risks as a result of or exacerbated by climate change. 45% of the proceeds received from RGGI allowances are invested in the CFPF, the only dedicated state funding for flood resilience planning and projects. To date, RGGI is the sole source of revenue for the CFPF and has successfully generated over \$203M for the Fund since our first auction. Of this amount, nearly \$96M has been awarded to more than 40 localities--\$56M of which was to localities completely or partially within the James River watershed. This level of state investment is greatly needed by communities from our headwaters to our coastal regions.</p> <p>CFPF, and the RGGI proceeds fueling its success, can remove obstacles for localities needing new sources of investment. CFPF can be used for capacity-building and planning initiatives that most federal grant programs will not support. These planning initiatives will help to identify and prioritize where investments can be most impactful. With these plans in place, localities can pursue larger project implementation funds made available through other state and federal initiatives. CFPF dollars can also be used as a match for federal grant programs, increasing Virginia's competitiveness. One out of every four dollars invested in</p>	<p>DEQ agrees that the James River and our other natural resources must be protected from the effects of carbon and other pollution; see the response to comment 6 for a discussion of funding options.</p>
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	<p>CFPF is set aside for low-income areas. Gutting CFPF's sole source of funding without a viable alternative would make it much harder for localities to address current and future flood risks. As such this repeal will negatively affect many of the most vulnerable localities across the state.</p> <p>No feasible alternative has been proposed that will maintain Virginia's trajectory toward a carbon-free future and guarantee state funding for local flood resilience efforts. Actions at the 2023 General Assembly continued to affirm the public's interest in maintaining Virginia's participation in RGGI. Ultimately, RGGI remains the Virginia's best bet for mitigating the impacts of and preparing localities for a changing climate.</p>	
<p>24. Conservatives for Responsible Stewardship (CRS)</p>	<p>Beyond the Board's clear lack of authority to repeal existing law, pulling out of RGGI would most certainly lead to higher energy bills for Virginians. Over-reliance on natural gas is the leading cause of higher energy bills nationwide. Utilities across the nation are hiking electric bills to recoup costs they incurred when natural gas prices spiked last year due to higher demand for U.S. liquified natural gas exports. As conservatives, we believe in following the market and in today's energy market coal and natural gas have become the most expensive sources of energy. Electricity generation from coal is more expensive due to the high operating and maintenance cost of aging plants. The price of electricity from older natural gas plants is also rising due to higher operation and maintenance costs. With few exceptions, electricity generated by gas and coal is currently selling for between \$45-100/MWh, while solar-generated electricity combined with battery storage is selling in some states for less than \$20/MWh. The price of wind and nuclear power is also beating out the price of electricity from coal and gas. With the price of electricity from coal and gas rising, and the price of renewables and nuclear falling, this price disparity is only going to increase. That longer utilities rely on coal and gas, the more Virginian's bills will rise.</p> <p>Without RGGI, which is patterned under the successful Reagan/Bush program to address acid rain, Virginia's monopoly utilities have less incentive to transition to cheaper, more price stable energy sources that are also carbon-free. The can simply pass along the higher costs to their consumers. While some have suggested that RGGI results in higher bills, nothing could be further from the truth. States participating in RGGI have lower bills than non-RGGI states. The one issue that needs to be fixed in Virginia is that monopoly utilities should not be allowed to pass regulatory compliance costs onto their customers. Those costs, if borne by the utility and its shareholders, provide extra incentive for them to diversify more quickly with cleaner and cheaper energy sources.</p> <p>Pulling out of RGGI will also increase the tax burden for Virginians. Funds generated by RGGI are used for flood</p>	<p>DEQ agrees that we should follow the market; however, unlike previous successful emissions trading programs, carbon trading under RGGI is not the most market-friendly means of achieving pollution reduction in the most fair and economical manner possible--those earlier programs directly controlled specific amounts of air pollution from affected sources, they did not exist as a source of funding.</p> <p>Although renewable energy has made great strides in Virginia over recent years, there is not yet enough available renewable energy to go around; for example, the most recent U.S. EIA figures show that natural gas accounted for 57% of Virginia's total electricity net generation, nuclear supplied 30%, and renewables provided 9%--a considerable gap. Also note that participation in RGGI may lead to an increase in the use of</p>

	<p>control and other resiliency projects. Without RGGI, tax dollars will have to fund those projects, which will ultimately require increasing state and local taxes.</p> <p>Opposition to RGGI is baseless, and there is nothing conservative about it. This market-friendly program is proven to reduce energy costs for utility customers while also providing important funding to protect communities from flooding and improve energy efficiency. We believe, as do our fellow conservative Virginia members, that RGGI helps keep electricity prices low and provides other important benefits to the state.</p>	<p>fossil fuel-generated electricity, as discussed in the response to comment 7. That said, the requirements of VCEA for Virginia to become fully carbon neutral by 2050 will likely be the primary driver of technology and other energy choices.</p>
<p>25. J. Kennerly Davis</p>	<p>The CECFPA explicitly states that the executive is authorized to establish, implement, and manage an emission allowance auction program consistent with the RGGI program. The Act "authorizes" officials in the executive branch of Virginia's government to establish a RGGI auction program. The ordinary meaning of "authorize" means to allow or empower or permit a party to act. It does not mean that the authorized party is required to act. The Board is clearly empowered to decide to withdraw Virginia from the RGGI if it elects to do so.</p> <p>The stated purpose and only justification for the RGGI is that it reduces anthropogenic emissions of CO<sub>2</sub> that contribute to global warming that, in turn, causes materially adverse weather events that cannot otherwise be mitigated more cost effectively. This has no basis in fact or sound scientific analysis. RGGI has not reduced CO<sub>2</sub> emissions to any meaningful extent in the northeast, despite years of costly operation. In 2022, worldwide carbon emissions reached an all-time high, despite the expenditure of hundreds of billions of dollars on so-called green initiatives during the past decade. Unilateral efforts by Virginia or the northeast or the U.S. to cut carbon emission from one sector of the economy will have no practical effect. Anthropogenic factors that contribute to global warming can only be addressed effectively on a global basis. In the face of unsettled science, and with no hope of any meaningful impact on the problem that RGGI was created to mitigate, any decision to continue Virginia's participation in RGGI would represent arbitrary and capricious action by the Virginia regulators who are clearly authorized to withdraw the state from the program.</p> <p>The main purpose of those who framed the U.S. Constitution was to strengthen the powers of the national government so that it could effectively work in a coordinated manner: Article I, Section 10, Clause 3, No state shall, without the consent of Congress, any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war. The RGGI states have not received, or even sought, congressional consent for their undertaking. They argue that certain technical terms distinguish the RGGI from an "agreement or</p>	<p>Support for the proposal is appreciated.</p>

	<p>compact" requiring congressional consent. Critics are not convinced, and litigation challenging the constitutionality of the RGGI erupts from time to time. Each member of the Board has sworn an oath to uphold the Constitution of the United States and the Constitution of the Commonwealth of Virginia. In light of the constitutional cloud that hangs over RGGI, the only course of action clearly open to the Board members is to act to withdraw Virginia.</p> <p>The RGGI program, though sometimes referred to as a cap-and-trade program, is in essence a tax on CO<sub>2</sub> emissions paid by power producers and passed along to their customers. The Virginia Constitution states, "No other or greater amount of tax or revenues shall, at any time, be levied than may be required for the necessary expenses of government." The Governor has, as a part of the general budget process, proposed transparent and accountable funding for project expenditures receiving RGGI tax funds. Under these circumstances, the continuation of the RGGI tax is unnecessary. Indeed, withdrawal is clearly required by the Virginia Constitution.</p> <p>Under RGGI, electric power producers have to participate in periodic auctions to purchase allowances for every ton of CO<sub>2</sub> that their plants emit. The power producers recover their auction costs from their wholesale and retail customers by raising the rates paid by those customers. Federal and Virginia law requires that all electric rates be "just and reasonable." Federal and state utility regulators have always required that the power producer costs included in those rates must have been reasonably incurred to produce and deliver the electric power. It cannot be just and reasonable to add a cost to electric rates that contributes nothing to power production, and which does not reduce to any meaningful extent the CO<sub>2</sub> emissions that provide the rationale for the RGGI auction program.</p>	
<p>26. Arlington County Office of Sustainability and Environmental Management</p>	<p>RGGI's market-based approach to reduce GHG emissions allows utilities to meet electricity demands without requiring a specific mix of generation sources, while allowing for flexible decision-making. Utilities can meet the environmental performance requirements of the program in the most cost-effective manner with the flexibility to plan implementation in a responsible path toward a clean energy resource portfolio. The allowance market enables utilities to optimize their approach to decarbonization, encouraging early GHG reductions through allowance banking and multi-year compliance periods. The CCR mechanism of RGGI mitigates any risk associated with high allowance costs, thus limiting price volatility so utilities can plan energy generating resources for the future with limited uncertainty.</p> <p>RGGI has kept costs for households low, which is especially important for low-income ratepayers, by distributing the expense of investment and allowing utilities to identify the most cost-effective, high-performance</p>	<p>Utilities strive to meet state and federal environmental performance requirements in the most cost-effective manner possible all the time. The difference between RGGI and traditional market-based trading programs is that RGGI is designed to create and disburse funds.</p> <p>The commenter conflates previous RGGI results with current and future performance. As</p>

	<p>approaches to reduce emissions. RGGI costs to ratepayers are exceptionally low, and its benefits to the public represent diverse and substantive returns-on-investment. A study by the Analysis Group found that during the 2015-2017 compliance period, RGGI led to \$1.4B in net positive economic activity regionally through investment in energy efficiency, renewable energy, bill assistance, and other measures to reduce GHGs. RGGI has generated over \$4B in net economic gain over its first 10 years. RGGI auction proceeds have also been used to fund research, education, and job training programs. Energy consumers saw a net savings of \$220M on energy costs during the 2015-2017 compliance period. Over the first 10 years of the program, CO<sub>2</sub> emissions from RGGI power plants fell 47% regionally while electricity prices in RGGI fell 5.7%, even while prices increased in the rest of the country. Achieving environmental benefits at low cost is critical for ratepayers with lower incomes. The RGGI framework reduces GHGs, and other localized pollutants, at low cost. Auction proceeds can be directed to benefit communities most impacted by energy prices and pollution. RGGI provides a powerful equity mechanism to its investment framework.</p> <p>By reducing emissions of NO<sub>x</sub>, SO<sub>2</sub>, and other pollutants, RGGI achieves significant co-benefits in the form of improved public health. A report from Abt Associates found that, from 2009-2014, RGGI saved 300-830 lives, avoided 8,200 asthma attacks, and generated \$5.7B in health savings and other benefits by reducing harmful pollution from power plants. Another study found that RGGI avoided 537 cases of childhood asthma.</p> <p>Proceeds from RGGI in Virginia are allocated to the CFPF, to fund flood resilience. In its latest round, this fund provided \$13.6M to local and regional governments across the state. This fund awarded over \$32M in 2021. RGGI has funded critical, long-deferred investments in flood, encroachment and subsidence mitigation projects, producing exponentially favorable, long-term returns and substantial reduction of present and future risk. A recent VCU report stated the \$125M/year that Virginia's participation in RGGI has provided for the HIEE program thus far dwarfs all other low-income energy efficiency programs operating in the state. The VCU report further found that RGGI energy efficiency funds could provide energy efficiency upgrades to up to 130,000 homes, leading to over 590,000 MWh in annual electricity reductions and \$89M in annual customer bill savings, for an average of \$676 in annual energy savings per household. Funding from RGGI auction proceeds unlock investment opportunities that can benefit communities of all income levels, but crucially can be directed to disadvantaged communities that are most impacted by pollution and energy costs. By shifting Virginia's energy system to low-carbon, and renewable sources, the state increases energy</p>	<p>discussed in the response to comment 7, Virginia's electric rate system is completely different from those in other RGGI states, and the costs are thus directly passed on to consumers.</p> <p>As discussed in the response to comment 5, the amount of pollution reduced by RGGI--if any--is not sufficient to justify Virginia's continued participation. As discussed in the response to comment 6, energy efficiency and resiliency programs are better funded elsewhere.</p>
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	<p>independence and reduces its exposure to volatility in global energy markets.</p> <p>These investments create jobs for Virginians. RGGI led to net job creation in all nine participating states from 2015-2017, creating over 14,500 job-years in that period. Over the first 10 years of the program, RGGI created over 44,000 job-years.</p> <p>We strongly urge the Administration to remain in the RGGI program as a uniquely effective, low-cost framework for meeting the state's infrastructure, public health, financial performance, risk mitigation and equity goals.</p>	
<p>27. Callie R. Keen</p>	<p>The Board states that "there are no disadvantages to the public or the Commonwealth associated with this regulatory change." However, there is evidence that certain benefits may have resulted from the RGGI in Virginia and that some individuals will be disadvantaged by repeal of the program.</p> <p>The economic impact analysis purports there may be real environmental and health benefits lost due to Virginia's withdrawal from the program. In 2021, the first year of Virginia's participation in the RGGI, total power sector CO<sub>2</sub> emissions in the state declined from 32.8M tons to 28.5M tons. Due to the limited data available, the analysis determines it is not clear whether all or part of the decline would have happened without RGGI participation due to other potential contributing factors. However, the analysis fails to conclusively demonstrate that the RGGI offered no benefits; instead, it recognizes that potential benefits garnered from the CO<sub>2</sub> reduction will be lost upon withdrawal from the RGGI. The economic impact analysis admits that "all entities and people in Virginia would potentially experience associated environmental and health impacts." Some small businesses will be disadvantaged by the repeal of the regulation. Various small firms supply products and services for the flooding and energy efficiency programs funded through RGGI participation. The economic impact analysis explicitly provides that these small firms will lose business if the revenue for the flooding and energy efficiency programs is not replaced. The elimination of the need for services associated with the energy efficiency programs will detrimentally affect certain small businesses, and the potential impact on CO<sub>2</sub> emissions will harm the entire public. Thus, the Board has made significant misrepresentations to Virginians in suggesting there are no disadvantages to Virginia's withdrawal from the RGGI.</p> <p>The Board may argue it made no misrepresentations because there is not yet clear evidence that Virginia's participation in RGGI was the direct cause of the reduction in CO<sub>2</sub> emissions. However, there is a significant difference between the assertion that it is unclear whether the decline in CO<sub>2</sub> emissions can be attributed to RGGI at this point, and the Board's conclusive assertion that no benefits from</p>	<p>It is accurate to state that there are no disadvantages associated with leaving a program that has great costs and limited, if any, tangible benefits. The commenter assumes that there was never any funding of certain programs before participating and there will never again be any funding once Virginia leaves. This overlooks the fact that these programs have and do receive federal and state support from other sources.</p> <p>While some small businesses may expect an impact from the loss of RGGI funds, these losses may be offset by new, more transparently funded state and federal funding from other sources.</p> <p>Note that the Board is a separate entity from, not part of DEQ. DEQ acts as staff support to the Board in regulatory matters. DEQ's mission is indeed to protect the public's health and welfare, and must do so in the most efficient, effective way possible.</p>

	<p>RGGI have materialized. The Board takes a large interpretive leap to arrive at this conclusion. It makes sense that we cannot yet conclusively attribute outcomes to the RGGI or see a trend of long-term benefits from the program, as Virginia has only been a part of the RGGI for a little over a year. This is particularly concerning in light of its position in the government and its associated mission. The Board exists as a part of DEQ, whose mission is to protect and enhance the environment of Virginia in an effort to promote the health and well-being of individuals in the state. We might assume an agency committed to this mission would show deference to a program that may already be enhancing the environment of Virginia, instead of abandoning a promising program after its first year and misrepresenting the potential for long-term benefits.</p> <p>Repeal of the regulation is not consistent with Virginia statute. § 10.1-1308 requires that the Board adopt regulations to reduce, for the period of 2031-2050, the CO<sub>2</sub> emissions from any EGU in the state. This language is unambiguous. RGGI was instituted in Virginia in order to reduce power sector CO<sub>2</sub> emissions. Thus, the regulation enabling the RGGI presents a perfect example of a regulation carrying out a clear statutory mandate. To repeal this regulation would be to directly oppose Virginia statute.</p> <p>The Board lacks the legal authority to remove Virginia from RGGI; to take this action at the direction of Governor Youngkin is to violate the statutory mandate for participation in RGGI under the CECFPA. It is clear from the overall statutory language that the General Assembly intended for the Act to serve as a mandate. The precise language of the statute introducing RGGI is ambiguous. In the same statement, the statute authorizes the Director to establish the RGGI program and mandates the Director sell 100% of allowances issued each year unless doing so is otherwise inconsistent with the RGGI program. The statement introduces ambiguity, wherein one might interpret the Board to have deference regarding participation in RGGI, while another might interpret the Board to be mandated to enter RGGI and take subsequent actions. Because ambiguity exists, we must look to the surrounding language of the statute to determine the legislative intent. The surrounding language of the statute demonstrates that Virginia participation in RGGI is intended to be a statutory mandate, not an authorization. The statute states that various departments shall prepare an annual written report describing the state's participation in RGGI. The statute provides detailed directions for the distribution of funds from the RGGI program. It is clear from the language and construction of the statute that the General Assembly intended RGGI participation to occur, not to be a decision delegated to those outside of the legislature.</p> <p>There are other mechanisms through which those opposing Virginia participation in RGGI may seek withdrawal from</p>	<p>Participation in RGGI does not fit that bill.</p> <p>See the response to comment 3 for a discussion of legal authority.</p>
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	<p>the program. Members of the General Assembly have pursued this route; several members carried bills in 2022 that would have repealed CECFPA. The Governor has a prominent voice in the passage of the budget bill and could leverage this power. These examples of attempts to stop Virginia participation in RGGI demonstrate a significant consideration: there are legal, democratic methods to withdraw Virginia from the program. There simply is not enough support in the General Assembly, and perhaps among the public, for these efforts to succeed. However, this lack of success by those who oppose RGGI cannot result in an attempt to maneuver around the democratic process. To do so threatens the separation of powers doctrine and Virginia's commitment to democracy.</p>	
<p>28. William Shobe</p>	<p>These comments are in reference to DEQ's March 11, 2022 report in response to EO-09. Virginia electricity data is from the U.S. Energy Information Administration.</p> <p>1: RGGI operates as a direct tax because all fees are passed through to the ratepayers. Utilities are not penalized for failure to meet RGGI CO<sub>2</sub> emissions since they can pass on the costs to the ratepayers.</p> <p>Response: Virginia policy limits the damages from CO<sub>2</sub>-induced climate change by restricting CO<sub>2</sub> emissions and requiring generators to purchase on the market the emission allowances needed to cover their emissions. This is the same mechanism that is used for fuel use by generators. The policy requires generating firms to purchase, at market prices, the limited number of pollution allowances being made available. The pollution is being limited to protect the health and safety of Virginians. This is a well-documented strategy for minimizing the cost of achieving emission reductions. The revenues from auctioning RGGI allowances are returned directly to Virginia families in two ways: for lower-income families to purchase energy efficiency improvements and for communities subject to increased flood risks due to climate change to invest in reducing future flood hazards. A miniscule fraction of the revenues are used to operate this program. The report claims that, because RGGI allowance costs are passed through to electricity customers, the utilities lack incentive to reduce emissions. As a member of the PJM independent system operator, each Virginia utility must bid each day to sell electricity into the PJM grid interconnection. The bids that generators make for participating in the next day's generation must be close to the marginal cost of producing power. The main contributor to the marginal cost of generation is fuel costs. RGGI allowance requirements add an increment to the marginal cost of generation. Non-emitting resources such as solar, wind and nuclear have \$0 cost for CO<sub>2</sub> emissions. In this way, RGGI pushes utility generation toward lower emitting generation regardless of whether the generator can pass through its operating costs. If our regulated utilities were to routinely choose to run coal plants when cheaper natural gas or solar plants were available, the SCC has authority to</p>	<p>The quoted conclusion is from Section 5 of DEQ's March 11, 2022 report. See Sections 1 through 4 of the report for the analyses supporting the conclusion.</p> <p>1. The commenter assumes that participation in RGGI is reducing air pollution; as discussed in the response to comment 4, this is not necessarily the case.</p> <p>All Virginia families are paying to participate in RGGI, but not all Virginia families are having revenue returned.</p> <p>Characterizing the costs of participating in RGGI as "miniscule" overlooks the fact that the administrative costs are significant.</p>

	<p>take corrective action to keep electricity rates from being raised unnecessarily.</p> <p>2: Consumers are unable to avoid the pass through of these costs because they do not have the opportunity to switch electric providers. Response: Consumers can make more efficient use of electricity, they can use substitute technologies for providing energy services, they choose green power tariffs to avoid emission costs, or they can even generate their own electricity. Many of these responses require up-front capital investment, which is why the General Assembly required that 50% of RGGI revenues be spend to help lower income families reduce their energy costs by improving energy efficiency.</p> <p>3: Other states participating in the RGGI program designed their systems to provide rebates to their ratepayers, in Virginia the program operates as a hidden tax in which the legislature then disburses the funds through grant programs. Virginia consumers were originally told that the program would not increase their energy bills. Response: There is nothing "hidden" about RGGI. Virginia has chosen to "rebate" its RGGI revenues via support to low income families and support for communities subject to increased flood risk. The General Assembly determined that this method would be the mechanism used in Virginia. The document makes no effort to examine the relative impact of these alternative rebate mechanisms.</p> <p>4: The original RGGI auction approach was designed to return the proceeds to the ratepayers but this was not how Virginia implemented the program. The original analysis, conducted prior to the adoption of RGGI by the legislature, showed little impact on electricity prices to the consumer because of the anticipated return of the proceeds to the ratepayers. Response: DEQ has provided no analysis as to why it disagrees with the conclusion of the General Assembly.</p> <p>5: The costs of compliance with the trading rule and participation in RGGI are materializing in higher electricity rates for all ratepayers, as identified in the Dominion rate case filings. Future rate increases due to RGGI are expected and will be tied to the allowance prices which are difficult to predict. Response: Average Virginia residential rates in 2020 were about \$0.12/KWh. For electricity generated with non-emitting sources, RGGI allowances add \$0 to rates. In 2022, non-emitting generation amounted to 38% of generation and 26.5% of sales. For natural gas, allowances at a price of \$13/metric ton of CO<sub>2</sub> cost about \$9/MWh or \$0.009/KWh for electricity produced using natural gas. Natural gas generated electricity fell from 53.4% in 2020 to 38.7% in 2022. With this data, we can estimate that RGGI allowance costs will be needed to cover less than 50% of</p>	<p>2. Consumers do indeed have opportunities for reducing their electricity use, but to suggest that the majority of consumers can economically and effectively utilize those opportunities to the point of no longer relying on the few monopoly providers is optimistic at best. Again--all Virginia families are paying to participate in RGGI, but not all Virginia families are having revenue returned.</p> <p>3. Alternate rebate mechanisms are not an option in Virginia at this time because of the way our utility law is currently structured. As discussed elsewhere, Virginia is the only RGGI state with a regulated monopoly utility structure.</p> <p>4. This statement is not a disagreement with the General Assembly. See the response to comment 7 for discussion of ratepayer costs.</p> <p>5. The commenter's discussion of the relationship between rates and caps is appreciated; however, we disagree with the conclusion that allowance prices and emissions rates are bound to decline.</p>
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	<p>electricity sales. This means that, a \$13 allowance price translates to well less than \$0.0045/KWh for an average bill. RGGI prices have fallen somewhat from the high of \$13.50 and now sit at \$12.32. As the cap declines, allowance prices may rise, although how much will depend on how rapidly non-emitting generation is added. At the same time, the fraction of generation needed to be covered by allowances will shrink accordingly. There is no reason to believe that the net effect will be an increase in costs of emissions over time. In 2050, the cost of emission allowances will be close to zero because the allowance budget goes to zero. Much of the available modeling suggests that allowance prices may fall as the federal climate programs ramp up. In the past two years, utility-scale solar generation has reduced imports of expensive natural gas in the amount of \$114M and \$257M in 2021 and 2022. Being a member of RGGI adds incentives for increased additions of non-emitting generation in the future, which feeds back into future savings on both natural gas and emission allowances.</p> <p>6: RGGI emissions allowance prices have increased over time and substantially in the last year. Future allowance price predictions will continue to be uncertain, but by design will continue to increase. Response: RGGI prices may indeed rise, as the cap on emissions falls over time. The reserve price in the RGGI auction is slated to rise over time, albeit slowly. What happens to the market price depends on the interplay of emission reductions and the cap. Emitting generation will fall rapidly as a share of all sales. This means that expenditures on RGGI allowances will fall as non-emitting sources are added; and allowance costs must go to zero once the budget is exhausted around 2050. The price of natural gas has been more volatile than the price of RGGI allowances. Since volatility in rates is of concern to consumers of electricity, then using RGGI to encourage the transition away from natural gas adds another consumer benefit, reduced rate variance. Add to this that the revenues from RGGI are recycled into Virginia's economy, while the payments for imported natural gas are not. Since solar-generated electricity has a lower levelized cost of energy in Virginia, replacing imported natural gas with cheaper, domestically produced electricity increases employment and net income in Virginia.</p> <p>7: Over the last 10 years energy generation has increased substantially while the CO<sub>2</sub> mass emissions has remained fairly constant. This is due to fuel switching and efficiencies. Overall, CO<sub>2</sub> emissions in Virginia have fallen substantially since 2005, demonstrating that Virginia has been reducing their CO<sub>2</sub> emissions without regard to RGGI. Response: From 2007-2020, Virginia has transitioned away from coal toward natural gas. Since natural gas has much lower emission intensity, this has reduced the average emission intensity of the electricity supply. Now that we</p>	<p>6. The commenter assumes that non-emitting sources of electricity will replace the need for other generation (natural gas, nuclear) at a realistic pace.</p> <p>7. The commenter assumes that renewable energy will replace traditional sources of energy at a scale and pace capable of meeting basic state needs.</p>
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	<p>have pushed coal down to 3.5% of generation, emissions cannot fall further unless emission intensity falls. However, the emission intensity of natural gas has been steady for 10 years and cannot fall much below its current level. The only way that the emission intensity of Virginia generation can continue to trend downward is to substitute new, nonemitting technology for existing natural gas generation. This is precisely what has happened since Virginia joined RGGI. Of the generation taking place in Virginia since 2020, the natural gas share has started to fall for the first time. It is being displaced by increased generation by solar. For this trend to continue, investment in non-emitting generation must accelerate to match sales growth or imports must increase. That emissions fell without RGGI, reflects a shift in the relative cost of generation as between coal and natural gas. The effect of lower natural gas prices starting in 2006/2007 has now played out. To continue reducing emissions requires including the social costs of CO<sub>2</sub> emissions being included in generation costs, which, in turn, leads to increased future reliance on non-emitting technologies. To add the social cost of carbon (at least \$50) as a factor in fuel choice, a choice the General Assembly has made, must have a much larger effect than the RGGI price (now under \$13). Emissions trading under a cap is known to be the least-cost approach to reducing emissions because it maximized compliance flexibility.</p> <p>8: RGGI is a bad construct that taxes consumers without providing incentives for change to the electricity producers. The program was not implemented in the way it was originally sold, and simply results in increased pricing to consumers out of the marketplace.</p> <p>Response: The analytical foundation for a construct like RGGI is the same as for markets themselves. When feasible, we can maximize social gains of the resources available to us by using a system of ownership and exchange for allocating goods in an economy. The idea of the possibility of using market instruments like cap and trade programs for replacing costly, direct emission regulations dates at least as far back as the 1970s. Economic analysis of the RGGI program has repeatedly shown net benefits to the member states, as have studies of similar emissions trading programs. This statement also ignores the long-run effect of encouraging the faster buildout of new, cheaper, non-emitting technology, solar in particular. Added non-emitting generation insulates consumers from both emission costs and fuel costs. Replacing expensive imported fuel with cheaper domestic energy resources has broad economic benefits. It is also true that the spending and jobs that go with the construction of new solar facilities occur disproportionately in lower income localities in Virginia, providing a steady stream of tax earnings once completed. DEQ originally chose to implement RGGI with a grandfathering and consignment approach because it lacked legal authority to require auctions for revenue. The General Assembly</p>	<p>8. As discussed elsewhere, the commenter's assumption that faster buildout of new, cheaper, non-emitting technology will suddenly materialize and meet all of Virginia's power needs is optimistic.</p>
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	<p>specifically chose to change this. This is the adjustment to the original program that was chosen by the General Assembly. Any increases in electricity payments will be very modest, and whether this is a good approach or not requires a fair assessment of the increased spending on reduced energy costs for low income families and on reduced flood risk. Lower income communities also receive a disproportionate share of the benefits of lower emissions from fossil-fired generation and from the investments in renewable energy technologies. It is not enough to say that this program will increase electricity rates.</p>	
<p>29. William Shobe</p>	<p>These comments are in reference to the "Mandate and Impetus" section of Form TH-02.</p> <p>The only substantive reason given in EO-9 was that the RGGI rule will result in cost passthrough to electricity customers. EO-9 also states that the benefits of RGGI have not materialized. As a general statement about RGGI, this statement is at odds with all of the available evidence. As a statement about Virginia's membership in RGGI, it is a conclusion at odds with directly observable facts. EO-09 requires DEQ to address the costs and benefits of membership in RGGI. DEQ has failed to satisfy the terms of EO-9 by only addressing factors it perceives as costs of being in RGGI. It fails to address the many benefits that arise from being part of RGGI. DEQ fails to point out that RGGI revenues are not retained for general government expenditures; they are to be spent on populations in the state disproportionately affected by energy costs and by the increased costs of flooding that is a consequence of CO<sub>2</sub> additions to the atmosphere. TH-02 fails to provide a justification for an action to change the rule.</p> <p>The first two paragraphs make the obvious point that natural gas prices rose dramatically at the end of 2022. This is an argument in favor of the state policy, of which RGGI is a key part, of gradually weaning Virginia from dependence on fossil fuel. The solar generation now operating in Virginia is saving well-over \$10M/month in state expenditures on imported natural gas. During August 2022 alone, solar generation saved over \$35M in expenditures on natural gas. These savings reduce energy bills, reduce the variability of bills as world natural gas prices vary according to geopolitical events, and reduce imports to Virginia in favor of cheaper, domestically produced energy. This brings direct benefits to electricity consumers and indirect benefits to the state's economy due to increased net domestic product, which translates directly to increased jobs and personal income. Leaving RGGI reduces the incentive to invest in solar generation, and hence reducing the expected future benefits for the state economy. The fact that Dominion is seeking rate increases to cover increased natural gas costs is not a fact that supports leaving RGGI. On the contrary, it points to one of the key benefits of investing in cheaper, local energy sources rather than depending on imported fossil fuels that</p>	<p>It is unclear how leaving RGGI will discourage the growth of solar and other renewable development. If, as the commenter suggests, lower CO<sub>2</sub> emitting sources of electricity are inherently more cost effective-- independent of RGGI participation--then there is no reason to believe that this inherent cost effectiveness will not continue to encourage that type of development. Furthermore, as mentioned previously, the VCEA has stringent renewable energy phase-in requirements that will continue to drive this conversation.</p> <p>It is true that use of solar reduces some use of natural gas. However, the proportion of non-renewable energy to what can be replaced by renewables is far too great at this point in time to assume that renewables can quickly and easily replace it all. According to the most recent U.S. EIA information, natural gas</p>

	<p>are traded at volatile global prices. As more solar is built in response to the price incentives built into RGGI, there will be increasing net benefits to Virginia's economy generally and to ratepayers in particular. RGGI provides incentives for cost effective, non-emitting generation above and beyond the specific goals specified in the VCEA.</p> <p>TH-02 mistakenly reports that "the average [annual household] energy consumption in Virginia has increased by 1.38% per year. Residential sales per household in Virginia peaked in 2010 at about 15 MWh and, in 2002, stood at approximately 12.5 MWh. Improved efficiency has allowed many households to reduce their annual energy use while increasing the useful services obtained from that energy. This reduction in energy expenditures has been less available to lower income households because increased efficiency often requires up-front investments. This is what the General Assembly intended to address when it chose to direct RGGI revenues to funding improved energy efficiency in disadvantaged communities. This funding will be eliminated by the repeal of the RGGI rule.</p> <p>The next paragraph has an extended description of offshore wind development in Virginia and its costs. This discussion has nothing to do with RGGI. The wind farm is being developed as part of a goal set in the VCEA and is not affected by Virginia membership in RGGI.</p> <p>Paragraph 5 implies that energy prices show a tendency to rise faster than other prices. This can be true if you pick your data carefully so that it makes your point. However, these statement seem rather strange now that the price of natural gas for electric utilities at this writing have fallen to near record lows. These prices spiked in response to supply disruptions caused by Russia's invasion of Ukraine, but those disruptions have now passed, and energy markets, volatile in the best of times, have fallen to near or even below pre-war prices. This fossil fuel price volatility is not a reason to leave RGGI, it is a reason to stay in. Increased incentive to produce domestic energy at lower cost and with lower price volatility is good for energy consumers and for the economy as a whole.</p> <p>Paragraph 7 uses the economic distress of many Black and Hispanic families as a reason to oppose a policy specifically directed to disproportionately benefit just those populations. This inadvertently restates the need for RGGI energy efficiency funding for historically disadvantaged communities but gives this as a reason to oppose RGGI.</p> <p>Utility ratepayers are not captive. The service monopoly combined with rate regulation by the SCC is designed to provide consumers with cost effective and reliable service. But even in this context, consumers are not captive. For nearly all energy services in the home, there are many alternatives available. For most, electricity is still the</p>	<p>accounted for 57% of Virginia's total electricity net generation, nuclear supplied 30%, renewables—mostly biomass and solar—provided 9%.</p> <p>This is a good place to note that assuming that solar can immediately replace most non-renewable energy sources is optimistic. There is growing opposition to large-scale solar facilities for various reasons, including the costs of spent equipment disposal, loss of prime farmland, and other environmental costs. This is also a good place to point out that large-scale wind projects have not emerged in Virginia due to local opposition. This is not to say that renewable energy should not be encouraged, we simply note that the market may not be pivoting as quickly and on the scale needed for renewables to fill the gap left by lost natural gas generation.</p> <p>The description of offshore wind development in Virginia is indeed relevant to the RGGI discussion. Not only is it a VCEA project--which is most assuredly going to drive carbon reduction--it is the perfect example of how a large-scale renewable energy project is going to have a direct impact on</p>
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	<p>bargain resource for heating, cooling, cooking, etc. Any volatility due to RGGI allowance price passthrough is a much smaller share of consumer budgets than is the runup in costs due to volatility in fossil fuel prices.</p> <p>It is correct to note that the original emission trading rule was designed to avoid any allowance cost passthrough by grandfathering allowances to our regulated public utilities. However, the General Assembly specifically chose to auction allowances and use the funds for energy efficiency financing and for flood resilience activities. If DEQ or the Board disagree with this decision by our legislature, then the appropriate approach is not to work an end run but to make a case for change in the legislation.</p>	<p>consumer costs--not just benefits.</p> <p>The costs of RGGI are a very real burden to disadvantaged communities. No one has suggested that such communities do not need energy efficiency and resiliency support--to the contrary, it is to their benefit to receive such support in a more open and fair manner.</p> <p>To suggest that utility ratepayers are not literally captive is unrealistic. Is the commenter suggesting that individual families, communities, businesses, and industry go "off the grid" and generate their own electricity? We would be interested in seeing a practical plan for achieving this goal.</p> <p>As discussed above, it is not a question of DEQ disagreeing with the General Assembly. The fact remains that the costs and benefits of a consignment auction are far better understood than the abrupt switch to a traditional auction with no such analysis--which the General Assembly was certainly entitled to do.</p>
<p>30. William Shobe</p>	<p>As long as the state is committed to a policy of reducing damaging fossil emissions, and there is very strong evidence that being part of an emission trading program like RGGI has considerable benefits for Virginians and that you cannot reduce the cost of achieving those reductions by leaving RGGI; you can only increase costs.</p> <p>Tradable emission control policies maximize the compliance flexibility of firm needing to reduce emissions.</p>	<p>The commenter's narrative can be summarized thus: energy efficiency and resiliency projects in Virginia did not exist until Virginia linked to RGGI. Two years later, these problems have</p>

	<p>Trading moves emission control responsibility away from high cost reductions towards low cost reductions. Trading provides flexibility across time as well. Emission allowances will be used during periods when they are most valuable and not during periods when they are least valuable. In this way, emission trading operates exactly like markets for other goods. Firms that can make most efficient use of productive inputs buy them, other firms do not. Firms that can produce goods at lower cost sell more than higher cost firms. We have good evidence from existing emission markets like RGGI that these institutions do lower costs.</p> <p>Trading among member states can only benefit members. If buying allowances from other states is cheaper than doing the reductions locally, then costs are reduced for Virginia consumers by being in RGGI relative to not being in RGGI. If, on the other hand, costs in Virginia are lower than costs in the rest of RGGI, then Virginia has a valuable export commodity to sell to other states.</p> <p>The expenditures of RGGI revenues substitutes for other public spending which would require funds raised by state taxes such as income and sales taxes. If communities do not receive RGGI funds for flood preparedness, then, on average, you will tend to see greater flood damage than if we did spend on community preparedness. Virginia government will respond to local flooding and risks of flooding with state aid. It is more costly to raise the money for addressing flood risks through auctioning emission allowances than it is through raising general taxes. There is a large body of economic evidence on this point. Similarly, expenditures on low income energy efficiency with RGGI funds substitutes for paying for these things with general taxes on income and sales. If more households have lower energy expenditures due to investments in more efficient homes and apartments, then there is less call for energy assistance using state funds. Our best evidence is that raising money for these programs through payments for pollution allowances is better for the economy than raising the funds through general taxation.</p> <p>Controlling CO<sub>2</sub> emissions has considerable value for Virginia's economy. Virginia is among the U.S. states expected to suffer the most damage due to sea level rise and salt water intrusion. And the associated fossil fuel emissions cause significant health damage, imposing substantial, additional costs, which disproportionately affect lower income families. Recent estimates of the economic damage from existing fossil fuel pollution from electricity generation are on the order of \$150/ton of CO<sub>2</sub> controlled, not from the saved CO<sub>2</sub> but rather from reductions in SO<sub>2</sub>, NO<sub>x</sub> and other emissions that occur when CO<sub>2</sub> emissions are reduced. This implies a social cost of around \$100/MWh generated by fossil-fired plants. Even a quarter of this amount is greater than the current RGGI price.</p>	<p>been solved by projects under RGGI funding. Once Virginia leaves RGGI, there will never be any more funding for these projects, and numerous, unpreventable disasters will ensue.</p> <p>Energy efficiency and resiliency projects have been funded in Virginia before linking to RGGI, and they will continue after leaving. There are multiple federal and state opportunities to replace RGGI funding. We agree that controlling CO<sub>2</sub> emissions is important to protect the public health and welfare (which includes economic considerations); we disagree that participating in RGGI is the sole means of achieving this.</p>
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<p>31. Mayor and Town Council, Town of Blacksburg</p>	<p>Participation in RGGI is yielding tremendous economic benefit for Virginians and has put the state on a predictable, market-driven path to a clean energy economy. The other RGGI states have reduced climate-warming emissions 90% faster than the rest of the country, while growing 31% faster economically. Furthermore, it has been asserted that the Board does not have authority to take this action. Evidence continues to mount that continued inaction on GHG emissions could lead to catastrophic changes for Virginians, destabilizing the very systems that support and sustain our communities. Millions of people will experience these changes through threats to public health, disruption of national and local economies, and food and water insecurity. Buildings and infrastructure will be increasingly impacted by the severity and frequency of weather events with enormous response and recovery costs falling on resource-strapped local governments. For coastal communities, these threats will be amplified by rising sea levels. We know that nearly every element of our society is impacted by energy. A step-wise, predictable transition to a clean energy future will preserve our quality of life, improve economic resilience and foster an ethic of responsible stewardship of our shared natural resources and climate. RGGI provides the state policy framework and structure needed to support that transition. Beyond its climate implications, participation in RGGI benefits Virginians in other ways. Residents of RGGI states enjoy lower energy prices: electricity prices in RGGI states dropped by almost 6% while they went up almost 9% throughout the rest of the country. RGGI has generated \$452M to support much-needed low-income energy efficiency programs and flood resilience infrastructure in Virginia. In light of these considerations, we urge the Board to embrace the numerous economic and environmental benefits of Virginia’s continued participation in RGGI.</p>	<p>The commenters' concerns are recognized. As discussed elsewhere, a clean energy future is essential for protecting public health and welfare--participation in RGGI is not the most effective means of achieving this, especially since many alternatives exist.</p>
<p>32. Advanced Energy United</p>	<p>United fully supports the intent of Virginia, as embodied in the energy priorities enacted by the General Assembly, to achieve more secure, clean, and affordable energy for all Virginians. RGGI is an important policy mechanism to achieve these objectives. Using a free-market structure, this program aims to steadily reduce emissions from power plants in the region and shift our grid toward cleaner, cost-effective generation in the most economic means possible. Thus, we urge the Board to reject any proposal that would repeal Virginia’s participation in RGGI. The executive branch cannot override the statutory mandates and regulations that created the RGGI programs because the RGGI program for Virginia was created along with its mandates by General Assembly in law. These laws did not give the executive branch authority to direct the state’s participation in RGGI. Thus, the power still resides with the General Assembly to oversee RGGI programs and the related agreements that allow Virginia to participate in its auctions. We likewise support Virginia’s continued participation in RGGI for the multiple ways in which it catalyzes greater energy efficiency throughout the state. As</p>	<p>See the response to comment 3 for further discussion of legal authority.</p> <p>As discussed elsewhere, non-carbon sources can be developed and encouraged in areas where those sources are welcome and technically feasible; participation in RGGI does not directly affect whether a household, community, or business makes the investment in alternative energy.</p>

	<p>the supply of credits falls, and prices rise, the market encourages buyers to utilize the least-cost means of reducing emissions, so they pay for less credits. Often, the least cost emissions reduction strategy lies in reducing energy consumption through efficiency. By statute, 50% of auction proceeds go directly into low-income energy efficiency and weatherization programs.</p> <p>Even if we set aside the broader market impact of RGGI (shifting utilities toward lower-cost, clean generation), the infusion of funds from Virginia's participation is already having an immediate, beneficial effect on the deployment of energy efficiency. In the first two years of participation, RGGI has generated \$252M in new resources for efficiency investments. According to the Virginia Energy Efficiency Council, participation in RGGI through 2030 will result in an estimated total revenue of \$2.5-3.3B, resulting in between \$125-165M/year for low-income energy efficiency programs. They predict a statewide economic impact of between \$2.03-2.67B. The best part of this economic impact is that the dollar earned must be spent within the state on weatherization and energy efficiency projects. These projects by their very nature must be done on-site on homes and within other housing projects. As these resources are directed toward low-income communities, they represent investments that would not otherwise occur. Such investments not only help these communities reduce their acute energy burden but also generate additional emissions reductions by reducing demand for electricity and fossil fuels used for heating.</p> <p>Another benefit of these dollars being spent on Virginia-based projects is the jobs they create for Virginians. This includes installers, inspectors, auditors, and a host of other positions that make up the job pool that is necessary to make homes more efficient and weatherized. These jobs cannot be outsourced. According to a recent study, there are some 73,000 jobs alone in energy efficiency work in Virginia. According to the Virginia Energy Efficiency Council, these RGGI programs alone are helping to create and sustain up to 2,115 new jobs.</p> <p>Finally, is the impact that RGGI has on the lives of everyday Virginians. RGGI dollars go directly into the pockets of Virginians beyond what is received through wages and new jobs. Presently, 164,000 Virginia households living below the poverty level pay about 31% of their income on energy costs, and another 179,000 pay about 17% of their income. Energy efficiency projects are key to bringing down these high costs. Additionally, weatherization projects alone are predicted to lower families' electricity bills each year by \$976.</p> <p>RGGI dollars are a game-changer for Virginia's working families. The dollars are a substantial economic impact for the state. They create sustainable, growing jobs that</p>	<p>As discussed in the response to comment 6, there is nothing to prevent acquiring alternative funding to RGGI auction proceeds.</p>
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	<p>cannot be outsourced. They also directly lower the impact of energy prices on Virginia’s working families, especially on those that need it the most. Given these significant benefits, the role RGGI plays in helping the state realize its energy goals, and the underlying legal dynamics, we urge the Board not to withdraw Virginia from RGGI.</p>	
<p>33. Audubon Society of Northern Virginia (ASNV)</p>	<p>It would be unlawful to withdraw Virginia from RGGI, as explained more fully by the Attorney General’s January 11, 2022 opinion. Legislation enacted in 2020 creates dedicated funding for energy efficiency and resiliency, and it prescribes that the funding will come from a carbon pricing system, specifically identifying RGGI which was (and still is) the only regionally-relevant carbon pricing system in existence. By pricing carbon, that legislation also incentivizes reductions of carbon and other pollutants from electric generation. The two programs are linked and mandatory as recognized by legislators, public officials and others at the time of enactment. The programs are also working as intended – funding key programs and encouraging generation to switch to zero-carbon, zero fuel cost solar and wind energy.</p> <p>The Administration’s preference for an "all of the above" energy policy without cost incentives to reduce carbon pollution does not provide a lawful basis to evade the laws enacted in 2020 to fund and encourage climate resiliency and mitigation and to promote cleaner energy through carbon-price incentives. New legislation would be required to alter the laws that govern RGGI participation and funding, but none has been enacted.</p> <p>Even if there were some discretion, the DEQ proposal would be arbitrary and unlawful. It admits an essential need to mitigate climate emissions and impacts, but it proposes no appropriate or lawful adjustments nor provides reasons or evidence that such adjustments would better fulfill the existing laws’ requirements and goals. It is not sufficient for DEQ simply to repeat that "we disagree" with the law’s policies or there are "better ways" to do what the law requires. The arbitrariness of DEQ’s proposal is underscored in many ways. It would eliminate the legislature’s dedicated funding source for energy efficiency and resiliency adaption without any replacement. It does not refute the successful history of market-based solutions to address pollution by electric generators (e.g., CO<sub>2</sub> and SO<sub>2</sub>). It never explains why Virginia’s participation in RGGI is not transparent or efficient compared to unidentified approaches that DEQ claims exist, or why carbon-pricing is any less transparent than wildly swinging fossil fuel prices. It asserts that participation is no longer needed despite admitting that combating carbon pollution and funding energy efficiency and community resiliency are needed.</p> <p>EO-9’s claim that “the benefits have not materialized” are contradicted by the successful funding of resiliency and efficiency programs; addition of over 3000 MW of solar</p>	<p>Board authority to withdraw from RGGI by regulation is discussed in response to comment 3.</p> <p>As discussed elsewhere, to suggest that consumers can quickly, easily, and cheaply replace electricity generated by the current utility system with alternative energy sources is optimistic.</p> <p>Options for alternative funding are discussed in the response to comment 6.</p> <p>DEQ is aware of two large-scale wind projects in Virginia, one of which has been under litigation since the project's inception and may or may not ever be built, and one off-shore project sponsored by Dominion Energy that will not be completed until 2026. Residential and large-scale solar is currently popular and expanding in the state, but there is increasing resistance to large projects, particularly those with the potential to have a direct impact on farm and forestry land. As discussed elsewhere, it is optimistic to assume that the average homeowner is prepared to go fully off-grid in the short-term. In the</p>

	<p>capacity since enactment; doubling of solar energy production from 2020 to 2021; and projected growth of 5,757 MW over the next five years. It takes time for utilities to respond to incentives but they are clearly doing so with planned solar and wind.</p> <p>DEQ incorrectly suggests that utilities have no incentive to reduce emissions due to cost-based ratemaking and that customers have no ability to reduce their purchases. Utilities' rates are subject to review for unnecessary costs (including for fuel or carbon allowances), which can result in SCC limiting recovery of costs that a prudent utility would have avoided. Utility proposals to the SCC for new generation will have to justify both fuel and carbon costs, and shifting to cleaner energy sources, such as wind and solar, is incentivized by RGGI. Customers can reduce their purchases of electricity from utilities through greater energy efficiency or conservation, by installing solar on their property, or by joining a community solar program. Utility prices (including CO<sub>2</sub> charges) will help to incentivize those consumer decisions. Virginia's RGGI-supported funding to improve energy efficiency for low-income customers will also reduce utilities' need to supply costly energy.</p> <p>DEQ's expressed concern about rising energy prices cite numbers that are irrelevant to RGGI and ignores information that undercuts its story. The supposed 15-year increase in Virginia's utility bills mostly predate Virginia's participation in RGGI and are driven by many factors including utilities' past construction and other business decisions. Some of the other claims seem to be based on energy prices generally, not just for electricity. DEQ's complaints about recent natural gas prices ignore the reality that market prices for natural gas constantly swing up and down, were far higher in the past (e.g., 2006-2008), and dropped by over 70% August 2022-February 2023 to level below the lowest prices in the past two years.</p> <p>DEQ's concerns about near-term utility price impacts ignore the far greater cost and non-cost impacts that will be caused by continued inaction from climate change, utilities' ability to reduce those costs through investments and purchases over time, and the importance of price incentives for utilities and customers. RGGI's incentives to shift to wind and solar and funding for efficiency will help to insulate residents and businesses from fossil fuel price swings while they reduce co-pollutants. By delaying decarbonization, the proposal will exacerbate total harms and total decarbonization costs compared to gradual shifting pursuant to a steadily increasing carbon price.</p> <p>The background document repeatedly concedes that state action to reduce CO<sub>2</sub> and other pollution to combat climate change is imperative and must be addressed. It also recognizes that the energy efficiency and resiliency programs are necessary and must be addressed. Despite</p>	<p>meantime, utilities must request rate changes from the SCC, the SCC may or may not approve them, and all consumers must abide by any approved rate changes.</p> <p>DEQ has never dismissed the importance of controlling carbon pollution or sought to do anything other than encourage the development of clean energy; see, for example, the response to comment 5.</p>
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	<p>acknowledging the imperative of addressing the climate and pollution problems by reducing CO<sub>2</sub> emissions and funding energy efficiency and resiliency projects, the document brushes the problems and legislated solutions aside with no alternative plan. DEQ cannot override the law and abandon its benefits by simply stating that it disagrees that the RGGI program is the best means of obtaining and distributing funding to these projects.</p> <p>Rather than acknowledgments that climate change endangers public health and welfare, DEQ needs to spell out the many profound harms that will result from continued climate inaction. Harms to public health, the economy and the environment from continued emission of CO<sub>2</sub> and other GHG pollutants are indisputable and continue to grow. Hundreds of billions of dollars of damage now occur annually from climate change and the trend is worsening. CO<sub>2</sub> emissions heat the atmosphere and oceans for centuries and acidify oceans as well. Reducing CO<sub>2</sub> emissions also will cut co-pollutants, such as particulates, NO<sub>x</sub> and SO<sub>2</sub>, which also harm human health.</p> <p>Temperature increases driven by CO<sub>2</sub> and other GHGs are fundamentally altering weather patterns, oceans, and atmospheric patterns. Of particular interest to us is the threat to avian wildlife, specifically, that two-thirds of North American birds are at increasing risk of extinction from global temperature rise. Analysis by the National Audubon Society warns that two-thirds of North American bird species in North America face extinction if climate change is not rapidly curbed. Many of Virginia's resident and migratory birds are among those listed as "on the brink."</p>	
<p>34. Salesforce, Inc.</p>	<p>Salesforce, Inc., the global leader in customer relationship management, supports maintaining Virginia's membership in RGGI, which enables an affordable transition to a clean energy economy in Virginia while maintaining a competitive landscape for electricity providers. Salesforce supported Virginia's participation in RGGI in 2019 because we were eager to realize the carbon reduction and air quality improvement benefits, as well as lower electricity costs for our data centers in Virginia. State RGGI participation accounts for nearly half of the northeastern U.S. post-2009 emissions reductions, which is far greater than those achieved in the rest of the country. At the same time, RGGI states have seen their economies grow faster while utility rates are lower. Moreover, since RGGI began, energy prices have fallen more than 4% in the region. These key benefits to participating states and the distribution of RGGI revenue to critical energy efficiency and community resilience funds in Virginia are why we continue to support Virginia's ongoing participation in RGGI today. As a company, we continue to invest in Virginia because of its strong climate and clean energy policies like RGGI. These policies help us stay competitive and achieve our sustainability goals, which include maintaining net-zero residual emissions and 100% renewable energy. We urge</p>	<p>The commenter's comments are appreciated; however, we disagree that RGGI is the best means of achieving our clean air goals.</p>

	<p>you to recognize RGGI as an effective market tool for supporting Virginia’s clean energy transition and maintain the state’s participation in RGGI in order to preserve the current and future climate, air quality, and economic benefits for all Virginians.</p>	
<p>35. Small Businesses of Virginia (Trace The Zero Waste Store, Little Stitch Studio, Kitsch Handmade LLC, Norfolk Candle Co, LeMarche, Prime 255, Freshtopia, American Barber Lounge, Local Heroes Comics, Velvet Witch, Nomads Clothing Exchange, Cogan’s, Baila Fuzion Dance and Creative Arts Center, One Way Services, See Her Win Inc, The Girlfriend Getaways, Luv Jones Company, Utopia Feni, Midnight Media Co)</p>	<p>As small business owners and managers in Virginia, we firmly oppose the effort to remove the state from RGGI. Climate change is impacting families and businesses across the state, causing devastation in our community from increased precipitation and storm surge. Both inland and coastal towns across the state are facing increased flood risks. As a business owner, I am forced to choose whether to close my store, lose profits, and leave hourly employees unpaid whenever heavy rainfall comes through the area. Many of us face higher insurance premiums for our storefronts due to increased risk of flooding in my area. RGGI protects our businesses, including by creating hundreds of millions of dollars every year in funding for the CFPF. The development and implementation of these projects will help keep the worsening impacts of climate changes from fundamentally scarring our communities and making our businesses unviable. For me, that means I can keep my store open during stormy weather and avoid paying to repair flood damages, which help me to keep my profits steady and ensure that my hourly employees have a dependable schedule. Lastly, my business benefits from energy efficiency programs provided by RGGI. When people save on their energy bills, they are more able to patronize local businesses and contribute to the economy in Virginia.</p>	<p>The commenter's comments are appreciated; however, we disagree that participating in RGGI is the best means of protecting public health and welfare.</p>
<p>36. American Legislative Exchange Council</p>	<p>RGGI is a carbon tax costing Virginia's citizens and industries hundreds of millions of dollars each year. Over the last two years alone, it has cost taxpayers more than \$500M, and will likely cost more than \$300M this year. Despite its goal of lowering energy consumption, data shows electricity usage increased by about 11% under RGGI.</p> <p>With the federal push to eliminate natural gas and other alternative energy solutions in favor of electrification of home water heaters and stoves, the demand for electricity is continuing to grow. Electrification is happening beyond homes and businesses. In 2021, the Virginia legislature passed a law tying the state’s decision-making authority on vehicle emissions standards to the California Air Resource</p>	<p>Support for the proposal is appreciated. The commenter correctly observes the relationship between electrification in the pursuit of lower carbon emissions, while demand and the need for reliability on the existing electric grid increase.</p>

	<p>Board (CARB). CARB voted in August to phase out gas-powered vehicles by 2035. As a result of Virginia's 2021 bill, the sale of gas-powered vehicles will also be banned. Electric vehicles in Virginia are powered by electricity drawn from the grid, and when coupled with increased demand due to home electrification, prices are already rising. Adding a carbon tax, especially one that fails to decrease usage or emissions, harms residents, small businesses, and industry as a whole. For a state positioning itself for an increase in growth in the technology sectors, this is a particularly troubling development.</p> <p>There are two common practices used in RGGI states to avoid this tax increase, and both are becoming increasingly common in Virginia. The first is sourcing power from out of state, a trend seen in longtime RGGI states. Residents, businesses, and industry are paying higher transmission fees and avoiding RGGI's carbon tax by turning to states that do not participate. The second practice is to generate electricity by burning biomass. Since some biomass is renewable in the sense that we can re-grow trees, it is considered a clean source of energy. In practice, biomass releases almost 50% more CO<sub>2</sub> into the atmosphere than coal and over 300% more than natural gas. RGGI does not tax the CO<sub>2</sub> released from biomass, further incentivizing this high carbon emissions source of electricity.</p> <p>RGGI does not achieve its goal of limiting emissions, actually increasing CO<sub>2</sub> emissions by 3.7M tons, and provides a perverse incentive to use less efficient technology. What it does do is burden families, businesses, and the industries the state is trying to attract, and fills the treasury under the false premise that Virginia is doing something about climate change.</p>	
<p>37. Virginia Oil and Gas Association</p>	<p>Affordable and available energy, economic prosperity, and human health are foundational interconnected requirements for our economy and way of life. RGGI is an additional tax that will escalate the cost of electricity yielding Virginia less economically competitive. The natural gas industry as a whole is at the forefront of lowering GHG emissions, and leads power-sector emissions reductions across multiple areas and basins. Between 2005-2019, natural gas was responsible for 61% of cumulative power-sector CO<sub>2</sub> emission reductions through changes in the fuel mix - which EIA defined as being the major driver of those sector reductions. The Appalachian Basin continues to provide organically reduced methane emissions from production infrastructure with as much an 82% reduction despite growing production throughput values. We support of the repeal of RGGI, and support the Youngkin Administration's efforts in pursuit of a commonsense approach to energy and the environment.</p>	<p>Support for the proposal is appreciated. Natural gas continues to be one of the state's better options for keeping carbon emissions low compared to less clean generation, and until renewable energy becomes more widespread and reliable.</p>
<p>38. Massanutten Resort</p>	<p>We extend our support and encouragement for Virginia's continued participation in RGGI. As a four-season resort, who is directly impacted by the effects of the changing climate, we see every day how critical it is to take direct</p>	<p>The commenter's concerns are acknowledged.</p>

	<p>action. Our winter sports are directly impacted by a warming climate, forcing us to adapt and invest in new technology to continue operations. As a business, we are taking steps to reduce our impact, but change needs to come from larger governmental programs, such as RGGI. We are not alone in these thoughts; a majority of Virginians also agree that Virginia should stay in RGGI. The ski industry holds a unique criticality on weather, compared to other industries. We are already seeing seasons cut shorter across the U.S. due to the warmer and shorter winters, putting this \$50B industry at risk. As a major driver of Virginia’s economy in tourism, we hope that you will reconsider your stance.</p>	
<p>39. The Pew Charitable Trusts</p>	<p>Pew’s flood-prepared communities initiative applies a rigorous, analytical approach to improve public policy to make communities more prepared for the increased frequency and costs of flooding. Because this proposed repeal would also eliminate funding for the CFPF we are writing to express our concerns. EO-9 directs DEQ to initiate a regulatory process to end Virginia’s involvement in RGGI. Yet EO-9 is in direct conflict with the CECFPA requiring Virginia to participate in the RGGI auction. The law also requires that revenue generated from the auction supports several important programs, including the CFPF. Virginia’s withdrawal from RGGI will undermine this critical program, which, without adequate and sustained funding, will leave Virginia increasingly vulnerable to flooding impacts. As you may know, flooding is currently the state’s most frequent and costly natural disaster.</p> <p>RGGI auction receipts represent CFPF’s sole funding source for local projects and capacity building efforts that emphasize community-scale and community-led flood mitigation. As of this month, auction receipts have contributed more than \$265M to CFPF, more than \$156M of which has been awarded for projects across Virginia. While there are proposals to offset this potential loss through other means, elimination of this funding for CFPF puts at risk projects and planning efforts that prioritize nature-based solutions, community-scale solutions, and approaches that comprehensively address flood risk. And national research shows investing in mitigation yields an average long-term benefit of \$6 for every \$1 invested.</p> <p>The Youngkin Administration has repeatedly outlined its commitment to mitigate the impact of flooding on all Virginians, a commitment we applaud. However, Revision A22 unnecessarily puts the CFPF in jeopardy, running counter to the Administration’s commitment.</p>	<p>As discussed in the response to comment 6, alternatives to RGGI funds are available.</p>
<p>40. Resources for the Future (RFF)</p>	<p>The Agency Background Document justifies withdrawal based on the proposition that participation in RGGI risks contributing to the increased cost of electricity and would harm Virginia ratepayers. Further justification points to non-transportation energy costs that are higher than the national average. Research in the scholarly literature and at RFF identifies several reasons why this is unlikely to be</p>	<p>DEQ agrees, as do many of the commenters, that VCEA will drive carbon emissions reductions in the state for years to come, and will have an</p>

	<p>the case and identifies benefits to Virginia's continued participation in RGGI.</p> <p>Virginia’s emissions goals are embodied in the VCEA. Participation in RGGI is the lowest-cost way of achieving those goals. Virginia residents benefit from the difference in the cost of emissions reductions among RGGI states in the regional carbon market. If opportunities for emissions reductions in the state are less expensive than in other states, Virginia will export emissions allowances, bringing in additional proceeds that are of greater value than the cost of associated emissions reductions. In the less likely scenario that emissions reductions are relatively more expensive in Virginia, then cost savings accrue from the flexibility to achieve emissions reduction goals at less cost in other locations during the period of energy transformation in the state.</p> <p>Auction proceeds yield revenue that is used for energy efficiency (which will lower household bills) and flood adaptation (which will lower the risk of climate change for vulnerable communities).</p> <p>Federal policies such as the 2022 IRA and new EPA regulations on emissions of criteria air pollutants and coal plant combustion residuals already support the decarbonization of the electricity sector. Allowance prices in RGGI and electricity prices in Virginia are likely to be lower with these policies in place than indicated in prior modeling conducted in 2019 and 2020.</p> <p>Current high non-transportation energy costs in Virginia are a legacy of a fossil-fuel dependent history in the state—the pathway that the VCEA and participation in RGGI are intended to change. A clean energy pathway is expected to lower electricity prices. The IRA amplifies this benefit. Continued participation in RGGI will support the state to fully realize the opportunities provided by the Act. Meeting the goals of the VCEA in part through participation in RGGI may have additional benefits for VA residents, including air quality and economic development. RGGI provides a platform to support jurisdictional coordination in mitigating GHG emissions and related air pollution. Because Virginia’s emissions are a small portion of global emissions, it is imperative to the goals of the VCEA for the state to support national and global efforts.</p> <p>Virginia’s electricity sector operates within the regional PJM electricity market with other RGGI states. Power flows between states within this large wholesale power market. Moreover, air pollution from fossil fuel combustion also flows across state borders. To realize the goals of the VCEA, it is not sufficient for Virginia to singularly reduce its own pollution. Achieving GHG and air pollution reduction goals also depends on the actions of neighboring states as air pollution and electricity cross state borders. Virginia's</p>	<p>impact on local and global emissions.</p> <p>The commenter correctly notes that the IRA will provide additional funding opportunities, and that new EPA regulations will result in continuing improvements in air quality, particularly with respect to decarbonization. Whether or not these will have a measurable impact on allowance and electricity prices remains to be seen. EPA regulations are mandates imposed by federal law and implemented in Virginia through law and regulation, and we will continue to meet those legal mandates as we have consistently done in the past.</p> <p>While we appreciate the good intentions of the RGGI program, it is nevertheless not a good fit for Virginia, as discussed in the response to comment 5.</p>
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	<p>participation in RGGI advances the imperative of the VCEA. Withdrawal would send a signal that negates the central role that regional cooperation plays in the implementation of the VCEA.</p> <p>RGGI emissions allowances are issued in Virginia through a revenue raising auction, with the proceeds directed to strategic energy investments that strengthen the resiliency of communities vulnerable to climate change. Virginia's auction proceeds fund investments in low-income energy efficiency improvements and climate-related infrastructure in flood-prone communities. The state has raised \$227M from the auctioning of emissions allowances in the first year of its participation. Because electricity sales in Virginia are subject to cost-of-service regulation, the cost savings from its participation in RGGI will be enjoyed by its residents whether the state exports emissions allowances to other states or it imports allowances from them. In one case, if the marginal cost of emissions reductions in Virginia is lower than in other states, then emitters in other states will buy emissions allowances from Virginia, bringing value into the state. This scenario is most realistic because Virginia has many low-cost opportunities for emissions reductions, and the realization of those opportunities is accelerated by the VCEA. In the contrasting scenario, if the state were to import emissions allowances from other states, this would constitute a cost savings for electricity consumers relative to achieving those same emissions reductions in Virginia alone. In both cases, Virginia residents benefit from the flexibility that RGGI provides in meeting state and regional emissions goals.</p> <p>Research and modeling support the conclusion that a clean energy pathway that reduces the use of fossil fuels will in turn reduce energy costs and provide savings for consumers. This expectation is greatly amplified by the IRA, which has made substantial federal support available to accelerate the transition to clean energy. The federal resources coming to Virginia are linked directly to investment in clean energy that are incentivized by the state's participation in RGGI. Moreover, the IRA is expected to further contribute to lowering electricity prices. Research by RFF finds that average national retail prices will fall by 5.7-7.8% over the next decade relative to prices at the start of the decade with implementation of the IRA. In Virginia and among other states, this will occur to a greater or lesser degree, depending on their embrace of the opportunities for clean energy development.</p> <p>The VCEA is intended to drive significant investment in new infrastructure and promote direct benefits to Virginia residents through associated economic opportunities, cleaner air and water, and mitigated impacts of a warming climate, including sea level rise and increased damages in flood-prone areas. The VCEA interacts with RGGI to provide benefits to Virginia residents. One way is through</p>	
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	<p>reductions in emissions of GHGs. Because Virginia contributes a small share of GHG emissions globally, the state’s efforts to mitigate climate change can be impactful only if the state coordinates with other jurisdictions to leverage much larger emissions reductions in the nation and across the world. This function is advanced by the state’s participation in RGGI, which supports a regional transformation of the electricity sector to drive reductions in emissions of CO<sub>2</sub> and associated conventional air pollution. Between 2006–2008 (the period preceding RGGI’s launch) and 2017–2019, GHG emissions among the nine participating states decreased by 53%.</p> <p>The success of RGGI has inspired efforts in other jurisdictions, including the Western Climate Initiative. By 2022, the number of carbon pricing programs—primarily through carbon markets but also through carbon taxes—has proliferated globally to cover 23% of emissions. Virginia’s participation in RGGI supports the requisite amplification of actions by individual jurisdictions that is necessary to realize ambitions embodied in the VCEA. Withdrawal of Virginia from RGGI would erode the direct benefits to Virginia residents that are a focus of the VCEA, would raise electricity prices over the decade, and would undermine the implementation of the VCEA.</p>	
<p>41. Virginia League of Conservation Voters (VaLCV); including petition</p>	<p>Virginia’s participation in RGGI prevents pollution that has increased asthma rates among children, contributed to increased flooding from our mountains to our coasts, more frequent severe storms, rising energy costs, and deadly heat waves. At the same time, investments made from RGGI proceeds collected from pollution-emitting power plants return hundreds of millions of dollars to our state every year. These proceeds provide a market-based incentive to transition energy generation to cleaner sources while helping lower energy costs for Virginians in need and assist vulnerable localities in adapting to and mitigating flooding and sea level rise in their communities.</p> <p>Participation in RGGI is required by law and consistent with Virginia’s official Clean Energy Policy (§ 45.2-1706.1) which aims to produce 100% of Virginia’s electricity from carbon-free sources by 2040.</p> <p>RGGI has a proven track record of success, helping cut pollution at its source and reducing energy cost and volatility—driving our clean energy transition in Virginia. The data affirming RGGI’s pollution-reduction success is clear, as the report issued by DEQ states, RGGI has a long track record of emission reductions. Comparing EPA data from 2020-2021, Virginia’s RGGI program cut energy sector air pollution by 14% in its first year. While Virginia is a relative newcomer to RGGI, in the decade-plus the program has been in operation, RGGI states have reduced carbon emissions reduced power plant carbon emissions by 50%, 90% faster than the rest of the country, while seeing 31% faster economic growth than non-RGGI states.</p>	<p>As discussed elsewhere, the practical effect of participating in RGGI with respect to emissions reduction is unclear. Legal authority is discussed in the response to comment 3, and the assignment of costs is covered in the response to comment 7. DEQ is committed to protecting public health and welfare as described in the response to comment 5.</p>

	<p>             RGGI is a core driver of the domestic clean energy economy, currently bringing good-paying jobs to Virginia. These jobs can benefit from emerging workforce development initiatives that transition those who were left behind from previous economic booms into meaningful careers. RGGI directly incentivizes zero-carbon producers who benefit doubly from being able to sell electricity in the generation market at a more competitive price than carbon-emitting sources, and from selling their excess carbon allowances to polluters. This has led to a rapid expansion of clean energy jobs, as well as jobs in energy efficiency. The 2022 U.S. Energy and Employment Report shows the energy sector experienced positive job growth, increasing 4.0% from 2020 to 2021, outpacing overall U.S. employment. In Virginia, energy jobs increased by 4.9%, with 73,119 Virginians employed in energy efficiency. Of the 16,321 Virginians employed in power generation, over 60% are employed by zero-carbon facilities.         </p> <p>             RGGI improves public health. Decreased air pollution results in fewer asthma attacks, premature births, and missed days of school and work. In just 10 years, participating states realized \$5.7B in public health benefits thanks to RGGI. These harmful pollutants are often concentrated in low-wealth and marginalized communities located more closely to emission sources, causing higher rates of heart attacks, strokes, and asthma.         </p> <p>             RGGI is helping the Virginians who most need it right now. In addition to preventing the root cause of climate change at its source, Virginia uses RGGI proceeds to actively mitigate the impact of climate change for those most exposed to its effects, be it flooding in the mountains, sea level rise along the coast, or rising energy costs during extreme heat events. These funds are designed to be disbursed with an estimated 60% of total proceeds dedicated to helping either low-income individuals directly, or low-income communities. Since its first auction in March 2021, RGGI has generated approximately \$452M in cumulative proceeds. Half of these funds—paid for by polluters for each ton of CO<sub>2</sub> their facilities emit—help provide safe, affordable and energy-efficient homes to low-income families in ways that were never possible before RGGI. Thanks to the energy efficiency investments made to date, including \$196M in 2020 alone, consumers are on track to save \$15B on their electric bills.         </p> <p>             Virginians also save money over the long term by reducing reliance on costly fossil fuels. Just this summer, Virginians' monthly electric bills increased by \$17-25 just to pay for the rising fuel cost of coal and methane gas. The RGGI-induced shift from high-cost fuels to zero-carbon sources of electricity with no fuel cost is part of the reason electricity prices have declined in RGGI states while increasing in the rest of the country. Reliance on zero-fuel-cost sources also         </p>	
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	<p>reduces price volatility, making energy bills more predictable, in addition to more affordable. 45% of these proceeds provide flexible statewide funding dedicated to localities to plan for and prevent recurrent flooding through the CFPF. RGGI is the sole source of revenue for the statewide CFPF, which is the only state funding source for flood resilience planning and project implementation for localities, tribes, and soil and water conservation districts across Virginia. Of the \$203.5M RGGI has generated for the CFPF, nearly \$46M has been awarded to more than 40 localities. If left unchecked, flooding damages are projected to cost the state \$79.1B.</p> <p>The CFPF can also be used as a local match for federal grant programs, making Virginia applicants more competitive for national programs. Without a reliable, long-term funding source like RGGI to keep money flowing in the CFPF, localities will be unable to complete necessary flood resilience planning, studies, and implementation they need to address current and future flood risk. Notably, 25% of CFPF monies are set aside for low-income geographies and the CFPF prioritizes implementation of nature-based solutions. Small and rural communities already experiencing increasing flood risk can't afford to leave this money on the table.</p> <p>Governor Youngkin lacks the authority to take us out of RGGI through the regulatory process. In addition to being the culmination of a multi-year regulatory endeavor supported by a data- and stakeholder-driven report, our participation in RGGI is mandated by policies the General Assembly passed in 2020. According to an official advisory opinion from the Office of the Attorney General released January 11, 2022: "The Virginia Constitution is clear: the Governor does not have the authority to single-handedly repeal or eliminate a law or regulation that has been passed by the General Assembly."</p>	
<p>42. Appalachian Voices</p>	<p>Virginia's participation in RGGI is required by statute. The CECFPA directed DEQ to update an existing carbon trading regulation such that, among other things, DEQ would sell carbon allowances directly into RGGI, rather than using the consignment auction set out in the existing regulation. Using the word "shall," § 10.1-1330 A directs the Board to incorporate provisions of the Act into the carbon trading regulation. In a letter opinion denying the Virginia Manufacturer's Association's petition for review of DEQ's subsequent regulatory action carrying out this directive, the Circuit Court for the City of Richmond found that DEQ "did what the General Assembly required it to do." The agency, even at the direction of the Governor, cannot reverse by new regulation that which the General Assembly required it to do." The CECFPA has proven to be a durable policy. Passed in 2020, bills have been filed in each successive legislative session to undermine or repeal the Act. These bills have all failed.</p>	<p>Legal authority is addressed in the response to comment 3. Emission levels are covered in the response to comment 4, and costs and benefits are addressed in the responses to comments 6 and 7.</p>

	<p>Participation in RGGI is working as designed. According to EPA data, carbon emissions from Virginia’s power sector have decreased 16.8% since Virginia entered the program. Conversely, power sector emissions were fairly level during the decade prior to Virginia’s participation in RGGI.</p> <p>Auction revenues are helping Virginians lower their bills through energy efficiency upgrades. According to expert analysis, if Virginia continues participation in RGGI through 2030, 130,000 homes could receive efficiency upgrades, saving an average of \$676 per household each year.</p> <p>The costs of fossil fuels to power our electric generating facilities have approximately doubled over the past two years. RGGI is not only good for the climate and for the air we breathe, it also signals to the power sector that cleaner, more cost-effective forms of electricity are favored by both electricity markets and policy makers carrying out the will of the Virginia electorate.</p>	
<p>43. City of Charlottesville</p>	<p>The \$589,729,757 that Virginia has earned so far since its first auction in March 2021 is supporting both working families and flood-prone communities. This is unprecedented and irreplaceable funding for critical work. RGGI has provided Charlottesville with an unparalleled level of funding to tackle projects involving energy efficiency in low-income housing and flood preparedness. In Charlottesville, Piedmont Housing Alliance was awarded RGGI money through the Affordable and Special Needs Housing program to renovate and build over 230 homes in the region. They are committed to making future housing units more energy-efficient, but that may not be feasible if RGGI funding disappears. The City has been awarded \$541,561 through three separate grants from CFPF to pursue flood resilience planning and anticipates future project funding needs that match the CFPF intent.</p> <p>Should Virginia continue to participate in the RGGI program through 2030, we stand to benefit from an estimated statewide economic impact of over \$2B over the course of the next decade. This will have tremendous positive impacts across the state in terms of investments in much-needed energy efficient low-income housing, annual energy savings for those households, reductions in air pollution which means improved public health, and associated economic benefits - including the creation and sustenance of an estimated 2,000+ new jobs. Additionally, investing in flood preparedness across Virginia will help communities around the state be better prepared to withstand and recover from the anticipated increased intensity of rainfall and inland flooding.</p> <p>We recognize the important role of energy in our society and the importance of a clean energy future. A predictable transition to a clean energy future will contribute to our quality of life, improve economic resilience, and foster responsible stewardship of our shared natural resources</p>	<p>See the response to comment 6 for a discussion of funding.</p>

	and climate. RGGI provides the state policy framework and predictable structure needed to support that transition.	
44. Consumer Energy Alliance (CEA)	Whenever initiatives such as RGGI are proposed, we always ask what the potential financial impact might be on not only the broader population, but especially on those who can least afford higher energy bills. Our members support a rational, all-of-the-above energy policy that utilizes all our domestic natural resources—both traditional and renewable – while ensuring commonsense environmental protections are in place. In 2020, we shared our concerns with your predecessor regarding the fundamental altering of Virginia's energy landscape with the passage of HB981 which, according to an analysis conducted by the SCC could see increases in residential energy bills. Unfortunately, those concerns went unheeded but the projections are proving to be accurate, with new compliance cost projections being estimated to be \$723M from 2021 through December 2023. We have already proven that America can lead the world in energy development while at the same time also leading the world environmental stewardship. America has also shown that we can do both without excessive government regulation. Virginia can continue to realize significant emissions reductions without the burdensome and poorly crafted regional planning mechanism that several other states have adopted. While a worthy idea in concept, as currently designed the regional plan would significantly increase energy cost, hinder reliability and offer little real-world emission reduction.	Support for the proposal is appreciated. We are particularly concerned, as is the commenter, about the costs of electricity on those who can least afford it.
45. Wood Fuel Developers LLC; Columbia Gas	Our large industrial customers are subject to the CO <sub>2</sub> Budget Trading Program, which implements RGGI, along with our electric utility customers. However, all of our customers have been affected by RGGI due to the costs it imposes upon Virginia electricity ratepayers. As such, we support the repeal of the rule. RGGI is unnecessary and redundant to decarbonize Virginia's electricity generation. The VCEA will accomplish this goal through its renewable portfolio standards. RGGI does not operate like a Clean Air Act regulation. RGGI does not mandate CO <sub>2</sub> emission reductions and has no NAAQS, measurements, or monitoring to determine its effectiveness. RGGI operates like a tax on electric utility consumers. Dominion projects the RGGI cost to comply is \$723M from 2021 through December 2023. Of that amount, \$373M is the estimated price tag for August 1, 2022 through December 31, 2023. For a high-usage, high-load factor industrial customer, the increase could be more than \$80,000 each month, which is the equivalent to 12 full-time production positions with full health benefits, paid time off, and retirement. Virginia should address resiliency infrastructure through General Fund appropriation and accountability.	Support for the proposal is appreciated.
46. Virginia State Conference NAACP	We strongly oppose efforts to withdraw Virginia from RGGI and urge the Board to advise Governor Youngkin, DEQ and all relevant departments and agencies, that RGGI is a critical community-supported program that must be properly maintained, funded, and staffed to ensure	The commenter's concerns are recognized, and DEQ acknowledges the particular concern of

	<p>awareness, equitable access, and timely disbursement of funds to communities it is intended to serve. RGGI's original purpose, which is to provide funds to those who are under-represented and over-burdened by poor air quality, unhealthy environments, and threatened by flooding, must not be diminished or reallocated to other uses.</p> <p>RGGI incentivizes polluting facilities to reduce harmful emissions, thus lowering harmful effects to surrounding communities, air, land, and water. Decreased pollution means fewer asthma attacks, premature births, and missed days of school and work. NAACP's report in collaboration with Clean Air Task Force, Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil &amp; Gas Facilities on African American Communities, states, "The air in many African American communities violates air quality standards for ozone smog. Rates of asthma are relatively high in African American communities. And, because of ozone increases due to natural gas emissions during the summer ozone season, African American children are burdened by 138,000 asthma attacks and 101,000 lost school days each year."</p> <p>Since joining RGGI, Virginians have experienced cleaner air—power plant emissions have decreased by approximately 16.8% compared to pre-RGGI. Funds generated by RGGI provide an affordable way for households to cut their energy bills by installing energy efficiency and weatherization upgrades, while localities are able to implement solutions to combat recurrent flooding. RGGI also spurs economic growth and employment and business opportunities. A just transition to a clean environment, business and employment growth, community resiliency, and healthy homes is achieved. To date, Virginia has collected over \$550M. Unless there is an alternative funding source of this scope, it is irresponsible to withdraw from the program.</p> <p>People of color and low-income communities are disproportionately affected by exposure to air pollution, and standards such as RGGI that help to protect and build communities are critical. This is why the Virginia NAACP and its units continue to call for the reduction (elimination) of oil and gas pollution and a focus on clean energy sources in VA. Our communities can no longer carry the burden with the least to gain. We must do all that we can to ensure a clean, just and healthy future.</p>	<p>health and welfare effects of air pollution on disproportionately affected communities; see the response to comment 5 for more detail.</p>
<p>47. Chesapeake Bay Foundation (CBF)</p>	<p>The CECFPA does not simply authorize DEQ to implement RGGI, but rather mandates Virginia's participation. This means that the General Assembly has not delegated to DEQ the discretion to determine Virginia's participation status. § 10.1-1330 A mandates that DEQ shall incorporate the provisions of the Act into the regulation without any further action by the Board or need to undergo regulatory review under the APA. This does not give DEQ or the Board any discretion about whether to adopt the program.</p>	<p>Legal authority is discussed in the response to comment 3.</p>

	<p>Further, § 10.1-1330(B) grants DEQ the authority that it previously lacked to sell allowances, and then mandates that DEQ use this authority, through stating that DEQ shall seek to sell 100% of all allowances issued each year through the allowance auction in a way that is not inconsistent with the RGGI program. This legislative command makes clear that DEQ has no discretion to choose not to participate in RGGI. Regulatory action cannot repeal or amend existing statute, only subsequent legislation can. This is made clear by a 2022 advisory opinion from the Virginia Attorney General. The opinion cites, and relies upon, Article I, Section 7 of the Constitution of Virginia. Therefore, the repeal is decidedly unconstitutional. Virginia also must remain in RGGI to fulfill its climate goals, as set forth in the VCEA, which demands that Dominion and Appalachian Electric Power produce 100% renewable electricity by 2045 and 2050. This shift will not happen overnight, and RGGI is an indispensable tool for meeting the benchmarks set by the VCEA in the interim.</p>	
<p>48. CBF</p>	<p>Virginia’s participation in RGGI reduces the harmful GHG emissions that ultimately make their way into the Chesapeake Bay, while also assisting Virginia communities to prepare for the increased flooding associated with climate change by generating millions of dollars for the CFPF, a fund which finances resilience projects that benefit water quality. Requiring Virginia to withdraw from the RGGI program when climate change has made achievement of Bay goals more challenging—and in the absence of effective alternatives to RGGI funding—would be a significant setback to the health of the Bay.</p> <p>Since its inception, participants in RGGI have reduced their CO<sub>2</sub> emissions by 47%, 90% faster than the rest of the country. These reductions have been accomplished without sacrificing economic progress. Participating in RGGI reduces not only GHG, but also reduces emissions of other pollutants, like NO<sub>x</sub>, which add to the excess nutrient levels in waterways. Over 85M lb of nitrogen reach the Bay through air deposition. Once in the Bay, nitrogen helps fuel algal bloom growth. As the algae dies, oxygen in the water column is depleted, creating "dead zones." The impacts of climate change are making it even harder for Virginia to achieve its Bay restoration goals.</p> <p>Climate models suggest the Bay region will experience more frequent and severe storms as climate change advances, which will increase stormwater runoff, and thus also increase the nutrient and sediment loads. Larger than average inflows of fresh water will also threaten oysters and push other Bay-life out of their traditional habitats. Similarly, rising temperatures caused by global warming will lead to warmer water, which has less capacity to hold dissolved oxygen, thereby exacerbating the Bay’s oxygen-deprived dead zones. And rising sea levels are also projected to drown thousands of acres of environmentally critical wetlands.</p>	<p>Emissions trends are discussed in the response to comment 4, and funding options are discussed in the response to comment 6.</p>

	<p>Proceeds from RGGI auctions provide essential resilience funding in Virginia to address recurrent and severe weather flooding, sea level rise, and energy efficiency needs, through CFPF and HIEE. The CFPF represents dedicated state funding for flood resilience planning and project implementation for localities, tribes, and soil and water conservation districts across Virginia. To date, RGGI funding for the CFPF has totaled over \$265M. RGGI dollars provided through the CFPF are to be spent for projects that incorporate nature-based solutions— that is, project approaches that benefit water quality by harnessing environmental processes that emulate, protect, or restore natural features. Prioritizing nature-based solutions is a guiding principle of the CFPF. RGGI auction proceeds are currently the sole source of funding for the CFPF. While there have been efforts to provide other sources of resilience funding, no reliable substitute has yet been enacted or appropriated. The 2022 General Assembly created the RVRLF as an additional avenue to support localities implementing resilience projects. While the RVRLF was capitalized with funding from RGGI proceeds, the RVRLF is not equivalent to the dedicated funding of the CFPF by RGGI auction proceeds. The RVRLF does not prioritize nature-based flood resiliency solutions as the CFPF does. It prioritizes projects that have lower cost margins, but imposes no obligation to use nature-based solutions. Unlike the ongoing, increasing source of revenue that RGGI provides, RVRLF is a revolving loan fund that is intended to be self-replenishing as localities pay back their loans. However, the fund must first be capitalized by sufficient appropriations to finance those loans and no such state appropriation has been made to date. CFPF, on the other hand, is not subject to fluctuating state budget cycles, but rather is financed by the revenues generated by RGGI auction proceeds. These revenues are also designed to increase with every year, as every year more carbon credits are taken off the market, making them more and more expensive. No other fund prioritizes funding accessibility in marginalized and low-income communities as the CFPF does. While loan programs like the RVRLF are needed, CFPF's grant approach ensures that resilience funding is more equitably distributed and more accessible to financially burdened localities needing resilience funding. CFPF is also unique in that it provides money for capacity-building efforts not usually funded through federal grants, and those CFPF dollars can serve as a match for such programs. Without RGGI-supported CFPF funding, resilience funding for Virginia localities would be reduced, disappear, or be subject to budget fluctuations. The result would be disproportionate harm to under-resourced, small, and rural cities, towns, and counties that cannot address flood risk on their own. Leaving Virginia without meaningful alternatives for flood resilience funding impacts not only the health of the Bay, but the health of Virginia's economy and citizens. It is estimated that flooding damages will cost the</p>	
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	<p>state \$79.1 billion if left unchecked—an amount which far exceeds any financial burden that participating in RGGI would impose.</p>	
<p>49. Constellation Energy</p>	<p>RGGI is a signature success in the fight against climate change. The program is a model of effective interstate collaboration and innovative policy design. Over the last 14 years, fossil fuel generators have seamlessly incorporated allowance costs into daily operations while preserving efficient and reliable market operations, and states have raised billions of dollars in revenues used to provide bill assistance and support myriad energy efficiency and other climate-forward programs. Market-based compliance mechanisms including trading programs allow the regulated community to achieve emission reductions in the least-cost manner. In a cap-and-trade program like RGGI, regulated entities may reduce or eliminate emissions in conventional ways (e.g., pollution control technology), but they are provided an additional compliance option. They can purchase rights to emit each ton of pollutant in the form of an "allowance." In many cases, this latter option will be less expensive. Each regulated entity retains the flexibility to choose the most cost-effective approach.</p> <p>Trading programs have a long history of success. The 1990 Clean Air Act Amendments created a cap-and-trade program governing sulfur dioxide and nitrogen oxide emissions from electric generating units in order to control acid rain. This program delivered significant pollution reductions and human health benefits at costs that were far lower than expected. EPA has since developed numerous successful trading programs, typically implemented by the states, to reduce air pollution including the NOx SIP Call, the Clear Air Interstate Rule, and the Cross-State Air Pollution Rule. Since the start of the RGGI program, several states in other parts of the country have also created trading programs to reduce their GHG emissions</p> <p>RGGI reduces electric sector CO<sub>2</sub> emissions through implementation of allowance cap-and trade systems in participating states. RGGI is designed to work in concert with pre-existing wholesale market mechanisms to shift electric generation from highly polluting power plants to those with lower emissions. The data shows that RGGI has been successful. DEQ agreed in its report to the Governor that "the RGGI region has a long track record of emission reductions since the beginning of the program," providing a graph showing that "CO<sub>2</sub> emissions have decreased in the RGGI participating states by 59% from 2005 to 2020." Independent external analyses of emission data have found that RGGI has contributed to a larger reduction in electric sector emissions for participating states compared to neighboring states that have not participated in RGGI. In the first ten years of the program, from 2008 to 2018, RGGI states' emissions fell 90% faster than the rest of the country. During that same time, RGGI states grew 31 % faster economically, compared to the rest of the U.S..</p>	<p>DEQ agrees that market-based compliance mechanisms such as emissions trading are proven to be effective in controlling air pollution; however, the RGGI program is designed and managed in a way that accommodates the majority of its member states but leaves Virginia at a distinct disadvantage because it has different underlying state utility laws. Emissions trading programs developed and managed under the federal Clean Air Act provide specific emissions reduction requirements under strictly defined implementation protocols--unlike the RGGI program, which only requires a general downward emissions cap, and no real regulatory oversight beyond the general downward cap. See the response to comment 4 for more detail on emissions trends.</p>

	<p>Furthermore, electricity prices fell by almost 6% in RGGI states while increasing by almost 9% outside of RGGI. Because RGGI is a multistate program, it provides compliance flexibilities that allow pollution reduction at lower cost than either a command-and-control approach or an intrastate trading program. Regulated sources can use a CO<sub>2</sub> allowance issued by any participating state to demonstrate compliance and may acquire allowances by purchasing them at regional auctions or through secondary markets. The structure of the program ensures that overall emissions remain below the sum of the budgets for all states participating in RGGI.</p> <p>Virginia's proposed rule fails to appropriately weigh the benefits of RGGI participation. Initially, the proposal makes several conclusory and non-substantiated statements, such as "The benefits of RGGI have not materialized" and "There are no disadvantages to the public or the Commonwealth associated with this regulatory change." Then, the proposal goes on to note that exiting RGGI could result in foregone benefits but does not weigh those benefits against the identified costs in either a quantitative or qualitative manner. For example, the proposal acknowledges that Virginia's power sector emissions declined during its first year of participation in RGGI. In referencing the social cost of carbon, the proposal also alludes to the damage that climate change can cause, including "changes in net agricultural productivity, human health, property damages from increased flood risk, and the value of ecosystem services." However, the proposal does not attempt to analyze how RGGI participation contributed to the reduction in Virginia power sector CO<sub>2</sub> emissions from 32.8M tons in 2020 to 28.5M tons in 2021. Instead, it simply notes that "DPB does not have any specific information with which to assess the factors that may have contributed to this reduction." The proposed rule lacks robust analysis and a thorough record supporting the policy decision to leave RGGI. In contrast, numerous comments received on the NOIRA point to specific studies evaluating the public health benefits attributable to RGGI for participating states, including reductions of other air pollutants that have localized impacts.</p>	
<p>50. Constellation Energy</p>	<p>Emissions regulation accomplished by market-based emissions trading programs such as RGGI is widely acknowledged to be one of the most cost-effective means of achieving emissions reductions. RGGI, as well as any other cap-and-invest program, can effectively function under any retail and wholesale energy market structure provided the generating units subject to the regulations are dispatched according to basic economic principles.</p> <p>Most of the regulated EGUs in Virginia are part of the wholesale electricity market overseen by PJM. One of PJM's responsibilities is to determine the least-cost dispatch of available generators necessary to meet the demand during every five-minute interval of the year,</p>	<p>Whether the passthrough by utilities of RGGI costs to consumers can be characterized as "imprudent" or not is under the purview of the SCC. We agree that traditional cap and trade programs for criteria pollutants have proven to be very effective, but RGGI is not a traditional cap</p>

	<p>subject to transmission and other operational constraints. This market mechanism is referred to as security constrained economic dispatch. Each EGU submits an offer price based on its variable operating and maintenance costs. PJM's market-clearing algorithm rank orders each EGU offer by ascending price and selects the total quantity of offers necessary to meet demand during each interval. The rank -ordered collection of units, including the prices and quantities offered, is referred to as the "dispatch stack." The clearing price in an interval is determined by the highest of the selected offers. EGUs that are selected by PJM will operate during the interval, with all selected EGUs receiving a single clearing price.</p> <p>DEQ concludes that RGGI fails to achieve its goal as a cap-and-trade system because it lacks any incentive for power-generators to reduce carbon-intensive gas emissions. Since the advent of the EPA Acid Rain Program in the mid-1990s, power plant operators have been required to surrender allowances associated with the emissions of various pollutants, including CO<sub>2</sub> under RGGI. The PJM Operating Agreement, which is the agreement that governs the activities of market participants, explicitly allows for the incorporation of emission allowances/adders into costs for energy supplied to or from the PJM Region.</p> <p>The impact of the allowance cost on the total dispatch cost for each plant depends on the efficiency of the power plant and the carbon content of the fuel. The effect of incorporating these allowance costs is to re-order the dispatch stack, such that the lower-emitting units are selected, and total emissions fall. DEQ asserts that current law allows power generators to pass on all their costs, bearing no cost for the carbon credits, but that does not mean the carbon credits (allowances) are free. DEQ appears to be basing its proposed action on a belief that generators in the state are incurring costs to purchase RGGI allowances and then passing them on directly to customers without seeking potential recovery of those costs through the PJM market by including them in their offer prices. Failure to include the full cost of allowances in offers distorts the security constrained economic dispatch process and leads to inefficient plant dispatch, unnecessarily inflated costs for consumers, and muted emissions benefits. Plant operators that pass along the full costs of the allowances to ratepayers while dispatching without reflecting those costs are not making prudent use of ratepayer funds. In other words, if RGGI has not been effective in changing the dispatch of Virginia fossil plants, it is because the owners and operators of these plants have been behaving in a manner inconsistent with the letter and spirit of the program, imprudently charging ratepayers for allowance costs, and denying Virginians the full benefit of RGGI participation.</p>	<p>and trade program for criteria pollutants.</p>
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<p>51. Constellation Energy</p>	<p>RGGI's structure affords states the ability and flexibility to generate revenue for valuable programs that implement state priorities. Virginia's legislation designated RGGI funds to be allocated to flood relief and energy efficiency programs. These programs are important to climate change mitigation and resiliency, and Virginia's legislation helps make these initiatives affordable for low-income households and communities. While these are sensible and prudent investments, Virginia could amend its program design to return some of the proceeds to ratepayers in light of the articulated concerns about cost increases for customers. A review of RGGI's investment proceeds in 2020 showed that direct bill assistance makes up 19% of RGGI investments, and that such programs have provided \$37M in credits or assistance to customers in RGGI states. Many states are also allocating funding to other energy programs similar to Virginia's current approach: energy efficiency represents 35% of total RGGI investments.<sup>21</sup> Virginia should adopt a similar diversified approach that provides direct ratepayer relief in addition to funding other important programs that benefit Virginians.</p> <p>RGGI should work effectively even in Virginia's current market structure. However, restructuring Virginia's energy market to further incentivize retail competition would be more effective in resolving the concern that utilities can simply pass on the full cost of allowances to their customers without any incentive to lower emissions. In a competitive market structure, utilities respond more directly to market signals and customers benefit from choices.</p> <p>DEQ's cost benefit report confirmed that customers would be better served in a competitive market. The report found that RGGI operates as a direct tax because all fees paid to the RGGI Board are passed through to utility-captive ratepayers, and that consumers cannot avoid the pass through of these costs because they do not have the opportunity to switch electric providers. Additional competition and customer choice within the market would change the incentives for utilities. In a competitive market, generators face more direct market signals and appropriately change their bidding behavior accordingly. Rather than just passing through costs associated with purchasing allowances, a utility should be reflecting these costs in its PJM offers which would create incentives to make the costs as low as possible by evaluating whether to purchase allowances at auction or secure allowances on the secondary market. Notably, expanding competitive choice is also consistent with the Governor's Energy Plan. Virginia should explore additional ways to expand the currently limited ability to switch electric providers and lift barriers for customers who want to exercise energy choice. Doing so would allow customers to avoid ratepayer surcharges, among other charges embedded in the utility's supply costs. Energy choice fosters competition that can drive down costs and attract businesses interested in</p>	<p>Restructuring the Virginia program to return proceeds to ratepayers was not authorized by the General Assembly or the Governor. That kind of program design would have needed to have been considered and approved by the SCC as part of its responsibility for managing these types of costs.</p>
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	bringing competitive energy supply and innovative products and services to the state.	
52. Constellation Energy	<p>Virginia cannot exit RGGI merely by repealing an agency rulemaking. The General Assembly mandated that Virginia participate in RGGI through legislation, and that legislation does not provide the requisite discretion or authorize any administrative process for leaving the program. DEQ states that § 10.1-1308 authorizes the board to promulgate regulations abating, controlling and prohibiting air pollution. There are two deficiencies with this assertion of legal authority. First, the CECFPA mandated Virginia's participation in RGGI. That legislation complements the VCEA, which sets forth a pathway for a carbon-free electricity sector in Virginia by 2050. The proposed rule suggests that the legislation merely authorized Virginia's participation in RGGI but provided the executive branch with discretion about whether to implement the program. This conclusion is based solely on the use of the word "authorized" in § 10.1-1330 B. However, the next sentence directs that DEQ implement this authority, mandating that the Director sell all of the allowances in RGGI auctions: When read in full context, the legislation does not provide discretion for DEQ to decline to participate in RGGI, and the use of the rulemaking process to implement DEQ's decision does not make it legally defensible. This interpretation of the statute is also supported by 61 legislators who voted on the CECFPA</p> <p>Even if the Board had discretion to decline to enter RGGI when the legislation was first passed, the legislation does not provide authority for the Board to subsequently exit RGGI. The proposed rule does not cite any statutory provision that provides the authority, process, or substantive criteria under which DEQ or the Board can exit.</p>	See the response to comment 3 for a discussion of legal authority.
53. Dominion Energy	In the context of a price-sensitive, multi jurisdictional power generation market, applying incremental RGGI compliance costs to a subset of electric generating units could prompt shifts in unit dispatch that favor lower-cost-but possibly more carbon-intensive-resources which are not subject to such compliance obligations. Thus, the outcome may be equal or even greater CO <sub>2</sub> emissions on a regional basis. Publicly available data indicate that CO <sub>2</sub> emissions reductions in Virginia potentially attributable to RGGI participation are offset by emissions increases in states which are not beholden to the RGGI construct. Net trade index data for electricity indicate that many RGGI states are net importers of electricity and therefore rely more on purchased power from neighboring jurisdictions. Data likewise indicate that Pennsylvania and West Virginia, non-RGGI states which border RGGI states, are net exporters of electricity.	DEQ agrees that the need to purchase power may tend to create increases in carbon emissions elsewhere. CO <sub>2</sub> emissions attributable to Virginia have increased on a consumption basis due to increased power imports.
54. Dominion Energy	RGGI auction clearing prices for CO <sub>2</sub> allowances have been volatile since the inception of the program and have continued to rise. As the company stated in its initial comments on the NOIRA, Dominion will not be relieved of its obligation to procure allowances until and unless	The commenter's concerns are recognized.

	<p>Virginia officially withdraws from RGGI. RGGI compliance costs will continue to accrue in the interim and, subject to regulatory approval, be passed on to customers. The aggregate revenue requirement for Dominion's RGGI-related costs from the time Virginia joined RGGI in 2021 through December 31, 2023, is expected to be \$723M. Under RGGI, customer costs will be further exacerbated by increased electricity needs due to extreme weather. For example, Dominion recently experienced an all-time record peak load requirement in December 2022. To meet the high demand requirements caused by rapid temperature drops, PJM required the company's entire generation fleet to operate. Solar resources were not producing during the nighttime hours. While the company was able to maintain reliable service due to proper forecasting and planning, the CO<sub>2</sub> emitted to meet demand requirements in this extreme situation will incur additional costs under the RGGI construct, which will in turn be passed on to customers. Household energy expenditures are particularly sensitive to changes in electric rates because Virginians experience warm, humid weather in the summer and rely more heavily on electricity for heating during the colder months. Elimination of the additional RGGI compliance costs would build on longstanding economic development and quality of life advantages of the communities Dominion serves.</p>	
<p>55. Dominion Energy</p>	<p>In its RGGI report required by EO-9, DEQ effectively captured the emissions impact of a series of coal-fired plant retirements and fuel conversions that occurred in the 2011-2012 timeframe. These decarbonization efforts contributed to a 43% decline in the carbon-emissions intensity of electricity generated in Virginia between 2010-2020. In other words, historical data indicate that over the decade prior to joining RGGI, Virginia reduced its rate of carbon emissions per unit of electricity by nearly half. This progress was made despite rising demand for electricity. Adding to these significant decarbonization efforts, there are other effective long-term carbon policies and CO<sub>2</sub> reduction programs and initiatives taking place at the federal and state levels. EPA is developing regulations to reduce emissions of GHGs from new and existing fossil fuel-fired electric generating units. These regulations are expected to be released this spring and formalized later in 2023 and 2024. New and reconstructed electric generating units are also subject to federal and state permitting requirements for GHGs. All RGGI states, including Virginia, also have state-specific climate policies and regulations in place that are aimed at reducing carbon emissions. The VCEA established a mandatory renewable portfolio standard program which envisions Dominion matching 100% of retail electricity sales in its service territory with renewable energy certificates from qualifying resources by 2045. The VCEA also enables a substantial buildout of solar and onshore wind, offshore wind, and energy storage resources. These resource deployments will put downward pressure on the CO<sub>2</sub> emissions intensity of Dominion's operations irrespective of Virginia's participation in RGGI.</p>	<p>DEQ agrees with the commenter that emissions of pollutants have decreased in the state for a variety of reasons; see the response to comment 4. The VCEA will also have a significant impact on carbon emissions.</p>

	<p>The VCEA also established the first mandatory energy efficiency resource standard in the southeastern U.S. The company is committed to ensuring continued investment in energy efficiency, particularly initiatives that benefit low-income, elderly, and veteran customers. Resources to continue this important work are available through the company's regulated demand-side management programs and unregulated EnergyShare program, as well as additional funding now available to the state through the Infrastructure Investment and Jobs Act. The company's efforts toward energy efficiency ultimately reduce the amount of energy consumed by customers, which likewise results in reduced power sector emissions. The company is mindful of concerns that withdrawal from RGGI would imperil funding for flood resiliency and energy efficiency, given how RGGI auction proceeds are apportioned. With respect to flood resiliency, the company observes that the Administration has proposed to deposit \$200M in the Resilient Virginia Revolving Loan Fund as a replacement for funding derived from RGGI auction proceeds.</p> <p>Independent of any federal or state requirements, several electric companies, including Dominion, have set their own carbon reduction goals. The company's commitment to Net Zero entails cutting Scope 1 carbon emissions from its electric operations by 55% by 2030 (compared to 2005 levels) and cutting direct Scope 1 methane emissions from its natural gas business by 65% by 2030 and 80% by 2040 (from 2010 levels). Through 2021, the company cut carbon emissions from its electric generation units by 46% since 2005 and cut methane emissions from its natural gas business by 38% since 2010. Dominion is also a lead sponsor of the Low Carbon Resources Initiative, a 5-year, \$100M research and development effort focused on emerging clean energy technologies. The company has assembled an internal organization dedicated to pursuing innovative and sustainable technologies that will guide us toward a successful clean energy future. Some of the promising new technologies being investigated include natural gas combined-cycle technology with carbon capture and sequestration, hydrogen, electric vehicles as a grid resource, continuous improvement in solar output, medium and long-term energy storage, direct air capture technology, blending natural gas with hydrogen to consume as a fuel, and increased efficiency with advanced analytics.</p>	
<p>56. Environmental Defense Fund (EDF)</p>	<p>§ 10.1-1330 requires the executive branch and agencies to implement the state's RGGI regulation. The General Assembly ratified Virginia's RGGI regulation, with certain specified changes, when it enacted the VCECFPA. The agencies cannot now seek to rescind a regulation ratified by the legislature, any more than they could disregard the statutory instructions to implement the program in 2020. Other provisions in this section confirm an ongoing obligation to carry out the RGGI regulation: § 10.1-1330 B authorizes the DEQ Director to establish, implement, and</p>	<p>See the response to comment 3 for a discussion about legal authority.</p>

	<p>manage an auction program to sell allowances into a market-based trading program consistent with the RGGI program, and requires the Director to seek to sell 100% of all allowances issued each year through the auction. The statute requires the sale of allowances each year, which assumes the state's ongoing participation in RGGI. § 10.1-1330 C also requires allowance sale revenue to be used to fund flood prevention and low-income energy efficiency programs. This allocation of funding emphasizes that participation in RGGI is required because the legislature intended that auction revenue from participation in RGGI fund specific programs enumerated in the statute. § 10.1-1330 D requires an annual report describing Virginia's participation, the annual reduction in GHG emissions, revenues collected and deposited, and a description of how the money was spent. If participation in RGGI was optional, the annual reporting requirement would be superfluous. Given the many ways the statute makes it clear that participation in RGGI is required by Virginia law, neither the Board nor DEQ has the legal authority to end participation. The agencies' authority and actions are bound by Virginia's statutory requirements that only the General Assembly and the Governor, acting in concert, may alter. Beyond the CECFPA, the Board is also statutorily required, in making regulations, to consider the character and degree of injury to, or interference with, safety or health caused by the regulated activity, as well as the scientific and economic practicality of reducing or eliminating the discharge resulting from such activity( § 10.1-1307 E). Agencies are "under a duty to act reasonably" in enacting regulations. Applying these principles, the Board must carefully consider whether the cost savings to certain private companies and their customers from repealing Virginia's RGGI regulation justify the forgone benefits in terms of mitigating climate impacts and other effects of harmful air pollution, as well as the value of the investments directed by the CECFPA. In light of the impacts of climate change and the program's success in mitigating climate pollution, the only reasonable conclusion from weighing the statutory factors is to preserve Virginia's RGGI regulation.</p>	
<p>57. EDF</p>	<p>RGGI has a proven record of emission reductions since the beginning of the program, a fact that DEQ acknowledged in its own report to the Governor about the proposed withdrawal from RGGI. Continuing in this program would help Virginia achieve its goal of achieving a net-zero carbon economy by 2050. With unprecedented droughts, wildfires, floods and heat waves impacting communities nationwide, it's clear to Virginians that climate change is no longer a distant threat. The state has experienced eight different billion-dollar disaster events (three tropical cyclones, four severe storms, and one winter storm) in 2021 alone. It's not just storms threatening Virginia; August 2022 was the hottest August recorded in North America and the second warmest August globally. By 2030, some coastal areas in the southeast and mid-Atlantic may also experience days with a heat index above 125°F. These</p>	<p>Emissions trends are discussed in the response to comment 4. DEQ agrees that the state is particularly vulnerable to sea rise and flooding, which is why steps taken to reduce carbon pollution must be as effective as possible.</p>



	<p>climate-powered disasters are a national security threat as well as an environmental concern. The Hampton Roads area is home to dozens of defense installations with numerous personnel and assets based in the region, including Naval Station Norfolk, the world's largest naval facility. Secretary of Defense Lloyd J. Austin III visited the station in 2021 and reiterated the national security sector's worries that the planet's changing climate will have a dramatic effect on their missions, plans and installations, especially on the Atlantic coasts. Over the last 100 years, average sea level - as measured by a National Oceanic and Atmospheric Agency tide gauge that's been in place for a century at Naval Station Norfolk - has risen 18 inches. According to NOAA projections, it is expected to rise between 1-3 feet by 2050. Funds brought in from RGGI auctions go towards bolstering Virginia's coastal resilience and flood preparedness, ensuring military operations can continue to be run smoothly in Hampton Roads and defense communities continue to thrive. Withdrawing from RGGI would mean removing the only existing source of funds for programs that help Virginian communities build resilience in the face of flooding and other climate threats.</p>	
<p>58. EDF</p>	<p>Virginia is ranked 10th in the nation for clean energy employment with 8,370 jobs. Clean energy industries are poised for growth as Virginia continues to invest in its clean energy economy through RGGI. Analyses of the RGGI program have shown that growing jobs in the clean energy economy, reducing pollution, and investing in workers and local communities has substantial net benefits. One analysis found that over its first three compliance periods, RGGI created nearly 16,000 job-years in the region and in that same period added \$1.4B of value to the economy. According to a new analysis of RGGI through 2017, the program has created over \$4B in net economic gains and over 44,000 job-years of employment.</p> <p>Virginia has received approximately \$452M in cumulative proceeds since its first auction in March 2021. Virginia Code allocates 45% of those funds for the CFPPF and 50% for low-income energy efficiency programs. Program-wide, 18% of 2020 RGGI investments and 14% of cumulative RGGI investments went to clean and renewable energy projects, which are expected to return over \$600M in lifetime energy bill savings while also avoiding the release of over 1.7M short tons of CO<sub>2</sub>. Direct bill assistance programs, also a priority investment area for many states in RGGI, received 19% of 2020 RGGI investments and 16% of cumulative RGGI investments, and have returned over \$37M in credits or assistance to consumers. Additionally, 35% of 2020 RGGI proceeds and 53% of cumulative proceeds went to energy efficiency programs. This 2020 investment is expected to return \$1.2B in lifetime energy savings. In total, the investments the RGGI states have made with the program's revenue are projected to save participants an estimated \$2B over their lifetime on energy</p>	<p>DEQ agrees that clean energy is important and continues to grow; however, the connection between that goal and participation in RGGI is unclear. IRA and BIL funding will address some of the funding no longer obtained through RGGI auctions, but obtaining that funding--and its source--is far more transparent, predictable, and accountable. See the response to comment 6.</p> <p>While it is true that cost increases in Virginia stem from a variety of reasons, including the price and availability of certain fuels, it is certain that participation in RGGI is responsible for some part of that increase.</p>

	<p>bills, while also avoiding the emission of 6.7M short tons of CO<sub>2</sub> emissions.</p> <p>Virginia also stands to receive historic investments from the passage of the Bipartisan Infrastructure Law (BIL) and the IRA. The BIL allocated approximately \$65M for weatherization and \$5.5M to help prevent outages and make the power grid more resilient in Virginia. The IRA helps consumers by making it more affordable for Virginia families to purchase energy efficient appliances, make repairs around their homes, and save money on their utility bills each month through new tax credits and rebates. RGGI's policies work in tandem with federal investment programs. Virginia will miss out on being a leader in the clean energy economy if it goes backward on state policy at the very moment that the federal government and businesses are injecting hundreds of billions into spurring the clean energy economy. Analysis from EDF shows that federal programs will catalyze hundreds of billions of dollars in clean energy investment from the private sector.</p> <p>This past summer, about 1 in 6 American households were behind on utility bills, as energy prices rose to their highest level in nearly 15 years. Gas provides about 37% of electricity in the US and the price of gas had tripled since the middle of 2021. The U.S. Energy Information Administration also forecast in its September report that average residential electricity prices for this year would be 7.5% higher than in 2021, largely due to high natural gas prices. Virginians have the 8th highest average monthly residential electricity bills in the country. In 2022, Virginians paid on average \$152.50/month for residential electricity - \$14 above the national average. Virginia also had the 9th highest increase in monthly electric bills, from \$128.11 in 2021 to \$152.50 in 2022. These high rates and bills are not being driven by RGGI, but rather by a myriad of factors, including state ratemaking policy and Virginia's heavy reliance on natural gas which is subject to global market forces. In comparison, natural gas peaking plants deliver power at \$151 to \$196 per MWh. In Virginia in 2020, natural gas accounted for 61% of Virginia's utility-scale electricity net generation, nuclear supplied 29%, renewables (mostly biomass), provided 6%, and coal-fueled power provided less than 4%.</p> <p>Various factors determine wholesale electricity prices, but the cost of fuel for fossil-fuel generators is an important driver. Wholesale prices are especially tied to natural gas prices because natural gas-fired units are often the most expensive (marginal) generators dispatched to supply power. The natural gas price at the Henry Hub averaged \$8.14/MMBtu in May 2022, 180% higher year on year than in 2021, while natural gas prices averaged \$7.98 over the entire summer of 2022. Rising natural gas prices are one reason Dominion and Appalachian Power customers bore added electric costs last year. In September 2022, the SCC</p>	
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	<p>approved the increase for Dominion, which went into effect provisionally on July 1. According to estimates, the average residential customer, defined as a household using 1,000 KWh of electricity per month, will see their monthly bill increase by \$14.93. Dominion says this is due to the increase in its fuel factor. Meanwhile Appalachian Power effected a bill increase of \$20.17 in November 2022, similarly intended to cover fuel costs. The company initially sought a \$33.24 increase before offering the SCC a mitigation plan that brought the price hike down to the \$20.17 that was ultimately approved.</p> <p>It is clear that RGGI is not the driver of the rising electric prices we have seen in Virginia--rather it is our fossil-fuel dependent system that is one of the major drivers. Cleaning up our grid by deploying generation that does not have volatile fuel prices, like wind and solar, is a critical part of the solution to clear our air, protect our climate, and benefit consumers. If the administration is concerned about customer costs, we respectfully recommend that, instead of pursuing a misguided repeal of the RGGI rule, it develops a comprehensive plan that both achieves emission reductions to decarbonize the power sector and moves the state to cost-effective, clean energy.</p>	
<p>59. EDF</p>	<p>RGGI has provided nearly \$524M for Virginia since the program began, and if current trends continue, RGGI can be expected to generate roughly \$275M in proceeds for Virginia in 2023. Nearly \$100M of RGGI proceeds have been used to fund resilience projects throughout Virginia via the CFPF grant program. RGGI proceeds to the CFPF are providing absolutely critical capacity-building support that will enable more rural localities to create plans and begin to outline projects for future implementation, as more urban localities are currently doing. RGGI is the sole source of revenue for the statewide CFPF, which is the only dedicated state funding source for critical flood resilience planning and project implementation for localities, tribes, and soil and water conservation districts across Virginia. RGGI has generated \$235.6M for the CFPF since Virginia started receiving auction proceeds in 2021. The CFPF funds capacity-building initiatives that most federal grant programs do not, providing critical planning resources that allow localities to pursue larger project implementation requests. The CFPF can also be used as a local match for federal grant programs, making Virginia applicants more competitive for national programs. Without a reliable, adequate, and long-term funding source like RGGI to keep money flowing in the CFPF, localities will be unable to complete necessary flood resilience planning, studies, and implementation they need.</p> <p>Notably, 25% of CFPF monies are set aside for low-income geographies and the CFPF prioritizes implementation of nature-based solutions. Low-resourced communities already experiencing increasing flood risk can't afford to leave this money on the table. Pulling Virginia out of RGGI</p>	<p>See the response to comment 6 for a discussion of funding options.</p>

	<p>would strip away critical funding that local governments need, disproportionately harming under-resourced, small and rural communities who do not have the capacity to address flood risk on their own.</p> <p>RGGI funding for energy efficiency projects also delivers significant benefits for Virginians. Typically, these types of projects, such as upgrading appliances or improving insulation, pay for themselves through reduced energy costs while also lowering emissions of GHGs and other pollutants. The average household in Virginia could save an estimated \$750/year on utility bills through efficiency improvements that are already cost effective. Nevertheless, many energy efficiency projects face barriers like high upfront costs which RGGI funds can help to alleviate. Many households, especially those belonging to low-income or marginalized groups, cannot afford the large lump sum cost of an energy efficiency upgrade without a grant or financing instrument from the government or a utility. As a result, many such households end up paying more over time, contributing to a gap in energy expenditures by race and income. RGGI funds help to solve this problem by providing the investments that families and businesses need to set them on a path of lower energy bills over time. In 2020, 35% of proceeds from RGGI auctions went to energy efficiency projects across the covered region, yielding \$66M in savings in that year alone, and, over the lifetime of those projects, the \$1.2B referenced above.</p>	
<p>60. EDF</p>	<p>Emissions in Virginia are trending downward, but much work remains to be done if the state hopes to meet statewide emissions targets. VA power sector emissions dropped 17% from 2020-2022. Still, if Virginia continues its current trajectory, only under optimistic assumptions will it meet the U.S. Climate Alliance's 2025 milestone for net-zero emission by 2050. By 2030, under both the low emissions and high emissions scenarios, it will fall well short of the emissions reductions needed to meet the IPCC's target for limiting warming to 1.5°C. Virginia's power companies clearly still have work to do to meet decarbonization goals. Dominion, for example, has an energy mix dominated by natural gas, which made up 40% of the company's generation mix in 2021, followed by nuclear, which made up just under 30%. Hydro and solar together made up just over 3%. RGGI will be an important driver to guarantee emissions reductions in Virginia's power sector. Across the RGGI region, CO<sub>2</sub> emissions have dropped over 35% since the program's launch in 2009; thanks in large part to fuel-switching, improved energy efficiency, and growing renewable energy output. A 2019 Acadia report found that emissions from the plants covered by RGGI were down 47% outpacing the rest of the nation by 90%. The gross domestic product of the RGGI states also grew by 47% - again outpacing the rest of the country, which grew by 31 %.</p>	<p>See the response to comment 4 for more information on emissions trends.</p>

	<p>In Virginia, the data is clear that RGGI reduces emissions: RGGI cut Virginia powerplant carbon emissions by 13% in its first year alone. In 2020, carbon emissions in RGGI covered units reached 32,755,842 short tons of CO<sub>2</sub> and declined to 28,623,530 short tons of CO<sub>2</sub> in 2021, even while electricity demand increased. As carbon pollution from power plants decreases, Virginia is also seeing co-benefits from the reduction of co-pollutant emissions: in-state SO<sub>2</sub> emissions fell by 204 tons, and in-state NO<sub>x</sub> emissions fell by 1,608 tons between 2020-2021. The Youngkin administration has even acknowledged the importance of RGGI in a recent report, concluding that RGGI "has a long track record of emission reductions since the beginning of the program." Participation in a state or regional carbon market with an overall cap on emissions, like RGGI, provides a high degree of certainty and durability that emissions reductions will be achieved year-over-year. As stated by DEQ, an emission reduction program will be required to meet the state's climate goals of the VCEA and the 2045 net-zero carbon emissions goal. In the absence of any such program, emissions may not reduce enough to achieve these goals.</p> <p>Because emissions are not allowed to exceed the allotted amount, the RGGI emissions cap creates a high level of certainty that emissions are reduced consistent with program design. From the beginning of the program through 2020, the RGGI states have avoided more than 49.5M short tons of carbon emissions. With the RGGI cap set to decline 30% between 2020-2030, and the addition of the ECR, participating in RGGI would help Virginia achieve its clean energy economy as set forth in the VCEA..</p> <p>Participation in RGGI gives Virginia the greatest certainty that the state will reach its emission reduction goals. A declining limit on GHG emissions, alongside other essential emission reduction regulations, provides the most reliable pathway for Virginia to meet its goal of net-zero emissions by 2045. Meeting this target is essential. Policies like RGGI will contribute towards the global effort to safeguard our climate and are essential tools for helping ensure Virginia can avoid the worst impacts of climate change, such as coastal flooding, the displacement of up to 400,000 homes due to sea level rise, and billions of dollars to repair and replace homes and roads destroyed by increasingly frequent and intense storms. By participating in RGGI, Virginia can help mitigate these climate impacts along with the other participant states.</p> <p>A firm, declining cap on emissions provides the greatest possible certainty of meeting GHG reduction targets. This pollution limit, set by the emissions budget for covered sources, is the most essential feature of the cap-and-trade program. The relative role of the cap-and-trade program compared to sector-based policies as the primary driver for emission reductions is less important than the role the cap</p>	
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	<p>plays in ensuring that emissions do not exceed the allotted budget, and the stringency of the budget itself. The cap should act as the backstop to keep Virginia on track to its climate goals. If other state programs help achieve greater reductions than expected, then there is less pressure on the cap; but if other programs deliver fewer reductions, the cap remains the state's insurance policy to make sure emissions continue to decline at the pace required.</p>	
<p>61. EDF</p>	<p>Extreme heat has been shown to increase hospitalization and death from heat stroke and related conditions but also from cardiovascular disease, respiratory disease, and cerebrovascular disease. A report from NASA shows that the number of extreme heat events is expected to increase substantially over the next several decades. By 2050, the share of the year where average temperatures in Fairfax County, for example, reach at least 90°F is expected to more than double, from roughly 1 month from 1990-2020 to between 2-2.5 months in 2050. The number of days where average temperatures exceed 95°F in the county is expected to increase by at least four times, from 7 days from 1990-2020 to between 28-36 days by 2050. A report from the First Street Foundation showed that the number of days with temperatures above 97°F is expected to nearly triple between 2023-2053. Nine Virginia counties are in nonattainment for ozone, and they encompass a population of more than 2.5M people. As average temperatures rise, Virginians will be increasingly impacted by ground-level ozone. When carbon pollution is reduced, there are often significant reductions of other health-harming pollution, including ground-level ozone and soot. Power plants, transportation, industrial, and other sources contribute to emissions that impact air quality. According to EPA data, the power plants in Virginia covered by RGGI were responsible for 1,228 short tons of SO<sub>x</sub> and 6,125 short tons of NO<sub>x</sub> pollution in 2021. As RGGI reduces carbon pollution across the region, communities also benefit from declining levels of soot and smog. DEQ's analysis of the final RGGI rule showed reductions of NO<sub>x</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub>, amounting to tens of millions in monetized benefits over the life of the program. Across the RGGI region, we have seen the benefits of co-pollutant reductions as well. A study found that reduced levels of soot pollution due to RGGI from 2009-2014 benefited children's health. The avoided costs of these health impacts on children are estimated at \$191-350M. The Administration should consider the environmental justice impacts of its plan to roll back RGGI and the emission reductions that would be lost as a result. As previously noted by DEQ, it is state policy to advance environmental justice, and environmental justice is an explicit part of DEQ's mission.</p>	<p>The reduction of carbon pollution is important for the reasons described by the commenter, and there are co-benefits in the reduction of criteria and other pollutants associated with carbon control. Note that the entire state has achieved attainment with all criteria pollutant standards with the exception of northern Virginia--which recently received a Clean Data Determination for ozone from EPA. These emissions reductions were achieved before participation in RGGI, and will continue after Virginia leaves, as required by the federal Clean Air Act.</p> <p>Consideration and advancement of environmental justice is indeed required by state law.</p>
<p>62. EDF</p>	<p>Virginia's investor-owned utilities have sought rate increases due to spiking natural gas prices. As noted above, the SCC approved monthly rate increases of \$14.93 for Dominion and \$20 for Appalachian Power. These changes are meant to cover the gap between actual and expected fuel costs, which, for Dominion, totaled \$1B for</p>	<p>Withdrawing from RGGI does nothing to affect the proportion of renewable to traditional energy sources in Virginia. The</p>

	<p>2022 and is projected to reach \$2.3B for the period between July 2022 -June 2023. Several recent analyses have shown renewables outcompeting natural gas on price. A 2022 earnings report from NextEra projected a price of \$30/MWh for new solar and \$20/MWh for new wind. By comparison, energy prices for gas plants referenced in the report ranged from \$35/MWh to \$80/MWh. Taking into account the energy investments in the Inflation Reduction Act, solar and wind look even more competitive. The law is expected to lower the leveled cost of energy by 38-49% for wind and 20-35% for solar. Without the IRA, renewables outcompete 72% of gas plants on price, and with the law, they outcompete 90% of gas plants.</p>	<p>marketplace and technology will determine costs, and that which is the most competitive will likely prevail.</p>
<p>63. EDF</p>	<p>Dominion's filings to the U.S. Securities and Exchange Commission underscore that Dominion recognizes that extreme weather imperils its operations, and that the risk of such weather events is intensified by climate change. Dominion also points to its own potential to fall short of its climate commitments as a risk, due to the related negative publicity. The company praised the IRA's extension of the Investment Tax Credit, saying "The tax credit helps spur renewable adoption for residential and commercial solar. On top of the ITC extension, the bill also includes \$370 billion that will be spent on renewable energy and climate issues." Many companies with substantial presence in Virginia do place a larger emphasis on risks from climate change. Ceres published a report in 2021 showing that climate change impacts, chiefly sea level rise, drought, and extreme weather pose a substantial risk to businesses and investors. It points out, for example, that after major natural disasters, insurance premiums rise, indicating that a prolonged, secular increase in extreme weather will have a large impact on many businesses. The report also notes that leading insurance companies have shown concern for climate change-related risks. Companies have also expressed concern over climate risks in the financial sector. In response to the SEC's request for input on climate risk disclosure, companies like Blackrock and Bank of America voiced support for tighter and more transparent disclosure standards. Companies' support for climate risk disclosure is driven by the enormous potential losses from climate change that have already been identified. A 2019 report showed \$1T in potential losses among 215 of the world's largest companies, many of those losses expected to be realized within five years. The Infrastructure Investment and Jobs Act includes \$62B in funding for power sector related projects. Over five years, Virginia can expect to receive \$106M from the bill for the expansion of the state's EV charging network. On top of that, Virginia will be eligible to apply for \$2.5B for additional EV charging infrastructure. These investments alongside strong state policy can help drive investment into Virginia and ensure the state is a leader in the clean economy.</p>	<p>As the commenter discusses, there are ample funding opportunities for programs that encourage clean energy projects, which buttresses the position that the RGGI funds are not needed to accomplish climate goals; see also the response to comment 6.</p>
<p>64. EDF</p>	<p>Many analyses examining the leakage phenomenon between RGGI states and non-RGGI states find that the effect is not so significant as to undermine the net</p>	<p>The fact that Virginia is a net importer of electricity from non-</p>

	<p>emissions benefits of RGGI. The most recent RGGI Market Monitoring Report assessing 2017-2019 found that even though imports into the RGGI region increased, those imports were increasingly cleaner (i.e., had a lower CO<sub>2</sub> emissions rate). This, coupled with impending federal standards, should allay fears that potential emissions leakage from outside RGGI undermines the merits of the program. Like many states, Virginia also has a number of state and federal policies and economic factors driving transformation in its power sector, so taking a snapshot of short-term changes in imports/exports and linking them to implementation of one program without accounting for a wide array of factors is dubious.</p>	<p>RGGI states strongly suggests that leakage may in fact be occurring.</p>
<p>65. EDF</p>	<p>Numerous studies have found we can decarbonize our power sector while maintaining a reliable grid. Significant investments from federal programs like IJA that can help states as they seek to decarbonize while maintaining electric resilience and reliability. Recent reliability events in PJM have raised questions about electric reliability, and with climate-fueled summer heat waves expected to continue to wreak havoc on our grid, it is critical that investments are leveraged to deliver both a clean and reliable grid. During cold conditions, either gas plants themselves or the transmission equipment needed to transport gas may freeze, leading to dangerous drop-offs in electricity generation. Winter storms in early 2021 and late 2022 led to electricity shortages that left hundreds of people dead and forced operators to ration power, driven in large part by frozen gas plants and fuel supplies. The PJM region lost almost a quarter of its total capacity, with 70% of the outages attributable to gas plants, many of which shut down with less than an hour's notice. Policies like RGGI are not the cause of reliability challenges--Duke University found that RGGI "has not impacted grid reliability-and that RGGI may help to improve reliability through strategic demand-side investments-all while delivering important economic, public health, and emissions reduction benefits to consumers. Indeed, the inherent flexibility of a regional, market-based program that enables power plant operators to make efficiency upgrades, shift generation to lower-emitting options, or purchase allowances makes this policy tool a good fit with grid reliability goals."</p>	<p>As discussed elsewhere, non-emitting renewable sources of energy are valuable and should be encouraged; whether they can be implemented at a pace and extent that will meet Virginia's energy needs remains to be seen.</p> <p>The commenter's discussion about reliability is appreciated. As it underscores, significant investments from federal programs will help states meet decarbonization goals while protecting the grid.</p>
<p>66. EDF</p>	<p>Virginia should consider that federal standards reducing carbon emissions from power plants under §§ 111(d) and 111(b) of the Clean Air Act are expected to be proposed by EPA this year. Virginia putting the brakes on participation in RGGI will only make it more challenging to get ahead of the curve in achieving the reductions in carbon pollution likely required under anticipated federal regulatory requirements. Indeed, continued participation in RGGI will send a market signal consistent with anticipated requirements to reduce carbon from new and existing EGUs, giving the state's electric sector a head start compared to neighboring states that are not participating in RGGI or otherwise being required to reduce power sector carbon emissions through state regulations. As noted elsewhere, RGGI reduces</p>	<p>The commenter correctly states that upcoming federal rules will result in even more emissions reductions. How participation in RGGI will affect the state's ability to meet those requirements is unclear--Virginia has been meeting EPA's power plant regulations for many years even without RGGI</p>



	<p>conventional pollutants that are also subject to federal regulation, so there could be additional benefits in complying with federal air quality and other standards accruing from Virginia's participation in RGGI. Additionally, the funds uniquely provided through RGGI can further aid Virginia in compliance with federal standards because of the investments made in emissions cutting (and cost-saving) energy efficiency.</p>	<p>participation. In addition to § 111 rules for power plants, note that 2023 will likely see the issuance of EPA's § 111 rules for the control of methane pollution from natural gas infrastructure, and we foresee even greater reductions of this powerful GHG pollutant with the implementation of these rules--without the need to participate in RGGI to accomplish this.</p>
<p>67. Natural Resources Defense Council (NRDC); including petition</p>	<p>The CECFPA excluded the Board from any role in the formation, adoption, or oversight of the CO<sub>2</sub> Budget Trading Program regulation. Rather, § 10.1-1330 directed DEQ to incorporate its provisions "without further action by the Board, into the final regulation adopted by the Board on April 19, 2019, and published in the Virginia Register on May 27, 2019. Such incorporation by the Department shall be exempt from the provisions of the Virginia Administrative Process Act (§ 2.2-4000 et seq.)." There is not another provision of the Act that provides the Board authority to amend or repeal the carbon trading regulation. As a result, the Board does not have any statutory authority to modify or repeal the regulation under the Act. DEQ suggests that § 10.1-1308 serves as the statutory basis for the Board's proposed repeal. This Code section does in fact confer authority to the Board to promulgate carbon trading regulations: see § 10.1- 1308 E. However, that section states that any such regulations shall be adopted "no earlier than July 1, 2024." That time limitation means that subsection E cannot serve as the basis for the Board's authority here, as both the adoption of the regulation and the proposed repeal would occur before July 1,2024. In addition, the subject matter of the subsection E regulations is different than the carbon trading regulation, specifically the implementation years. In sum, § 10.1-1308 E cannot serve as the authority for the present action, and any other statutory basis for repeal cannot be located, as is summarily claimed by DEQ, anywhere in § 10.1-1308.</p> <p>Similarly, the Board's general authority under § 10.1-1308 A cannot serve as the authority for the proposed repeal. That is because the General Assembly specifically addressed authority for the regulation in the law passed in 2020. The Act delegated to DEQ (not the Board) the responsibility for advancing the carbon trading regulation. The Act provisions would apply over any implied grant of authority for carbon trading in Subsection A. In sum, the Board must find its authority for the proposed repeal in the Act itself, but no such authority can be found there.</p>	<p>See the response to comment 3 for further discussion of legal authority.</p>

	<p>The CECFPA is mandatory. It states that the provisions of this article shall be incorporated by DEQ without further action by the Board, into the final regulation adopted by the Board on April 19, 2019. The Act then provides the Director with specific ministerial authority to administer Virginia's entry into the RGGI program and provides a detailed breakdown of how auction proceeds are to be allocated within the state, again repeatedly using the unambiguous command of "shall." As a whole, the Act is a command to DEQ to join RGGI by adopting regulations conforming to the RGGI model rule without the involvement of the Board. DEQ is nowhere given the discretion to leave RGGI.</p>	
<p>68. NRDC</p>	<p>In addition to a claim of repeal authority under § 10.1-1308, the DEQ agency background document also indicates that the basis or mandate for the proposed repeal is EO-9. However, a governor's order does not equate with an enacted statute and cannot override or undermine standing Virginia law, in this case the CECFPA's unambiguous statutory directive that Virginia "shall" join RGGI. Even the barest notion of a governor ordering a law stricken by administrative fiat cannot withstand scrutiny, given the absurd legal and constitutional result that might arise with any stroke of an executive's pen.</p> <p>Separation-of-powers fundamentals aside, a governor's order also cannot serve as a factual basis for agency action, as the agency--as the statutorily-designated subject matter expert--must assess the facts, and do so independently. The Board's general regulatory mandate is found in § 10.1-1308 A, where its regulatory authority follows the predicate: "after having studied air pollution in the various areas of the Commonwealth, its causes, prevention, control and abatement." Here, however, DEQ and the Board have not studied the impacts and costs of the proposed repeal, nor has the agency considered possible alternatives.</p> <p>More broadly, agency action must be based on evidence and not be arbitrary and capricious. However, the agencies here cannot know if the proposed repeal is sound and legal policy making, because they have erroneously accepted that they are under a purported directive to find reasons to repeal the regulation. Notably, the Economic Review Form of the Office of Regulatory Management (ORM) posted in the Town Hall for the proposed action similarly describes the situation this way: "All changes are mandated, and the agency is not exercising any discretion." When prompted to weigh the costs and benefits of alternative approaches, the ORM form again states: "All changes are mandated, and the agency is not exercising any discretion." In failing to weigh any benefits or consider any alternative approach, DEQ has acted in a per se arbitrary and capricious manner. Administratively, its failure may be attributed to EO-9, which does not direct DEQ to independently weigh the costs and benefits of the proposed repeal.</p>	<p>See the response to comment 3 for further discussion of legal authority.</p> <p>The Board satisfied Va. Code § 10.1-1308 A by carefully studying and considering the ample record presented to it by DEQ in the adoption of this regulation.</p> <p>Neither DEQ nor the Board have ever suggested that the Governor's order is the sole basis for adopting the proposed regulation. DEQ and the Board are obligated under both § 10.1-1308 A and the Executive Order mandated under Va. Code § 2.2-4013 of the Virginia Administrative Process Act governing development and review of state regulations to study the impacts and costs of all proposed regulations. DEQ developed the administrative record for this rulemaking under this framework, meeting all its statutory obligations. The administrative record upon which the Board is basing its decision is, briefly, as follows.</p>

		<p>Prior to issuing the NOIRA, DEQ prepared and submitted its report, "Virginia Carbon Trading Rule and Regional Greenhouse Gas Initiative (RGGI) Participation Costs and Benefits a Report to the Honorable Glenn Youngkin, Governor" on March 11, 2022. This report provides a study and analysis of impacts and costs, including impacts on air quality. At the NOIRA stage, the Agency Background Document (ABD) explicitly discusses alternatives to the proposal. In the proposed stage ABD summary and response to comments received during the NOIRA stage, DEQ discusses alternatives to the proposal, and references the detailed Office of Regulatory Management Economic Review Form. Moreover, the summary and response to comments analyzes and discusses issues raised by numerous commenters, both in support of and in opposition to the proposal, regarding air pollution, impacts, and costs. Furthermore, staff presentation and Board discussion at the Board meetings taking up this matter are also part of the study and consideration process. Finally, this current ABD and Economic Review Form for the final stage considers all of these issues,</p>
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		<p>including consideration of and response to these very comments.</p> <p>All of this information aside, the Board makes decisions independently from DEQ's recommendations based on its own study and analysis of the record which includes all public comments.</p>
<p>69. NRDC</p>	<p>§ 10.1-1308 A provides, "The regulations shall not promote or encourage any substantial degradation of present air quality in any air basin or region which has an air quality superior to that stipulated in the regulations." The proposed repeal may be reasonably expected to cause a degradation of present air quality in different regions of the state, particularly given the notable decline in carbon, NO<sub>x</sub>, SO<sub>x</sub>, and particulate matter in each of the first two years of the RGGI program. The expected results of repeal are not known, however, because DEQ has failed to model or even consider them. It is incumbent on DEQ to demonstrate that the proposed repeal will not cause a degradation of air quality in any of the air quality regions, or at the very least to model those impacts. DEQ has failed to consider what the "backsliding" impacts to air quality will be, and that failure, in addition to failing under the agency's basic law, renders the proposed regulation arbitrary and capricious. The deficiencies of DEQ's Agency Background Document are presented here.</p> <p>Mandate and Impetus: The agency is arbitrary and capricious in solely relying on economic and energy cost-related rather than on air-related matters, and by stating that the benefits of RGGI have not materialized when in fact the opposite has occurred. Dominion-owned units are only responsible for just two-thirds of the emissions covered by the existing RGGI regulation; moreover, Dominion only serves approximately 68% of Virginia's electric customers. Yet, the agency fails to address why it has omitted from its analysis non-Dominion, RGGI-covered emissions, which amount to a full one-third of state emissions, and any associated costs and benefits related to those non-Dominion emissions. The agency is arbitrary and capricious in relying on RGGI's risk of "contributing to the increased cost of electricity" because increases in retail rates are not being driven by RGGI allowance costs, but by natural gas price increases. The agency failed to examine forward-looking electricity prices: power prices in Virginia are expected to decrease over the next five years, due to clean energy tax credits under IRA. The agency did not assess likely ongoing power prices in Virginia, by taking into account significant energy-sector developments.</p>	<p>It is unclear how departing an optional interstate coalition designed to raise money for certain projects will lead to substantial degradation of air quality.</p> <p>Note that there will be little if any direct impact to state agencies if the program ceases. The agencies do not receive the auction funds--of which they are not the beneficiaries--and there will no longer be any administrative costs to cover.</p> <p>The commenter takes the Agency Background Document to task for not considering various scenarios. That document represents a good faith effort to provide a reasonable picture of the anticipated potential effects of taking this action; it is not up to DEQ to guess what another party might think is a potential outcome or set of facts or a particular level of detail.</p>

	<p>Legal Basis: The agency is arbitrary and capricious in its failure to identify a specific lawful basis for the agency action, other than a facile citation of § 10.1-1308. It does not explain how that general authority is durable in light of subsection E of the same code provision, or in light of the specific provisions of the RGGI Act, which grants the Board no authority to modify or repeal the regulation. The agency is arbitrary, capricious, and facially erroneous in citing as its legal authority its duty to "abate, control, and prohibit air pollution," per § 10.1-1308: the proposed regulation would instead return polluters in Virginia to unfettered carbon pollution (and with it increased co-pollutants like SO<sub>2</sub> and NO<sub>x</sub>). Yet the cited authority, by contrast, solely grants the Board authority to do the opposite: "abate, control, and prohibit air pollution." Regarding the citation of a governor's order as a legal basis for promulgating the proposed regulation, executive orders apply only to executive actions, and do not supersede statutory law. The agency fails to clearly describe the rationale or justification, the specific reasons the regulatory change is essential to protect the health safety or welfare of citizens, and the goals of the regulatory change, and instead merely makes passing reference to public health, safety, and welfare. EO-9 was not composed for the purpose of answering the required questions, EO-9 fails to address the requirements of this section, and EO-9 was not composed by the agency.</p> <p>DEQ cites non-pollution related matters as the proposed regulation's primary advantage, when the agency's central charge is unrelated to economic or commerce impacts, but rather is wholly concerned with abating, controlling, and prohibiting air pollution. Virginia law is clear that energy costs are the province of the SCC, and DEQ is arbitrary and capricious to cite such consumer costs as a primary issue for an air agency to address. The agency fails to include, as disadvantages, air pollution increases; loss of health benefits; loss of flood mitigation and energy efficiency funding; and lower electric bills as a result of energy efficiency improvements funded by the existing regulation.</p> <p>Agencies, Localities, and Entities Particularly Affected: The agency is arbitrary and capricious in its failure to include all "particularly affected" agencies, such as the Virginia Resources Authority, the state treasury, Virginia Energy, and the State Corporation Commission. The agency is failed to include those localities that have applied for or may apply for flood preparedness funding, and failed to include non-carbon emitting generating units and related businesses as "particularly affected" entities.</p> <p>Economic Impact: The agency is arbitrary and capricious in omitting from the impact on DEQ the loss of funding for the agency's own statewide climate change planning and mitigation activities, and failed to include the projected cost</p>	<p>For discussion of legal authority, see response to comment 3.</p> <p>This comment is similar to comments 23 and 27, which take as a given that energy efficiency and resiliency projects in Virginia did not exist until Virginia linked to RGGI-- problems that were immediately solved by RGGI funding that is irreplaceable. Also note that air quality in Virginia has been steadily improving over the last 30 years. Characterizing departure from RGGI as instantly resulting in "unfettered" air pollution and ensuing harms ignores ongoing and upcoming federal controls on GHG, criteria, and toxics pollutants which the state is obligated to meet as a matter of federal law. Note that Virginia has only participated in RGGI since 2021, which makes the effects of departure somewhat less dramatic than otherwise presented.</p>
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	<p>to DHCD and DCR in its loss of funds. The agency spuriously included "energy market transparency" as a benefit to every state agency.</p> <p>Alternatives to Regulation: The agency is arbitrary and capricious in citing a non-authoritative executive order as its rationale for repealing a regulation, and otherwise not providing greater detail.</p> <p>Regulatory Flexibility Analysis: The agency is arbitrary and capricious in its failure to fulfill the requirement of analyzing the alternative regulatory method of a "consignment auction" approach, and in its erroneous citation to the ORM Economic Impact form.</p>	
<p>70. Southern Environmental Law Center (SELC) on behalf of the Association of Energy Conservation Professionals, Wetlands Watch, Appalachian Voices, and Virginia Interfaith Power &amp; Light</p>	<p>Multiple provisions of the CECFPA make clear that Virginia must join RGGI and that the emissions reduction program cannot simply be repealed. Prior to the passage of the Act, the General Assembly had not authorized the Board or DEQ to raise revenue by selling allowances at auction and receiving the proceeds. Thus, in 2019 when the Board finalized an earlier version of the program, that regulation would have allowed Virginia to participate in RGGI without raising revenue. The 2020 Act made important departures from the unimplemented original regulation. Foremost, it specifically requires DEQ to issue and implement the regulation. The Act mandates that DEQ incorporate the provisions of the Act into the Emissions Reduction Program, without any further action by the Board or DEQ--thus removing from DEQ and the Board any discretion about whether to adopt the implementing regulation. This process stands in stark contrast to the process for the 2019 regulation, which the Board promulgated under general discretionary rulemaking authority. The Act also expressly exempts the program from the usual regulatory process under the APA, an exemption the General Assembly would not have included if it intended DEQ and the Board to choose whether or not to pass the regulation. Thus, the law requires DEQ and the Board to promulgate the CO<sub>2</sub> Budget Trading Program.</p> <p>In addition, the General Assembly provided DEQ the authority it had lacked previously: to sell allowances directly, like every other state participating in RGGI. § 10.1-1330(B) states, "The Director is hereby authorized to establish, implement, and manage an auction program to sell allowances into a market-based trading program consistent with the RGGI program and this article." The General Assembly did not simply authorize the allowance sales--it also requires the sales. The very next sentence mandates that the Director of DEQ use this new authority, requiring the Director to sell the allowances in the RGGI auctions: "The Director shall seek to sell 100 percent of all allowances issued each year through the allowance auction." The Act goes on to require that DEQ and other agencies "prepare a joint annual written report describing the Commonwealth's participation in RGGI, the annual</p>	<p>See the response to comment 3 for a discussion of legal authority.</p>

	<p>reduction in greenhouse gas emissions," and the use of revenues collected from RGGI auctions-further confirming the General Assembly's intent for Virginia to join RGGI.</p> <p>The Act is unequivocal. The General Assembly required the issuance of regulation and mandated that Virginia participate in RGGI. Following the law's passage, agency officials did exactly what the law required. DEQ revised the program as required by statute, and Virginia has been participating in RGGI since January 1, 2021. Pursuant to this mandate, Virginia is selling 100% of its allowances in the RGGI auctions and using the proceeds to help Virginians as specified in the statute, while power plant owners and operators are acquiring the necessary allowances to account for their carbon pollution. The VCEA further confirms that participation in RGGI is mandatory through 2030. Certain provisions of the VCEA expressly require the Board to have in place regulations to continue reducing CO<sub>2</sub> emissions during the 2031-2050 timeframe, though the Board has some level of discretion about how to do so. That section of code also provides that, during the period 2031-2050, the Board may use its existing regulations to reduce CO<sub>2</sub> emissions from electric power generating facilities. Through these two statutes, the General Assembly has established a continuous regulatory framework for CO<sub>2</sub> emissions through 2050. Pursuant to the CECFPA, the General Assembly has required Virginia to participate in RGGI at least through 2030. Then, for the 2031 to 2050 time period, the General Assembly has required the Board to continue reducing CO<sub>2</sub> emissions through a regulatory program, including by continuing participation in RGGI or using alternative options. VCEA language referring to an existing regulation confirms the General Assembly's expectation that Virginia would be participating in RGGI at least through 2030.</p> <p>Repealing the regulation would contradict the law. Most evidently, the administration has no authority to repeal a regulatory program that a statute specifically requires to be issued and implemented. And without the program, numerous other statutory provisions will be violated. Virginia will not generate allowances for the Director to sell at auction. The state treasury will be unable to distribute funds in accordance with the statute. The applicable agencies will be unable to report on the "Commonwealth's participation in RGGI" since Virginia will not be a participant in RGGI. Finally, there will be no "existing regulation" for the Board to consider in accordance with its responsibilities under the VCEA for 2031-2050. To do so would also amount to a constitutional violation. The Board may not suspend or ignore the execution of laws, nor invade the General Assembly's legislative power.</p>	
71. SELC	Virginia's program took years to develop over multiple administrations. Recognizing the threat climate change poses to Virginia, in 2016 then-Governor Terence McAuliffe issued an executive order directing the Secretary of Natural	The commenter correctly traces the origins of the CO <sub>2</sub> Budget Trading

	<p>Resources to establish a work group to study and recommend methods for reducing CO<sub>2</sub> emissions from the electric power sector. After almost a year of public engagement, the work group submitted its recommendations to the Governor. Based on those recommendations, Governor McAuliffe issued an executive directive in 2017, which instructed DEQ to develop regulations to abate, control, or limit CO<sub>2</sub> from electric power facilities using market-based mechanisms that allow for the trading of CO<sub>2</sub> allowances through a multi-state trading program. Beginning in mid-2017, DEQ and the Board engaged in a multi-year public regulatory process that included two rounds of public comment and multiple revisions to the proposed trading program. The Board ultimately approved a version of the program in 2019, although the original program's implementation was delayed due to a restriction in the 2019 budget. This original program used a consignment model, whereby DEQ would have distributed Virginia's allowances to existing power plants in proportion to their historical emissions but would not sell those allowances directly at auction.</p> <p>Had this been the end of the story, future administrations could have changed course by promulgating regulations, without involvement of the General Assembly. The original program had been promulgated under the Board's general regulatory authority, so, in theory, the Board could have at that time modified or even repealed the Program under this same general authority. But that is not the end of the story. In 2020, the General Assembly removed the budget restriction and passed the Act, a law solely focused on the CO<sub>2</sub> Budget Trading Program and participation in RGGI. The Act requires Virginia to issue the regulation and participate in RGGI and requires the proceeds from the sale of Virginia's allowances to be used to help low-income families reduce energy bills and localities address recurrent flooding issues. In other words, the General Assembly decided as a matter of law that Virginia would in fact participate in RGGI. The regulation was no longer subject only to the Board's general regulatory authority, but also the specific requirements of the 2020 law. To comply with the requirements of the new law, DEQ revised the existing 2019 program. Recognizing that the program had already gone through extensive public rulemaking, and had already been delayed a year, the General Assembly exempted this revision process from the APA and required DEQ to issue the revised regulation directly. This exemption meant that the revision did not require public notice and comment, nor did it require the Board's approval. DEQ followed the requirements set forth by the General Assembly and issued a revised regulation in August 2020.</p> <p>On December 8, 2021, prior to taking office, then-Governor-elect Glenn Youngkin announced his intention to withdraw Virginia from its participation in RGGI. On January 11, 2022, then-Attorney General Mark Herring</p>	<p>Program regulation, including its genesis as a result of executive directive and order. See the discussion of legal authority in the response to comment 3.</p>
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	<p>issued an official advisory opinion concluding that the Governor may not repeal, through an executive order or other action, the enacted statutes and regulations pertaining to the state's participation in RGGI, or do away with the requirement that electricity producers hold CO<sub>2</sub> allowances that equal the amount of their CO<sub>2</sub> emissions. As the opinion explains, the Constitution of Virginia does not grant the Governor the power to suspend laws, and in fact, it requires that the Governor shall take care that the laws be faithfully executed. In addition, the opinion cites Article I, Section 7 of the Constitution of Virginia, which provides that all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights.</p> <p>On January 15, 2022, the Governor was sworn into office. That same day, he signed EO-9. Rather than attempting to withdraw Virginia from RGGI directly by executive order which according to former Attorney General Herring would violate Virginia's Constitution-the Governor asked the Board to repeal the underlying regulation. Specifically, EO-9 asked the Director of DEQ to develop two repeal tracks for Board approval. The first track involved a proposal to repeal Virginia's program using emergency regulatory authority, and the second track involved initiating a full rulemaking process to make the emergency repeal permanent. EO-9 also requested that DEQ create a report re-evaluating the costs and benefits of participation in RGGI in view of all available data, within 30 days. On March 11, 2022, DEQ provided that report to the Governor, which included a draft proposed emergency regulation and a draft NOIRA for a permanent regulation.</p> <p>Attempts to repeal the underlying law failed in the 2022 General Assembly. Meanwhile, the administration took no action for nearly six months despite the administration's claim that repealing RGGI was so urgent that it warranted emergency regulation. Finally, at the August 31, 2022, Board meeting, Acting Secretary of Natural and Historic Resources Travis Voyles announced that the administration had abandoned the emergency regulatory approach and instead would be moving forward with plans to repeal the regulation through the routine APA process, with the goal of withdrawing Virginia from RGGI by the end of 2023. The administration subsequently published a NOIRA on September 26, 2022, which proposed the regulation repeal. Even though the text of the Act clearly establishes that Virginia must join RGGI, the administration now asserts that the Act merely gave DEQ the discretion to decide whether to participate in RGGI. This argument is based on the portion of § 10.1-1330(B) stating that "[t]he Director is hereby authorized to establish, implement, and manage an auction program to sell allowances," and ignores other portions of the Act and VCEA, which clearly mandate Virginia's participation in RGGI. The administration's interpretation is a nonsensical reading of</p>	
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	<p>the statute that renders multiple provisions of the law meaningless, and reads qualifying language into mandatory requirements where no such qualification exists.</p> <p>The mistaken interpretation also ignores critical context. As Attorney General Jason Miyares recently stated in an official opinion, "The scope of an agency's regulatory authority is determined by taking into 'account the text as well as the context of the underlying statute,' whereby it is viewed it as a 'symmetrical and coherent regulatory scheme.' The purposes underlying the basic law also are to be considered when examining the validity of agency action." The Act refers to the Director being "authorized" to sell allowances because DEQ and the Board did not previously have authority to do so and would need that authority to carry out the remaining provisions of the Act, all of which relate to actions the Director and other state agencies would take once Virginia joined RGGI. The General Assembly was not trying to suggest that the Director had any discretion about whether to participate in RGGI. Not only is the language of the Act clear, but contemporaneous statements from lawmakers and regulators demonstrate a clear understanding and intention that the law itself required DEQ to adopt the regulation so that Virginia would participate in RGGI. Additionally, in December 2022, JCAR held a hearing on this process and officially objected to this regulatory action, thus affirming that the Act mandates RGGI participation.</p> <p>The Governor's flawed interpretation is also diametrically opposed to the prior positions of DEQ, the Board, and the Attorney General's Office. For example, after DEQ issued the regulations establishing the Emissions Reduction Program in 2020, VMA asked the Circuit Court for the City of Richmond to declare the program null and void. VMA argued that DEQ had "the optionality to comply with the Act by joining RGGI, another carbon trading program with an open carbon trading market, or by simply implementing the Original Trading Rule," and that those discretionary decisions were not exempted from administrative process. The trade group also argued that the program was an unconstitutional tax and void due to vagueness. In defending the program, the Attorney General's Office explained repeatedly that the Act did not merely provide DEQ with discretionary authority to run a direct auction program; rather, the Act also mandated that DEQ actually use such authority by selling the allowances at auction. The Circuit Court for the City of Richmond agreed with the Attorney General's Office and denied the challenge in its entirety. Lawmakers, regulators, and the Attorney General's Office have all consistently understood that the law requires Virginia's participation in RGGI. There is simply no reasonable basis for the current administration to take a view that sharply contradicts the law's plain language and the well-established understanding of the law</p>	
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	<p>as set forth by numerous officials and lawmakers, and in official court filings.</p>	
<p>72. SELC</p>	<p>Perhaps the most important benefit of participating in RGGI is that it will help drive reductions in power plant emissions in Virginia, which represent roughly 30% of the CO<sub>2</sub> emissions in the state. According to DEQ, an emission reduction program or combination of programs will be required to meet the state's climate goals of the VCEA and the 2045 net-zero carbon emissions goal. In the absence of any such program, emissions may not reduce sufficiently to achieve these goals. Continued participation in RGGI is vital to reducing emissions in Virginia and ensuring that the state meets its climate goals. Reducing and ultimately eliminating carbon emissions from power plants is critical for helping Virginia avoid the worst impacts of climate change. Unmitigated, it is estimated that sea level rise and coastal flooding will cost the state about \$56B in financial damages and lead to a \$79B decline in economic output by the end of the century. Sea level rise also could place as many as 400,000 Virginia homes and 900 miles of roads in the Hampton Roads area at risk from storm surges, and it would cost hundreds of billions of dollars to replace those homes and roads. There are similar risks for communities in Appalachia, which are experiencing increasingly frequent severe floods, causing significant damage. Climate-related shifts in precipitation and weather are also expected to cause water shortages in roughly half of Virginia's counties, potentially imperiling agriculture, which is Virginia's largest industry. All of these harms are being mitigated by Virginia's participation in RGGI, both by driving down climate changing emissions and by bringing in critical funding for flood planning and projects.</p> <p>Given those long-term needs and goals, it makes sense that the General Assembly would want to ensure that Virginia participated in RGGI. When a state wants to participate in RGGI, it must follow its own state procedures to implement a regulation consistent with RGGI's model rule. The General Assembly directed DEQ to do so, and DEQ complied by adopting the CO<sub>2</sub> Budget Trading Program. The program relies on a basic supply-and-demand mechanism to drive down carbon emissions over time. Power plants may still combust fossil fuels to generate electricity, but for every ton of CO<sub>2</sub> that a plant emits, its owner or operator must hold a carbon allowance. By reducing the supply of allowances each year, the RGGI states will drive down their overall emissions by 30% from 2020-2030. RGGI has been effective in reducing emissions in participant states. As the current administration has acknowledged, "the RGGI region has a long track record of emission reductions since the beginning of the program." The nine states that have participated in RGGI from the outset saw their power plant emissions collectively drop more than 50% between 2009-2020. That net reduction is approximately 90% more than the rest of the U.S. RGGI's market-based approach also significantly improves public</p>	<p>See the response to comment 4 for further discussion on emissions, the response to comment 5 for a discussion of health benefits, and comment 6 for more on revenue/funding.</p> <p>Also note that on-the-books and on-the-way federal requirements will continue to reduce power plant emissions in Virginia, even in the context of current clean air throughout the state. The federal Clean Air Act compels the state to continually improve air quality.</p>

	<p>health by reducing local air pollution. During that same initial decade, RGGI states experienced an estimated \$5.7B in public health benefits due to improved air quality-fewer asthma attacks, premature deaths, and missed days of school and work. On top of that, the economies of RGGI states grew at a faster rate than non-RGGI states during the same period, which shows that RGGI's method of reducing emissions does not impede economic growth. RGGI participation is estimated to have created over \$4B in net economic gains and over 44,000 job years of employment in participating states through 2017. In the decade before joining RGGI, Virginia did not see its power plant emissions decline. According to DEQ's EO 9 Report, between 2010-2020, mass emissions for the power sector remained fairly constant, with no discernable trend. But after Virginia joined RGGI, there has been a clear shift. Since the beginning of 2021, Virginia's power plant emissions have followed the same downward trajectory as other RGGI participants. Virginia's annual total CO<sub>2</sub> emissions from power plants declined by about 5.5M tons/year-from about 32.8M tons in 2020 to about 27.3M tons in 2022-a total decrease of 16.8% over two years. While emissions totals can fluctuate from year to year, the pattern is obvious-a long period of stagnating emissions before Virginia joined RGGI, followed by a continual year-over-year decrease in emissions after it did so. There is every reason to expect that those trends will continue, since RGGI is structured so that the number of available carbon allowances decreases 3% year-over-year, as well as RGGI's long track record of driving down emissions. All of these data clearly indicate that RGGI helps drive emissions reductions in participating states and that Virginia's efforts to reduce emissions would be severely hampered if it left RGGI.</p> <p>Participation in RGGI provides substantial benefits to Virginians and to the state overall. Indeed, Virginians recognize this - the majority of Virginians want to stay in RGGI. Participation in RGGI will help to protect against the worst effects of climate change and reduce the overall costs of responding to extreme weather and sea level rise. Reducing emissions also will result in better health outcomes for Virginians by reducing particulate matter and other air pollutants. Additionally, RGGI auctions are bringing in hundreds of millions of dollars per year to the state for weatherization, flood prevention, and other measures that directly improve the lives of Virginians.</p> <p>Carbon pollution poses a significant threat to Virginians' health, welfare and safety. According to the CDC, "the burning of fossil fuels has resulted in negative impacts to air and water quality and been linked to increased incidence of asthma and cardiovascular disease." Climate change also is leading to "improved survival rates for disease vectors like ticks and mosquitos," resulting in "increased incidences of West Nile virus and Lyme</p>	
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	<p>disease." Being part of RGGI will undoubtedly improve those health outcomes. One study estimated that in the first six years of RGGI's existence, emissions reductions from the program resulted in at least \$5.7B in health benefits. A later study identified an additional \$200+M in children's health benefits from reduced particulate contamination.</p> <p>The sales of allowances at RGGI auctions are also netting significant revenues for Virginia. Along with the other participating RGGI states, Virginia sells the allowances created by its regulatory program in quarterly auctions run by RGGI, Inc. Power plant owners and operators purchase their desired quantity of allowances, and, following the auction, RGGI, Inc. distributes the proceeds to the states. The states then invest the proceeds in worthwhile programs, often energy efficiency and bill savings programs, along with clean and renewable energy investments. RGGI, Inc. is a non-profit organization, whose board of directors is composed of agency heads from each participating state. RGGI, Inc. has no enforcement or regulatory power over a state or a power plant, and no control over a state's emissions program; its role is to administer the quarterly allowance auctions and provide other technical services to participating states.</p> <p>To date, Virginia has participated in nine RGGI auctions and has sold all of the more than 45M allowances it has placed into those auctions, receiving approximately \$590M from those sales. Virtually all of those revenues are being used to respond to critical needs for helping low-income households reduce energy bills and assisting localities across the state with planning for and preventing recurrent flooding. As required by the Act, 50% of the proceeds from the RGGI allowance sales are credited to an account administered by DHCD to support low-income energy efficiency programs. DHCD developed its HIEE funding program to distribute the proceeds to the Weatherization Deferral Repair Program and the Affordable and Special Needs Housing Program. It is also using RGGI proceeds for its ASNH Program, which funds more highly efficient affordable housing units across the state.</p> <p>A recent study estimated that continued participation in RGGI through 2030 would result in between \$1.24-1.64B in energy efficiency funding. That funding alone would support energy efficiency upgrades for up to 130,000 homes, resulting in over 546,000 MWh in annual electricity reductions and \$82M in annual customer bill savings, for an average of \$676 in annual savings per household, in addition to creating and sustaining up to 2,115 new jobs. Continued participation beyond 2030 would result in comparable annual benefits. The Act requires another 45% of RGGI revenues to be placed in the CFPF. To date, DCR has awarded a total of \$97.7M in grants to 98 different projects across all areas of Virginia.</p>	
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	<p>Withdrawing from RGGI would deprive citizens of hundreds of millions of dollars annually toward addressing these important causes. In most cases, RGGI revenues are the sole funding sources for those programs. The administration has suggested that there may be alternative funding mechanisms for these areas if Virginia leaves RGGI. To date, no real substitutes have been identified. The Resilient Virginia Revolving Fund is separate and distinct in key ways from the CFPF. Moreover, the Revolving Fund has yet to issue a single loan or grant, or had its operations outlined, and at present, the fund has no ongoing source of funding. While budget negotiations are still underway, the only funds currently available are the \$25M in seed money redirected from CFPF. Thus if Virginia were to leave RGGI, there would be no consistent source of funding for the vital flood prevention and energy efficiency work currently being funded by RGGI proceeds.</p>	
<p>73. SELC</p>	<p>The entire repeal proposal rests upon a flawed premise. RGGI is not driving increases in electricity bills. Electricity prices began increasing long before Virginia's participation in RGGI. Since Virginia re-regulated its electric utilities in 2007, customers have seen significant increases in electricity rates--increases that far exceed RGGI compliance costs. The SCC laid this fact out in a report issued in September 2022 year showing the factors increasing residential energy bills for customers of Dominion and Appalachian Power Company over the last 15 years. The SCC's figures clearly show that almost the entire increase in electricity costs has come from rate adjustment clauses, which are SCC-approved requests by utilities to recover costs for specific projects or compliance costs. The report also clarifies that these cost increases are predominantly unrelated to RGGI,</p> <p>Although the Agency Background Document attempts to blame RGGI for recent rate increases, according to the SCC, "[f]actors contributing to increased utility costs include inflation, pandemic recovery, supply chain limitations, and high natural gas and other commodity prices, as well as geopolitical events." RGGI was not listed as a contributing factor. Fuel factor costs add over \$35 a month to the average Dominion residential bill, about one-quarter of the total bill. That includes an approximately \$15 monthly increase that Dominion recently applied for. Due specifically to increased fossil fuel costs, Dominion had under-recovered fuel costs by \$1B and sought approval to raise the fuel factor significantly to cover this significant shortfall. Notably, this \$1B shortfall is for a single year, but at Dominion's request, customers will pay it off over three years. Had Dominion opted to collect its under-recovery over a one-year period, as is typical, bills would have been raised significantly more. Moreover, Dominion may seek additional rate increases for the current year if fossil fuel costs remain high, which they are expected to do. This means customers may face additional bill increases due to fossil fuel costs, before they have even paid off the 1-year,</p>	<p>The SCC is responsible for managing utility rates in the state, and has approved the passthrough of RGGI expenses to consumers. No one is arguing that RGGI is the sole source of price increases in Virginia, but it cannot be stated that RGGI is cost-free.</p>

	<p>\$1B under-recovery. Numerous other rate adjustments are driving up customer bills, most of which are also fossil fuel related. Dominion customers pay over \$17/month for riders specifically related to coal or gas facilities. At present, the sole RGGI-related rate adjustment has been zeroed out, though Dominion has recently petitioned to reinstate it. Even if the SCC approves Dominion's request in full, the new Rider RGGI amount (approximately \$4.64/month) would pale in comparison to the fossil fuel-related charges, which total well over \$50/month.</p> <p>This same pattern holds true for customers of Appalachian Power, the other monopoly utility in Virginia. Appalachian Power customers pay \$23/month for fuel factor costs; however, the SCC recently approved the utility's request to raise that amount to more than \$43/month to address recent increases in fuel costs. With that approval, roughly 30% of Appalachian Power residential customer bills would be fossil fuel-related costs, not to mention another \$4.50/month for coal and gas-related operations. By contrast, less than \$4/month is attributable to clean energy or energy efficiency programs. As Appalachian Power itself acknowledges, the best way to reduce customer bills is to encourage renewable energy.</p> <p>While an almost never-ending proliferation of rate adjustment clauses has undoubtedly driven electricity rates up in Virginia, RGGI is not the cause of that increase. As explained previously, without RGGI, Virginia power plant owners failed to reduce emissions from 2010-2020. Had RGGI been in place in Virginia during this time, customers would have been far better protected from the recent rise in fossil fuel costs. Participating RGGI states, for example, saw their emissions drop by 50% between 2009-2020, meaning existing RGGI states were far less reliant on fossil fuels prior to the recent rise in fossil fuel costs. RGGI protects customers from a major driver of rising electricity costs-fossil fuel costs. Additionally, the General Assembly recently passed a utility rate reform package that may mitigate the administration's concerns about the rising costs of electricity bills. Governor Youngkin has expressed his support for the package, particularly the fact that it will lower electricity bills. The package would require Dominion to roll into base rates at least \$350M worth of rate adjustment clauses and to securitize some of its fuel costs. The securitization of fuel costs also could help reduce fuel factor costs, and other portions of the package may lower bills as well. These statutory reforms represent the sorts of changes that can provide direct relief to utility customers, while simultaneously highlighting that RGGI itself is not the cause of high electricity bills. Moreover, though electricity prices have increased, Virginia's average retail electricity prices remain below the national average, even since joining RGGI. The average retail price of electricity across all sectors in Virginia is consistently lower than the national average) over the last five years.</p>	
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	<p>The Agency Background Document states that "Virginians pay on average \$2,323 per year in non-transportation energy costs, which is higher than the national average of \$1,850." The administration refers generally to the U.S. Department of Energy for these numbers but does not examine or explain the reasons for this difference. Are Virginians using more electricity? Are Virginians higher energy bills due to an unfair utility code? Are homes less efficient? Do they rely on electric heat more than other states? Are retail gas prices higher in Virginia than other states? Without understanding the cause, the administration has no basis for its misguided solution: repealing RGGI. Continuing Virginia's participation in RGGI will help lower non-transportation energy costs in two ways: forcing utilities to reduce reliance on fossil fuels that are currently (and likely to continue) causing significant increases in customer electricity costs; and providing funding to vulnerable Virginians to improve home efficiency and lower electricity bills. Moreover, the Agency Background Document is simply wrong in stating that "RGGI operates as a direct tax on households and businesses" in which "all RGGI costs are passed through to the ratepayers as required by state law," with no incentives for the utility to change. Rather, the law permits monopoly utilities to seek recovery of compliance costs, but the utility may recover only those costs the see finds to be necessary to comply with the program, in accordance with the statutory standard. Customers thus are charged only when the utility tries to recover the costs and the SCC finds the costs necessary. The SCC recently exercised that power, denying approximately \$95,000 in 2021 RGGI compliance costs that Appalachian Power had sought to recover. That denial meant that Appalachian Power customers would not be responsible for about one-quarter of the utility's 2021 RGGI costs. The real cause of rising electricity costs is not RGGI; instead, utility bills are high due to fossil fuel costs and myriad anti-customer provisions in Virginia's utility code that predate RGGI. This year, the administration rightfully helped advance meaningful, bipartisan rate reform legislation. We thank the administration for this work and hope these efforts will continue. But none of the problems identified by the administration will be solved by repealing RGGI. Repealing RGGI will remove an important tool that can help protect customers from fossil fuel prices.</p>	
<p>74. University of Virginia (UVA) on behalf of Virginia Clinicians for Climate Action</p>	<p>EO-9 asserts that RGGI operates as a burden on Virginia's households and businesses. Virginia Clinicians strenuously disagrees. RGGI has already succeeded in reducing harmful emissions and providing critical funding to address the Social Determinants of Health among the state's most overburdened communities. Climate change poses an imminent threat to the health of Virginians, and RGGI helps equip Virginia communities with the resources needed to cope with these dangers.</p>	<p>DEQ is well aware of the health and welfare impacts of carbon, criteria, and toxic pollutant emissions. Our dedicated efforts to reduce all forms of air pollution have borne fruit: Virginians are now breathing the cleanest air in 20 years. This is</p>



	<p>The medical literature has documented that climate change is contributing to a range of adverse health impacts in Virginia. From heat-related illnesses and injuries from flooding to the increased spread of infectious diseases, Virginians today are experiencing direct and concrete effects from a changing climate. Further, the scientific literature has unquestionably established the connection between fossil fuel consumption and climate change. Together, the peer-reviewed, scientific and medical literature reveal that the public health impacts of human-induced climate change are here and being experienced by Virginians now.</p> <p>The scientific evidence documents that the impacts of climate change are here. Since the beginning of the twentieth century, temperatures in Virginia have risen more than 0.8°C, and average temperatures in the state are predicted to reach historic highs by the middle of the twenty-first century. As warming continues, extreme heat events are already exacerbating adverse health outcomes for Virginians. Longer and more intense heat waves increase the number of patients presenting with heat-related illnesses, including heat cramps, heatstroke, heat exhaustion, kidney-associated diseases, and asthma. These effects are especially likely in vulnerable populations such as children, outdoor workers, and the elderly. In the U.S., heat waves kill more people than any other weather related disaster, with children and babies at the greatest increased risk of mortality to low income households also face heightened risks because their homes tend to be concentrated in city neighborhoods with a high density of buildings and heat-absorbing surfaces.</p> <p>In Virginia, climate change has also increased the frequency of extreme precipitation events. These incidents of heavy rainfall, combined with sea level rise, lead to a higher likelihood of coastal and inland flooding events. More frequent and intense flooding endangers the health of communities. Recurrent flooding and storm events, for example, have caused water damage to residential properties, which has led to mold growth as waters recede. Exposure to mold and mycotoxins risks nose and throat irritation, immune suppression, and respiratory problems. The aftermath of flood-related property damage often leads to costly home repairs or loss of a family home, which may result in mental health problems.</p> <p>An increase in flooding events linked to climate change also risks harming infrastructure. In some cases, floods may cause failures of drinking water systems and wastewater treatment facilities. When heavy precipitation results in sewer overflow, untreated sewage and other contaminants are dumped into rivers and lakes, causing waterborne illnesses such as salmonellosis, shigellosis, Escherichia coli, and Campylobacter infection. These threats are especially acute for communities like Richmond,</p>	<p>not to say that there is no room for improvement--the federal Clean Air Act requires that air pollution continually improve, and we will continue to meet our obligations under federal law, and continue our downward trend in all air pollutants. In addition to federal law, DEQ is bound by state laws such as VCEA.</p> <p>DEQ is also aware of the consequences of carbon pollution. The issue is not whether or not it is a problem, but as to how best address it. The amount of pollution reduced by RGGI--if any--is not sufficient to justify Virginia's continued participation.</p>
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	<p>which still use combined sewer systems. Additionally, frequent flooding can block off or damage roads, making evacuation more dangerous and disrupting emergency health services like ambulances.</p> <p>Even in the absence of extreme weather, climate change magnifies the daily hazards posed to Virginians. For example, rising temperatures lead to increased pollen counts and earlier, more severe allergy seasons. Research has shown that longer pollen seasons and greater pollen concentrations have major consequences for respiratory health, including increased allergies, asthma, viral infections, and emergency room visits. Warming temperatures linked to climate change are contributing to tick-range expansion and increased transmission of tick-borne illnesses in Virginia. Rising temperatures also increase concentrations of <i>Vibrio vulnificus</i> bacteria in Virginia waters, potentially causing illness among consumers of Virginia's fish and shellfish.</p> <p>Air pollution from fossil fuel combustion, the underlying cause of climate change, also directly harms public health. Burning fossil fuels releases air pollutants such as particulate matter, NO<sub>x</sub>, and ozone. These criteria air pollutants have been strongly linked to increased incidences of asthma and cardiovascular disease, reduced lung function, and a greater number of overall hospitalizations. These respiratory impacts are particularly serious for sensitive groups like children, senior citizens, environmental justice communities, communities of color, and those with preexisting medical conditions.</p> <p>Reducing carbon emissions in order to reduce climate change impacts is imperative to protecting public health. Since its inception in 2009, RGGI has effectively reduced GHG pollution from electricity generating facilities. States participating in the RGGI program have reduced their power plant carbon emissions by nearly 50%, outpacing the rest of the country by 22%. After remaining constant over the last decade, power plant emissions in Virginia have consistently decreased in the first two years of RGGI participation-by 12.5% between 2020-2021 and by nearly 8% between 2021-2022.</p> <p>Decreased emissions result in a range of avoided health effects, with researchers having already begun quantifying the health-related benefits delivered by RGGI. One study estimated that in just six years, participating states realized at least \$5.7B in health benefits from reduced emissions, including the avoidance of 39,000 lost work/school days, a reduction of over 8,200 asthma attacks, and the avoidance of 300-830 excess deaths.</p>	
75. UVA	<p>Alongside the health benefits of climate change mitigation and reduced criteria air pollutants, RGGI-funded programs also help address the direct effects of climate change on public health. By funding programs that support safe,</p>	<p>See the response to comment 6 for a discussion of funding.</p>

	<p>affordable housing and lower electricity costs, RGGI is improving key Social Determinants of Health for the most vulnerable Virginians. When allowances are sold at RGGI auctions, states earn significant revenues from those sales, all while providing a free market-oriented economic incentive to reduce harmful emissions of GHG pollution. To date, Virginia has participated in seven RGGI auctions and as gained over \$452M in revenue through the sale of 40 million allowances. Virtually all of these funds support communities identified for protection in the Virginia Environmental Justice Act. The CECFPA--the very statute that mandated Virginia's participation in RGGI--also determined where RGGI-derived funds would be allocated. The Act requires 50% of Virginia's RGGI proceeds to be directed to low-income energy efficiency programs and 45% to the CFPF. That is, the majority of RGGI revenues are being used to respond to critical needs of Virginians--helping low-income households to weatherize their homes and reduce their energy bills. RGGI's efforts to improve housing conditions and reduce electricity bills through investments in energy-efficient measures undeniably tackles important Social Determinants of Health and advances health outcomes.</p> <p>The WDR, which is entirely funded by RGGI proceeds, serves as a vital source of funding for low-income households that are not covered by the federal Weatherization Assistance Program. The federal program is a longstanding effort focused on assisting low-income Americans with upgrades to reduce their utility bills. However, about one-fifth of qualifying households are left out of the program as a result of a deferral provision. A household may be "deferred" from receiving federal funding for weatherization until repairs are made. But many of these low-income homes never receive necessary repairs and, in turn, remain perpetually ineligible for weatherization. Virginia's WDR Program thus closes a substantial gap in the federal weatherization program--thanks to the availability of RGGI funds. Under the state WDR Program, after repairs are made and the home is weatherization-ready, clients can then receive insulation, air sealing, energy efficient light bulbs, and CO detectors. These types of weatherization and repair programs rely on funding by RGGI to help protect overburdened families from heat and precipitation exposure associated with climate change. Inadequate housing conditions create difficulties in regulating home temperatures and subsequently expose residents to the health risks associated with severe weather. Adding insulation and sealing air leaks protects low-income Virginians from the health hazards of extreme heat and cold.</p> <p>Contrary to EO-9's suggestion that RGGI is a financial burden, a recent study estimates that RGGI-funded low-income energy efficiency programs produce over \$676 in customer bill savings per household per year. Currently,</p>	
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	<p>over 160,000 Virginians are disproportionately exposed to extreme heat-and that situation is anticipated to worsen. By 2050, Virginia is projected to experience six times as many heat-wave days per year as compared to current conditions. The RGGI-funded WDR Program helps qualifying families lower their electricity bills and stay safe during these increasing periods of dangerous heat</p> <p>The second low-income energy efficiency program funded by RGGI, the Affordable and Special Needs Housing Program (ASNH), directs DHCD to fund highly efficient affordable housing units. ASNH funds "assist affordable housing project development teams in completing energy efficiency upgrades that would not have been feasible otherwise." Thus far, DHCD has received over \$29M from RGGI revenues-these resources have funded over 40 high efficiency affordable housing projects and over 2,200 affordable housing units in counties across the state.</p> <p>The energy efficient housing opportunities made possible by Virginia's participation in RGGI help confront the problem of energy insecurity in low-income Virginia communities. In Virginia, the average low-income household spends 7% of their income on those energy costs, while extremely low-income households spend 17% (On average, all Virginia families spend about 2% of their income on utilities.) Because over 579,000 low-income Virginia households live in census tracts with a high or severe energy burden, poor Virginia families are increasingly devoting substantial portions of their income to their electricity bills.</p> <p>Families facing energy insecurity will sacrifice comfort and safety in response to high energy costs. This phenomenon is known as "behavioral energy insecurity" and helps explain why addressing the Social Determinants of Health is so important. During periods of extreme heat, low-income families simply cannot afford to turn the thermostat down. Access (or the lack of access) to potentially life-saving air conditioning underscores the socioeconomic factors that influence climate vulnerability. To the detriment of their wellbeing, under-resourced families also tend to compromise spending money on nutritious meals, health insurance, and medical expenses to meet the more immediate need posed by utility bills. Through the ASNH Program, not only does RGGI reduce housing costs for already disadvantaged families, but it also provides these families with efficient housing units. As a result, fewer families face unjust energy burdens and less household income is funneled into housing and utilities costs. In turn, low-income families are able to dedicate a greater portion of their income to purchase needed medications and healthcare. By addressing high housing and utility costs, RGGI revenue helps tackle another important Social Determinant of Health-economic insecurity.</p>	
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	<p>Another 45% of RGGI funds are distributed to the CFPF for the purpose of assisting localities and their residents affected by recurrent flooding, sea level rise, and flooding. This program allows towns, cities and counties to apply for funds to implement flood prevention and protection projects and studies in areas that are subject to recurrent flooding. Once a locality receives funding, DCR must ensure that no less than 25% of the moneys disbursed are targeted at low-income geographic areas. Notably, RGGI provides the only source of General Assembly funding allocated to flood resilience, offering a critical means for local governments to fund some of their most important infrastructure resiliency projects. Given the high flood risks and vast number of environmental justice communities in the region, CFPF is proving to be an essential resource for those most susceptible to climate-induced flooding. It also protects two important Social Determinants of Health in these high-risk communities: housing conditions and financial insecurity. Flood mitigation projects reduce exposure to mold, waterborne bacteria, and other injuries and infectious diseases caused by damp conditions and stagnant floodwater. CFPF interventions reduce out-of-pocket expenses for low-income families who are continually paying for home repairs due to flood damage.</p> <p>Climate change is here, and its impacts are being felt by Virginians now. Virginia's participation in RGGI has emerged as a vital source of funding for the our most high-risk communities. Proponents of RGGI withdrawal have suggested that other funding sources might be able to replace RGGI as a revenue stream-but the data says otherwise. The estimated \$125M annual revenue from RGGI for energy efficiency programs far exceeds the total funding otherwise available via existing state, federal, and utility programs in the state. Collectively, all of Virginia's other low-income energy efficiency programs provide less than \$55M/year. In other words, RGGI funds provide more than double all other state funds combined. Likewise, RGGI is currently the sole, dedicated source of revenue for statewide flood resilience. If left unchecked, flooding-related damages could cost Virginia over \$79B. Given the inevitable impacts of flooding in coastal Virginia, local governments and coastal communities are relying on long-term funding streams to develop resiliency plans. Withdrawing from RGGI would leave many flood-prone communities without some of the most successful tools available to adapt to climate change.</p>	
<p>76. Virginia Poultry Federation (VPF)</p>	<p>VPF supports the proposal. In a filing before the SCC, Dominion stated that RGGI will cost ratepayers between \$1-1.2B over the next four years. These staggering sums are in addition to increased fuel costs that are inflating energy bills and the anticipated costs of Virginia ratepayers to comply with the VCEA. CO<sub>2</sub> emissions from power generation facilities in Virginia are already on the decline because of the VCEA and other factors unrelated to RGGI. Virginia's participation in RGGI manifests itself as a large</p>	<p>Support for the proposal is appreciated.</p>

	<p>tax on the ratepayers and is not closely connected with CO<sub>2</sub> emissions reductions in the state. While funding for coastal resiliency is important, it should be appropriated by the General Assembly.</p>	
<p>77. Virginia Manufacturers Association (VMA)</p>	<p>The VCEA established the state's climate goals and energy generation policies. The law sets 2045 and 2050 CO<sub>2</sub> emissions goals for Virginia's electricity generation and emissions. To achieve this goal, the VCEA requires fossil fuel electric generating unit shutdowns and mandates renewable electricity generation technologies. The VCEA also establishes an energy efficiency standard to achieve energy efficiency savings annually. The Act accomplished this by mandating electric utility participation in a renewable portfolio standard program with annual goals for the sale of renewable energy. Virginia DOE projects that Virginia is on schedule to meet these goals.</p> <p>The 2022 Virginia Energy Plan shows Virginia's generation mix between 1990-2025. Significant changes are projected, as mandated by the VCEA from 2020-2045. The 2045 generation mix does not include coal or gas-fired generation. Further, the Plan states that prior to joining RGGI, Virginia had reduced its carbon emissions rate by more than 43%. Thus, without RGGI, Virginia's electricity generation mix is undergoing dramatic decarbonization. RGGI by contrast does not mandate a change in generation mix that is necessary to truly impact CO<sub>2</sub> emissions. The Plan also confirms the staggering increases in electricity costs that Virginians should expect to finance the new generation assets (e.g., renewables, battery storage) that must be built to replace retiring fossil fuel units. In 2022, Dominion updated IRP cost estimates which are higher than the estimates from the 2021 IRP. With these data in hand and the VCEA in place, it is unclear what RGGI will accomplish other than to further increase energy costs and potentially result in greater leakage of carbon emissions.</p> <p>The SCC also recognized the necessity and redundancy of RGGI in a recent litigated case: RGGI requirements and the associated costs are in addition to the requirements and associated costs of the VCEA which, requires participation by Dominion and Appalachian Power in renewable portfolio standards programs. It is appropriate to note potential costly duplications that may impede realization of the General Assembly's intent. The VCEA states that the RPS program requirements for Dominion shall be 100% by 2045. Thus, it remains unclear whether the significant cost required for participation in an additional cap-and-trade program are necessary for ratepayers to bear in order to achieve the General Assembly's carbon reduction objectives. VMA concurs with SCC's conclusions regarding redundancy, which are supported by the projections in the Energy Plan. There is no need to have two programs in Virginia to accomplish the same goal.</p>	<p>DEQ agrees that the VCEA is going to be a primary driver of carbon reduction in the state.</p>

<p>78. VMA</p>	<p>RGGI is not based on scientific studies or analysis. Typical Clean Air Act programs set emissions limits in metrics such as tonnage caps or emissions rates which are devised based upon years of scientific study. Environmental regulations are based on health-based risk exposure studies to determine levels for safe exposure to a pollutant. Unlike this process, RGGI is not based on underlying technical studies that support a goal or standard. There are no health-based carbon risk exposure studies to humans underlying RGGI and RGGI goals are not tied to climate change studies. RGGI does not follow a metric that is aligned with positive scientific impacts on Virginia's environment. There is no current federal or state atmospheric measurement of CO<sub>2</sub> concentrations in Virginia. CO<sub>2</sub> is not a criteria pollutant and therefore has no CO<sub>2</sub> NAAQS. There are no air monitors that measure CO<sub>2</sub> concentrations in Virginia. Instead of science, RGGI, Inc. conducts periodic program reviews in which participating states review the regional CO<sub>2</sub> allowance budget for all states. The program review considerations in 2017 were retrospective analyses of CO<sub>2</sub> emissions trends, electricity sector and CO<sub>2</sub> emissions modeling, macroeconomic modeling, customer electricity bills analyses; and stakeholder engagement and comments. Absent from this list is any scientific analysis to identify the appropriate CO<sub>2</sub> reduction threshold to achieve any measurable impact on climate change or to reach a defined endpoint of success.</p> <p>Under RGGI, Virginia utilities have no carbon tonnage limit or CO<sub>2</sub> emissions limitation, only an allocation and a target. State and regional budgets do not function as limits. RGGI also does not regulate ambient emissions of CO<sub>2</sub>. RGGI is not designed to achieve a specific CO<sub>2</sub> reduction goal or measurable environmental result. Even if RGGI achieves CO<sub>2</sub> reductions, there is absolutely no evidence as to whether and how much those reductions will achieve the changes Virginian's seek, such as lowering the sea level rise or impeding global warming. This concern points to the lack of causation between RGGI and any concrete measure of performance. Many factors exist that contribute to sea level rise, global warming, and meteorological changes. Wild fires are a significant contributor to the release of CO<sub>2</sub>. Other factors include out-of-state and international CO<sub>2</sub> emissions, mobile source emissions, and land subsidence. Consequently, it is not surprising that RGGI is not tied to any tangible climate change results due to the complexity of the causation equation.</p> <p>RGGI requires Virginia electric utilities to acquire an allowance for every ton of carbon emitted. That is the extent of RGGI's emissions requirements for Virginia utilities. Consequently, EGUs in Virginia may emit as much CO<sub>2</sub> as they wish as long as they buy an allowance per ton, i.e., pay a tax. Regulated Virginia electric utilities are reimbursed by passing through allowance costs in electricity bills to all customers. In some RGGI states,</p>	<p>Support for the proposal is appreciated. Absent participation in RGGI, emissions of all air pollutants ought to continue to decline due to other, more measurable and enforceable air pollution control programs.</p>
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	<p>electric utilities cannot seek reimbursement for RGGI allowances. Those utilities have the incentive to emit less CO<sub>2</sub> by dispatch of lower carbon emitting resources. This is not true in Virginia.</p> <p>By design, Virginia's application of RGGI does not reduce CO<sub>2</sub> emissions. Virginia EGUs are not constrained by a RGGI limit or tonnage restriction like other Clean Air Act programs, nor do they have an incentive to dispatch lower CO<sub>2</sub> emitting assets due to RGGI. RGGI has no measure of success or objective to meet. Rather, RGGI is a taxation system to collect money. It is not an environmental regulation that sets a standard; a means to achieve it; and a method of measurement for emissions. RGGI has none of these things.</p> <p>RGGI claims CO<sub>2</sub> emissions reductions from MATS, fuel switching, state-specific carbon reduction programs, company-initiated carbon reduction commitments, and reduced economic activity. RGGI, Inc. states, "Since its inception, RGGI emissions have reduced by more than 50%—twice as fast as the nation as a whole." In reality, RGGI takes credit for emissions reductions from other air programs that caused coal units to shut down. MATS caused utility owners to make retirement decisions rather than install controls. Lower CO<sub>2</sub> replacement generation has been built to cover the demand. Other rules have caused EGU fleetwide retirements due to the expense of compliance, such as coal ash requirements and effluent limitation guidelines. It is impossible to parse what CO<sub>2</sub> emission reductions, if any, RGGI has produced on its own. When matching up the country's GHG emissions inventory with EGU coal retirements, a trend can be drawn, although there are many factors that impact emissions, which EPA notes. It is misleading to suggest that RGGI independently caused CO<sub>2</sub> emissions decreases without any data to draw this conclusion.</p> <p>RGGI does not establish a CO<sub>2</sub> emissions limit in Virginia. RGGI has no state tonnage limits. Each RGGI state, however, does have a budget. It is easy to confuse state emissions budgets for emissions caps. A budget is the number of allowances that RGGI puts into the quarterly regional allowance auctions based on estimates of CO<sub>2</sub> emissions from Virginia. Virginia utilities may emit more CO<sub>2</sub> than the Virginia budget. RGGI does not cap utility emissions with a state budget. RGGI has a regional cap for participating states during program review. Like the state budgets, it also does not operate as a cap in practice. Participating states review current emissions trends against the level of the cap and other EGU data – balancing the allowance price range defined by the ECR and CCR working together. The program articulates a general goal to move the regional cap downward, although there is no justification in science for the steepness of that trajectory. Participating states make a policy decision in the program</p>	
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	<p>review. In the past, the regional budget (cap) has been set at a level above the actual CO<sub>2</sub> emissions of EGUs.</p> <p>Virginia has no state tonnage limit on CO<sub>2</sub> emissions. The RGGI regional cap has not historically curtailed emissions. RGGI is fundamentally a costly tax on electricity.</p>	
<p>79. VMA</p>	<p>It has been the policy of the state to avoid the imposition of regulatory requirements on its citizens and businesses that are more restrictive than applicable federal requirements unless a cogent showing of necessity supports a more stringent Virginia rule. This principle is codified at § 10.1-1308 A. VMA is encouraged by this effort to repeal the RGGI rules as it restores the longstanding approaches employed within Virginia regulations. Once repealed, any such future regulation should be deferred to the appropriate time and approach determined by the U.S. Congress.</p> <p>§ 10.1-1308 E also only empowers DEQ to adopt CO<sub>2</sub> emission regulations for covered units. The Virginia Electric Utility Regulation Act defines a covered entity as a provider of an electric service not subject to competition but does not include default service providers. RGGI regulations improperly require sources that are not covered units, to apply for and obtain a DEQ permit. There is no statutory authority to support imposing RGGI applicability and permitting requirements on industrial sources that are not covered entities. Even exempt industrial sources must obtain permits.</p> <p>Virginia Constitution, Article X, Section 7 states that all taxes, licenses, and other revenues of the state be collected by its proper officers and paid into the State Treasury. No money may be paid out of the treasury except in pursuance of appropriations made by law. The power to tax is given only to the General Assembly. No specific delegation to tax has occurred with respect to DEQ or utilities. DEQ and utilities are not proper officers to collect this tax. RGGI tax revenue is also not properly paid out of the State Treasury through the appropriations process. Therefore, the RGGI tax is illegal.</p>	<p>Support for the proposal is appreciated.</p>
<p>80. VMA</p>	<p>All Virginians are paying for the increased costs associated with RGGI. Since regulated utilities are allowed to obtain reimbursement from customers for the cost of RGGI allowances, they are able to get riders approved by the SCC. Previously, the SCC approved RGGI compliance costs to be paid by customers in bills, as a RGGI Rider. On December 14, 2022, a Petition was submitted for approval of a new RGGI Rider by the SCC. If approved, the RGGI Rider will appear on residential and commercial bills as a direct cost to be paid by all electricity users. Yet customers have no control as to which generation assets are dispatched and therefore how much carbon is emitted. But Virginia’s economy must foot the bill. We agree with the observation that, if RGGI decreased CO<sub>2</sub> emissions, the program would be better suited to other RGGI states with</p>	<p>The commenter correctly notes that Virginia is unique in all of the RGGI participant states by virtue of its regulated monopoly status. It is inevitable that the costs of participation must be directly funneled to consumers--that is the way the RGGI program is structured.</p>

	<p>more deregulated markets than in Virginia, in which customers have a choice.</p> <p>RGGI is becoming even more expensive. Auction prices were at an all-time high in the June 1, 2022 auction with a clearing price of \$13.90/ton. Subsequent auctions have remained at elevated prices between \$12.50-13.45. The EIA tracks how RGGI participation costs have been steadily increasing. Dominion projects the RGGI cost to comply is \$723M from 2021 through December 2023. Of that amount, \$373M is the estimated price tag for August 1, 2022-December 31, 2023. For a high-usage, high-load factor industrial customer, the increase could be more than \$80,000 each month, which is the equivalent to 12 full-time production positions with full health benefits, paid time off, and retirement. A \$723M hit to the Virginia economy will have lasting impacts. Specifically, retirees on fixed incomes and those in persistent poverty cannot afford RGGI and other ratepayers cannot afford for their costs to be shifted to them. Unemployed Virginians are also at risk, particularly as the U.S. economy continues to weaken. As such, it is essential to keep energy affordable for all Virginians but especially during sensitive economic times.</p> <p>Energy intensive trade exposed industries are particularly sensitive to taxes and regulations that drive up the price of electricity. As RGGI increases the cost to do business in Virginia, these electricity cost increases result in lost profits or increased manufactured good costs for consumers or both. This cycle further contributes to inflation. Additionally, RGGI costs make it harder for Virginia economic development as it is a regulatory disincentive for new manufacturers to expand into the state. Virginia industry is already saddled with higher costs to do business due to the costs of the VCEA and other environmental compliance programs that increase electricity costs. Virginia facilities must contend with electricity riders to cover these other programs on their regulated-utility bills.</p> <p>Virginia loses control over its own money in several respects. RGGI program reviews dictate key program elements such as state budgets, allowance pricing rules, and other rules that shape the program. These elements translate into dollars to participate in the program (allowance costs). Virginia has only one vote among states.</p>	
<p>81. VMA</p>	<p>RGGI costs are driven substantially higher by third-party investors. Allowances that Virginia utilities must purchase cost more due to investor participation in the market. Private market brokers and entities purchase allowances to sell them at a profit or retire them. In 2022, Virginia received approximately \$295M in revenue from RGGI. However, only a little over \$151M of that total was attributed to entities subject to RGGI, like Dominion and other utilities in the state, that must purchase allowances for compliance. These data show that third-party</p>	<p>DEQ agrees that third-party and administrative costs are additional reasons why RGGI is not the most efficient or effective means of solving the carbon solution problem.</p>

	<p>stakeholders substantially increase the amount of the direct tax that Virginians pay for RGGI participation.</p> <p>RGGI, Inc., charges a fee and Virginia agencies extract an additional 5% for administrative costs. RGGI, Inc. charges states their proportionate share of its operating budget per contract. RGGI, Inc. posted its operating budget for 2023. It identifies approximately \$3.3M in program personnel and expenses to run the program for this year. The 2023 budget is the most expensive since the inception of the program. Virginia has the second largest allowance budget in the program with 22.6% of the total budget. Using this value, Virginia’s bill for RGGI, Inc. for one year is around \$726,000. This payment cumulates over successive years.</p> <p>The CECFPA provides that DEQ shall keep 3% of the revenue from RGGI for administrative duties and programming. DHCD keeps 2% of the revenue for administration and programming. In 2022, Virginia generated \$295M in auction revenue. Five percent of the revenue equates to roughly \$14.75M that Virginia agencies are using for these purposes. Roughly \$14M in sunk costs into RGGI serve no purpose for Virginians but to perpetuate a program that is not a good fit. Virginians will benefit from recouping these fees, which can be spent on in-state needs like coastal resiliency, energy efficiency, and help to underprivileged communities.</p>	
<p>82. VMA</p>	<p>Virginia can address resiliency infrastructure without RGGI. A Resiliency Infrastructure Investment Fund (RIIF), modeled after the Water Quality Improvement Fund (WQIF), and funded with a percentage of each year’s budget surplus, would better address transparent, dedicated, and long-term climate related flood mitigation and resiliency infrastructure. The Virginia Coastal Resilience Master Plan specifically identifies the risks and infrastructure projects needed to mitigate sea level rise in coastal areas. The General Assembly has time to refocus its efforts around RIIF for the 2024 General Assembly and the next state budget. This would also ensure that transparent, dedicated, and long-term funding is appropriated from the Virginia General Fund only to local government. It would also guarantee that all funds are annually reported and traced for performance by the State Treasurer, Auditor of Public Accounts, DEQ, and DPB.</p>	<p>DEQ agrees that other avenues toward funding resiliency infrastructure would be more effective and transparent.</p>
<p>83. Virginia Petroleum and Convenience Marketers Association (VPCMA)</p>	<p>VPCMA shares the view of many of those commenting on the proposed regulation that environmental protection is vital. Our support is not conceptual. For over 30 years the Virginia Petroleum Storage Tank Fund has assessed a per gallon fee on all petroleum sold in the state. Over that time the fund has financed over three quarters of a billion dollars to fund petroleum remediation and DEQ administration across the state. It stands as perhaps the most successful public-private partnership in Virginia history. That success has only been achieved through the collaborative process, and has since provided support with the continued participation from a diverse group of stakeholders.</p>	<p>Support for the proposal is appreciated.</p>

	<p>Many of the comments on this regulation address the support that RGGI reportedly enjoys in public opinion polling. Not one of these comments address the fact that the questions were apparently framed to produce a desired result. Take for example a poll of Virginians released on January 27, 2023 that posed the question: "Virginia is a member of the Regional Greenhouse Gas Initiative (RGGI) which enters the Commonwealth into a carbon cap and trade local flood program with other states in the region to reduce carbon pollution. Program revenues are then used for local flood prevention and energy efficiency. Would you say that Virginia should stay in the Regional Greenhouse Gas Initiative, or should the state leave the program." The question does not identify the source of revenues (higher electric bills paid by Virginia consumers and businesses) nor the fact that instead of "other states in the region" Virginia is the only southern state to mandate RGGI. The fact that 6% of respondents replied that Virginia should stay in RGGI amounts to a self fulfilling prophecy. The public comments demonstrate that many of the interest groups who lobbied for RGGI are now engaged in another campaign, this time to place as many comments as possible on the Town Hall opposing repeal.</p> <p>RGGI was imposed by one party during the period of one party rule in Virginia. VPCMA has a longstanding willingness to work with all parties to address the most vexing public policy issues facing our state. Mandated electrification of the transportation and home comfort sectors must be a part of any future discussion on carbon reduction. We urge repeal and stand willing to work with all parties on an inclusive process that includes examination of the impact carbon reduction will have on in-state businesses, employees, homeowners, and the Transportation Trust Fund.</p>	
<p>84. LS Power</p>	<p>LS Power is an active participant in state and regional carbon programs throughout the U.S. We generally supported Virginia joining RGGI throughout the multi-year timeframe during which the program underwent significant design changes that culminated, regrettably, in a program that does not meet the standards of what a fair and effective carbon trading program should look like.</p> <p>Virginia's energy sector has unique attributes that create certain considerations for adopting a RGGI program. Unlike other RGGI states with competitive electric markets, electricity in Virginia is primarily provided by regulated utilities, cooperatives and municipal utilities that directly pass through the cost of RGGI to their customers. These entities are thus insulated from the economic signals created by a price on carbon. Without exposure to the economic signal, reducing the operation of high carbon emitting generating units is lost. In addition, the ability of regulated utilities to pass through RGGI costs to customers, while competitive generators do not have this</p>	<p>The commenter's concerns are appreciated.</p>

	<p>option, creates the classic unlevel playing field. Virginia is also interconnected to states with a large amount of generation not subject to RGGI compliance. Higher emitting out-of-state generators can sell electricity into Virginia without paying a RGGI cost, displacing in-state generators, even those that emit less carbon. In contrast, all qualified generators in the New England and New York wholesale power grids are subject to RGGI, creating more efficient carbon price signals and avoiding unequal outcomes between generators in different states but in the same power markets. VCEA provides broad incentives for Virginia to increase the adoption of renewables and energy storage, which will lead to reduced carbon emissions.</p> <p>RGGI is intended to cause a redispatch of generation supply by putting a price on carbon emissions such that the higher carbon emitting resources would be impacted the most. However, in Virginia, those economic signals are muted and differentiated because of the mix of utility owned generation and non-utility owned generation. Utility owned generation passes through the cost of carbon onto its customers while non-utility owned generation cannot, creating a significant difference in the economic signal each of the parties experience and effectively removes economic impacts to utility owned generation. This is a significant problem in Virginia's RGGI program what would have to be addressed if RGGI is going to work here.</p> <p>In its support for legislation enabling Virginia to join RGGI, LS Power recommended the state adopt provisions, as other states did when they entered RGGI, to make limited, temporary adjustments to the program for pre-existing agreements that did not contemplate RGGI costs, but this proposal was not adopted. This created inequitable treatment of Virginia-based companies with RGGI compliance obligations and make the state's program an outlier among state RGGI programs. Together with a lack of uniform cost impacts upon Virginia market participants (i.e., some collect RGGI costs directly from ratepayers while others rely on energy markets to recoup RGGI allowance costs), Virginia's RGGI program failed to achieve the basic elements of fair and equitable treatment that represent the foundation of any properly designed market. Instead, the lack of uniformity and basic fairness in the adopted RGGI rule created winners and losers among market participants for no apparent policy rational.</p> <p>Such a market design does not reduce carbon emissions efficiently as a well-structured market with uniform economic application should do. Ideally, the highest carbon emitters would be impacted the most, but due to Virginia's RGGI design that economic signal was lost. Instead, lower emitting units are facing disproportionately greater impacts, a serious design flaw that does not produce the sought after results from a carbon trading market. Policy makers had the opportunity to develop a fair and efficient carbon</p>	
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	<p>trading market, but the existing program is neither and created unequal and disparate impacts. Since the state has not pursued efforts to correct these market design flaws, LS Power supports Virginia’s discontinuation of its current arrangement to participate in RGGI in favor of the development of a more rational, fair and equitable approach to reducing carbon emissions in Virginia.</p>	
<p>85. Community Housing Partners (CHP)</p>	<p>Since the launch of WDR in July 2021, CHP--one of 15 Weatherization Assistance Program providers throughout the state--has had the privilege of serving 504 income-qualifying families with home repairs needed before energy efficiency and weatherization services can be safely and effectively be installed. These families often spend more than 13.9% of their annual income on utility costs compared to 3% for most households. After weatherization services, those families save an average of 27% of their utility costs annually. Without WDR, these families would have been deferred from receiving weatherization service just like the 20-percent of weatherization applicants before the launch of WDR. Now these families are able to receive money- and energy-saving weatherization services in addition to the home repairs, allowing qualifying families-- often elderly--to remain in their home.</p> <p>In just 20 months of the programs existence, CHP has coordinated approximately 1,900 repairs across the homes served using a network of more than 50 trade contractors throughout the state. CHP has more than 250 families in queue for services and receive approximately 15 new cases each week. There is not only a severe need for the WDR program but a real economic opportunity for trade contractors to grow their operations, stimulate their local economies, and serve residents in their service territories more equitably.</p> <p>WDR is only one facet of the energy saving programs funded by RGGI in addition to the increasingly necessary flood resiliency programs funded by RGGI, all while incentivizing reduced carbon emission in Virginia. Please reject the repeal of RGGI, and enable mission-driven organizations like CHP to better serve Virginians.</p>	<p>DEQ agrees that these types of projects are useful and needed; see the response to comment 6 for a discussion of funding options.</p>
<p>86. Sierra Club Virginia Chapter</p>	<p>The proposal would unlawfully repeal regulations that implement legal requirements enacted by the General Assembly and implemented by the Board. The 2020 enactments provide dedicated funding for efficiency and resiliency programs that DEQ concedes are necessary. They also provides financial incentives to encourage utilities and users to switch to less harmful solutions to the generation and consumption needs. DEQ’s assertion that "we disagree" with the statutory requirements is not a legitimate basis for repealing the existing regulations and overriding the law. The law may allow some flexibility for DEQ to choose among carbon pricing systems, but no pricing system other than RGGI has been identified and creating a gap while DEQ looks for one would be unlawful. It cannot lawfully eviscerate applicable laws based on the</p>	<p>See the response to comment 3 for a discussion of legal authority.</p> <p>DEQ agrees that the harms from carbon pollution must be addressed. Solar projects have been steadily increasing in the state for years even in the absence of RGGI participation, and it is unclear if there is any</p>

	<p>current administration’s policy beliefs that conflict with enactments by the General Assembly. Yet, the proposal would overturn the law, eliminating legislation that creates a dedicated funding stream and price incentives to accelerate the shift from climate-damaging fossil fuels to zero-carbon energy sources, zero-fuel-cost energy sources and to energy demand reduction through energy efficiency. DEQ claims to believe that there are better solutions, but it identifies none and proposes none.</p> <p>As Agency Background Document acknowledges, regulatory action to address climate change by reducing carbon emissions and other harmful co-pollutants , and acknowledges the harms to human health and other values from global warming and related air pollution Damages from climate change have gotten worse and the harms are accelerating. The chances of mitigating those growing impacts declines the longer we delay cutting emissions of carbon and other greenhouse gas emissions. This was reaffirmed again this month by the IPCC. The acceleration of harms in the U.S. is illustrated by NOAA’s latest report showing the large increase in the annual number of “billion dollar” weather events.</p> <p>DEQ’s claims about harms to ratepayers from RGGI participation are disingenuous. Comparing the centuries of years of harms and billions of dollars of likely damages to Virginia and its residents from global warming to a possible \$2.36 monthly rate increase is ludicrous. RGGI-funded efficiency programs will directly reduce energy usage and costs for low-income customers; RGGI will provide all customers and the utility incentives and to switch to greater energy efficiency and cleaner fuels; the latest legislation emerging from this year’s GA is expected to significantly reduce the largest utility’s rates for residential customers; EIA reports that the market price for natural gas has fallen by 70% in the past 6 months; shifting to more efficiency and zero-carbon energy will shield customers and utilities from the inevitable gyrations of fossil fuel prices and zero-carbon energy is cheap compared to direct and indirect costs of other fuels.</p> <p>The assertion in EO-9 that the benefits have not materialized is misleading. Virginia only began participation in RGGI in 2021. Changing utilities’ generation and purchases takes time and could not possibly be fully achieved in the first few years. Beyond that, the law requiring participation in a carbon market, has already successfully provided funding of resiliency and efficiency programs, which the Background Document concedes are essential. With RGGI-driven incentives, Virginia has added over 3000 MW of solar capacity since enactment, it has doubled solar energy production from 2020-2021; and SEIA projects growth of 5,757 MW of new solar over the next five years. It takes time for utilities to respond to</p>	<p>connection between RGGI participation and the growth in solar investment. As stated elsewhere, it is more likely that the market is making those decisions. As the commenter states, Virginia has participated in RGGI only since 2021, and a correlation between participation and growth in renewables cannot be made with any certainty.</p>
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	incentives but the goals of the RGGI- related legislation are clearly materializing, as the legislation intended.	
87. Ceres (members with operations in Virginia include Adobe, Ball Corporation, IKEA, JLL, Kaiser Permanente, Lyft, Mars Inc., McDonald’s, Microsoft, Nestlé, Salesforce, Workday, Worthen Industries)	<p>Major businesses in Virginia understand the costs and impacts of energy policy on their operations. They also recognize that climate change poses a material risk to business operations, the livelihood of employees, and the health of Virginia communities--and they have set goals to reduce or eliminate their emissions. That’s why, in March 2020, a coalition of our Virginia based member companies and other large Virginia employers sent a letter in support of Virginia joining RGGI. Then in 2022 and 2023, companies and academic institutions wrote letters to the legislature in support of maintaining and building upon Virginia’s climate legislation, highlighting RGGI as a core component. A recent report found that RGGI states have reduced power sector carbon emissions over 50% since 2008, while the region’s gross domestic product has continued to grow. Companies are motivated to make investments in places where they can continue to access these types of decarbonization policies; the state should not underestimate the impact of Virginia’s climate policies like RGGI to drive private sector investments.</p> <p>Not only is RGGI an important decarbonization tool that can help businesses cut energy costs, avoid the volatility of fuel prices, and stay competitive, the program generates significant revenue for states to invest in critical programs, like energy efficiency and coastal resiliency.</p> <p>Decarbonization is an economic opportunity for Virginia. It is critical that RGGI and Virginia’s other climate and clean energy programs persist to ensure both the state and the business community achieve their shared goals of driving new in-state investment, encouraging innovation, and fostering long-term economic health. Ceres and our business partners hope Virginia will remain in RGGI and continue to provide a hospitable environment for spurring clean energy adoption and expansion.</p>	The commenter's interest in decarbonization is appreciated. The VCEA and a suite of federal programs will help Virginia continue its progress in controlling carbon and other forms of air pollution.

**Detail of Changes Made Since the Previous Stage**

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Put an asterisk next to any substantive changes.*

No changes have been made to the text since the previous stage was published in the Virginia Register of Regulations.

**Detail of All Changes Proposed in this Regulatory Action**



List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *\* Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
<b>Part VII, CO<sub>2</sub> Budget Trading Program and Transition to Repeal</b>			
<b>Article 1, CO<sub>2</sub> Budget Trading Program General Provisions</b>			
9VAC5-140-6010	N/A	Purpose of the regulation is described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6020	N/A	Terms defined.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6030	N/A	Measurements, abbreviations, and acronyms used in the regulation are described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6040	N/A	Entities to which the regulation applies are described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6050	N/A	Standard requirements for permitting, monitoring, recordkeeping, liability, etc., are explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6060	N/A	Computation of time is described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6070	N/A	Severability is established.	Repealed in accordance with the directives of EO-9.
<b>Article 2, CO<sub>2</sub> Authorized Account Representative for CO<sub>2</sub> Budget Sources</b>			
9VAC5-140-6080	N/A	Authorization and responsibilities of the CO <sub>2</sub> authorized account representative are explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6090	N/A	The role of the CO <sub>2</sub> authorized alternate account representative is described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6100	N/A	Changing the CO <sub>2</sub> authorized account representatives and the CO <sub>2</sub> authorized alternate account representative; changes in the owners and operators are delineated.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6110	N/A	The elements of an account certificate of representation are provided.	Repealed in accordance with the directives of EO-9.

9VAC5-140-6120	N/A	Objections concerning the CO <sub>2</sub> authorized account representative are addressed.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6130	N/A	Delegation by CO <sub>2</sub> authorized account representatives and CO <sub>2</sub> authorized alternate account representatives is explained.	Repealed in accordance with the directives of EO-9.
<b>Article 3, Permits</b>			
9VAC5-140-6140	N/A	CO <sub>2</sub> budget permit requirements are provided.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6150	N/A	Submission of CO <sub>2</sub> budget permit applications.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6160	N/A	Information requirements for CO <sub>2</sub> budget permit applications are established.	Repealed in accordance with the directives of EO-9.
<b>Article 4, Compliance Certification</b>			
9VAC5-140-6170	N/A	Compliance certification reports are explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6180	N/A	Actions on compliance certifications are described.	Repealed in accordance with the directives of EO-9.
<b>Article 5, CO<sub>2</sub> Allowance Allocations</b>			
9VAC5-140-6190	N/A	The Virginia CO <sub>2</sub> Budget Trading Program base budgets are listed.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6200	N/A	How to handle undistributed and unsold CO <sub>2</sub> allowances is found in this section.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6210	N/A	Allowance allocations are provided.	Repealed in accordance with the directives of EO-9.
<b>Article 6, CO<sub>2</sub> Allowance Tracking System</b>			
9VAC5-140-6220	N/A	CO <sub>2</sub> allowance tracking system accounts are established.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6230	N/A	Establishment of accounts is described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6240	N/A	The CO <sub>2</sub> allowance tracking system responsibilities of CO <sub>2</sub> authorized account representatives are described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6250	N/A	How the recordation of allowance allocations is to be accomplished.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6260	N/A	Compliance requirements are established.	Repealed in accordance with the directives of EO-9.

9VAC5-140-6270	N/A	Banking requirements are described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6280	N/A	Management of account errors is explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6290	N/A	How to close general accounts.	Repealed in accordance with the directives of EO-9.
<b>Article 7, CO<sub>2</sub> Allowance Transfers</b>			
9VAC5-140-6300	N/A	How to submit CO <sub>2</sub> allowance transfers.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6310	N/A	The recordation of allowance transfers is explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6320	N/A	Notification of allowance transfers is explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6325	N/A	Life-of-the-unit contractual arrangements are described.	Repealed in accordance with the directives of EO-9.
<b>Article 8, Monitoring, Reporting, and Recordkeeping</b>			
9VAC5-140-6330	N/A	General requirements for monitoring, reporting, and recordkeeping.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6340	N/A	The initial certification and recertification procedures for a monitoring system are delineated.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6350	N/A	Out-of-control periods are addressed.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6360	N/A	Notifications are described.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6370	N/A	Recordkeeping and reporting requirements are explained.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6380	N/A	Petitions for approval to apply an alternative to any acid rain requirement are provided.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6390	N/A	Reserved.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6400	N/A	Reserved.	Repealed in accordance with the directives of EO-9.
<b>Article 9, Auction of CO<sub>2</sub> CCR and ECR Allowances</b>			
9VAC5-140-6410	N/A	The purpose of the requirements for allowance auctions is provided.	Repealed in accordance with the directives of EO-9.

9VAC5-140-6420	N/A	General requirements for the auction notice.	Repealed in accordance with the directives of EO-9.
9VAC5-140-6430	N/A	[repealed section]	[already repealed]
Article 10, Program Monitoring and Review <u>Transition</u>			
9VAC5-140-6440	N/A	Program monitoring and review requirements.	Repealed in accordance with the directives of EO-9.
	*9VAC5-140-6445	Transition to repeal.	Affected facilities must place the allowances needed to meet their remaining compliance obligation into their compliance account in COATS as soon as practicable but no later than March 1, 2024, in order that they can be deducted from the account to meet the full control period obligation. This section will be repealed once all affected sources have met their full compliance obligation. Needed in order that the transition away from the program is conducted in such a way as to minimize disruption and enable affected facilities to meet their compliance obligations without introducing uncertainty to the market.