Opportunities to Address Carbon Pollution Under Existing State Law:

Presentation of the UVA
Environmental and Regulatory Law Clinic
to the Executive Order 57 Work Group



About the Clinic:



The Environmental and Regulatory Law Clinic at the University of Virginia School of Law is part of the Law School's Environmental and Land Use Law Program, which combines legal teaching with opportunities for interdisciplinary study, clinical experience and scholarly inquiry.



Our Starting Point:



Executive Order

DEVELOPMENT OF CARBON REDUCTION STRATEGIES FOR ELECTRIC POWER GENERATION FACTURITIES

Part I - Importance of the Initiative

Though our coastal communities may be the first to witness the effects of climate change, Though our coastal communities may be the first to witness the effects of climate change the risks presented by increasingly fierce storms, severe flooding, and other extreme weather than the control of the control o the risks presented by increasingly fierce storms, severe flooding, and other extreme weather events are not confined to a single geographic area. Neither are their causes. The economic and the most do all the contract our critical military. events are not contined to a single geographic area. Neither are their causes. The economic implications are significant, and we must do all we can to protect our critical military.

Our course our course and our furtineess. This only he acting together with implications are significant, and we must do all we can to protect our critical military infrastructure, our ports, our homes, and our businesses. It is only by acting together with intrastructure, our ports, our homes, and our businesses. It is only by acting together with consequence of climatachanea.

One key step forward is to continue with a strategic goal of reducing carbon emissions. One key step forward is to continue with a strategic goal of reducing carbon emissions.

Virginia has already made meaningful strides—between 2005 and 2014, Virginia reduced its

Carbon emissions from notiver of ante by 21 marcant. However, the electric seasons is easily Virginia has already made meaningful strides—between 2003 and 2014. Virginia reduce carbon emissions from power plants by 21 percent. However, the electric sector is still resource and strides and standard and the standard sector is still standard and the standard sector is still sector. carbon emissions from power plants by 21 percent. However, the electric sector is still responsible for approximately 30 percent of the carbon dioxide pollution in the Commonwealth.

Moraotset, electric communication carbon resolution projections in their long-forms. responsible for approximately 30 percent of the carbon dioxide pollution in the Commonweal Moreover, electric companies are including carbon regulation projections in their long-term companies are included to the carbon dioxide pollution in the Commonweal March 1997 and 19 Moreover, electric companies are including carbon regulation projections in their long-term plans. The electric sector is changing rapidly through increasing reliance on low and zero carbon and energy in the city of the city of the continuous and energy in a second of the continuous and energy in a plans. The electric sector is changing rapidly through increasing reliance on low and zero car resources. As such, it is vital that the Commonwealth continue to facilitate and engage in a such conti resources. As such, it is tital that the Commonwealth continue to facultate and engage in a dialogue on carbon reduction methods while simultaneously creating a pathway for clean energy and had simposify. Urosinia's aconomy

Accordingly, by virtue of the authority vested in the Governor under Article V of the Commonwealth I heraby direct the Sacreta Accordingly, by virtue of the authority vested in the Governor under Article V of the Commonwealth, I hereby direct the Secretary Constitution of Virginia and under the laws of the Commonwealth, I nereby direct the of Natural Resources to convene a Work Group, chaired by the Secretary, to study and mathods to radius carforn amissions from elactric notices convenient facilities. of Natural Kesources to convene a Work Group, chaired by the Secretary, to study and recommend methods to reduce carbon emissions from electric power generation facilities. The sectionate and active to reduce carbon emissions from election sectors shall receive input from interested stakeholders.

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



Our Starting Point:

Item 369 to Virginia's 2016-**2018 Budget:**

limits re: preparation or submittal "to the **Environmental Protection** Agency (EPA) a state implementation plan, or other document with respect to the **Environmental Protection** Agency's 'Carbon Pollution **Emission Guidelines for Existing Stationary Sources: Electric Utility Generating** Units,' 80 Fed. Reg. 64,662 (October 23, 2015)."



Executive Order

DEVELOPMENT OF CARBON REDUCTION STRATEGIES FOR ELECTRIC POWER GFNFRATION FACTUTITIES Part I - Importance of the Initiative

Though our coastal communities may be the first to witness the effects of climate change, Though our coastal communities may be the first to witness the effects of climate changes the next confined to a cinola sanoranhic area. Neither are their causes. The aconomic the risks presented by increasingly herce storms, severe thooning, and other extreme weather events are not confined to a single geographic area. Neither are their causes. The economic and the most do all we can to protect our critical military. events are not continued to a single geographic area. Iveriner are their causes. The economic implications are significant, and we must do all we can to protect our critical military.

And Our businesses. It is only by acting togethery. implications are significant, and we must do all we can to protect our critical multiary infrastructure, our ports, our homes, and our businesses. It is only by acting together with initistructure, our poirs, our nomes, and our dusinesses. It is only by acting together with common purpose that the Commonwealth can effectively adapt and stave off the most severe

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Liturature the alactric sector is still Virginia has already made meaningful strides—between 2003 and 2014, Virginia reduce carbon emissions from power plants by 21 percent. However, the electric sector is still resource that the carbon distribution in the Common state of the carbon distribution distribution in the Common state of the carbon distribution distrib caron emissions from power plants by 41 percent. However, the electric sector is simple for approximately 30 percent of the carbon dioxide pollution in the Commonwealth.

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Three Opportunities:









Option 1: Va. Code § 10.1-1300 *et seq*.

E.O. 57: "...the establishment of regulations for the reduction of carbon pollution from existing electric power generation facilities pursuant to existing authority under Virginia Code § 10.1-1300 *et seq.*.."





Option 1: Va. Code § 10.1-1300 *et seq*.

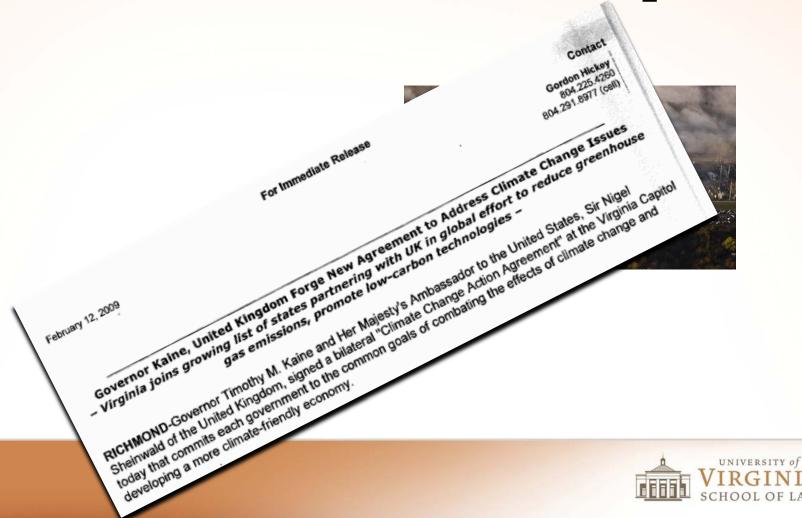
9 VAC 5-85-50 C: "...Beginning January 2, 2011, the pollutant GHGs is subject to regulation if ..."

Va. Code § 10.1-1308: "...any proposed regulation which are more restrictive than applicable federal requirements ... shall be provided to the standing committee of each house of the General Assembly ..."





Option 1: Va. Code § 10.1-1300 *et seq*.



Option 2: Volkswagen Settlement





Option 2:

Volkswagen Settlement

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12
                         NORTHERN DISTRICT OF CALIFORNIA
13
                               SAN FRANCISCO DIVISION
14
15
     IN RE: VOLKSWAGEN "CLEAN
     DIESEL" MARKETING, SALES
     PRACTICES, AND PRODUCTS
                                                Case No: MDL No. 2672 CRB (JSC)
     LIABILITY LITIGATION
17
                                                PARTIAL CONSENT DECREE
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                                                Hon. Charles R. Breyer
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Option 2: Volkswagen Settlement

APPENDIX D-1 - INITIAL ALLOCATION

INITIAL SUBACCOUNTS	INITIA	L ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Virginia	\$	87,589,313.32	3.24%





Option 2: Volkswagen Settlement

APPENDIX D-1 - INITIAL ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Virginia	\$ 87,589,313.32	3.24%















Option 3:

Renewable Energy Pilot Program

COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, NOVEMBER 14, 2013

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Concerning the establishment of a renewable energy pilot program for third party power purchase agreements

CASE NO. PUE-2013-00045

ORDER ESTABLISHING GUIDELINES

On March 14, 2013, the Virginia General Assembly approved Chapter 382 of the Virginia Acts of Assembly ("Chapter 382"), requiring the State Corporation Commission ("Commission") to conduct a renewable energy pilot program for third party power purchase agreements and to establish certain guidelines regarding its implementation. Chapter 382 specifically provides that the Commission must establish guidelines concerning (i) information to be provided in written notices and (ii) procedures for collecting and posting information derived from such notices on the Commission's website. In addition, the Commission may establish general guidelines or rules for its administration of the pilot program.

As set forth in Chapter 382, any party who intends to enter into a power purchase agreement under the pilot program must provide written notice to the Commission and to the pilot utility of the party's intent to enter into such agreement not less than thirty days before the effective date of such agreement. Pursuant to Chapter 382, the Commission must establish guidelines concerning the information to be included in the provision of such written notice. In addition, the Commission must establish guidelines concerning the procedures for aggregating and posting the information included in such written notices on the Commission's website. This information must include the total capacity utilized by pilot projects for which notice has been



See third enactment of Chapter 382.







Option 3:

Renewable Energy Pilot Program

B. Applicability.

These guidelines are applicable to any owner or operator of a solar-powered or windpowered electric generation facility (referred to herein as "owner-operator") located on premises
owned or leased by an eligible customer-generator, as defined in § 56-594 of the Code of
Virginia, within the certificated service territory of an investor-owned electric utility ("Pilot
Utility"). Such a facility shall have a generation capacity of 50 kW to 1 MW, except that if the
eligible customer-generator served by the owner-operator is an entity with tax-exempt status in
accordance with § 501(c)3 of the Internal Revenue Code of 1954, as amended, then such facility
is not limited by the 50 kW minimum, and can qualify with a generation capacity range of 1 kW
to 1 MW. An eligible facility shall provide electricity to only one customer.





Option 3:

Renewable Energy Pilot Program









Virginia Solar Energy Development Authority

Va. Code § 67-1503:

"...provide a central hub for appropriate entities, both public and private, to enter into partnerships that result in solar energy generation projects being developed in the Commonwealth."





Virginia Solar Energy Development Authority







Virginia Solar Energy Development Authority







Our Recommendation:









Executive Order

DEVELOPMENT OF CARBON REDUCTION STRATEGIES FOR ELECTRIC POWER

GENERATION FACILITIES Though our coastal communities may be the first to witness the effects of climate change, Though our coastal communities may be the first to witness the effects of climate change the risks presented by increasingly fierce storms, severe flooding, and other extreme weather are not confined to a cinola gangement area. Naither are their cause. The aconomic the risks presented by increasingly herce storms, severe flooding, and other extreme weather events are not confined to a single geographic area. Neither are their causes. The economic multi-arity and was more do all we can to evide our critical military. events are not confined to a single geographic area. Neither are their causes. The economic and the control of implications are significant, and we must do all we can to protect our critical multiary infrastructure, our ports, our homes, and our businesses. It is only by acting together with infrastructure, our ports, our homes, and our businesses. It is only by acting together with containing the common purpose that the Commonwealth can effectively adapt and stave off the most severe

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