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SENATE BILL NO. 992

Offered January 16, 2020

A BILL to amend and reenact § 10.1-1322.3 of the Code of Virginia, relating to carbon emissions trading; allocation for new facility.

Patron—Spruill

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1322.3 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-1322.3. Emissions trading programs; emissions credits; Board to promulgate regulations.

A. 1. In accordance with § 10.1-1308, the Board may promulgate regulations to provide for emissions trading programs to achieve and maintain the National Ambient Air Quality Standards established by the United States Environmental Protection Agency, under the federal Clean Air Act. The regulations shall create an air emissions banking and trading program for the Commonwealth, to the extent not prohibited by federal law, that results in net air emission reductions, creates an economic incentive for reducing air emissions, and allows for continued economic growth through a program of banking and trading credits or allowances. ~~The regulations~~

2. Regulations promulgated pursuant to this section that are applicable to the electric power industry shall foster competition in the electric power industry, encourage construction of clean, new generating facilities, provide without charge new source set-asides of five percent for the first five plan years and two percent per year thereafter, and provide an initial allocation period of five years.

3. In promulgating ~~such~~ regulations *pursuant to this section* the Board shall consider, but not be limited to, the inclusion of provisions concerning (i) the definition and use of emissions reduction credits or allowances from mobile and stationary sources, (ii) the role of offsets in emissions trading, (iii) interstate or regional emissions trading, (iv) the mechanisms needed to facilitate emissions trading and banking, and (v) the role of emissions allocations in emissions trading. No regulations shall prohibit the direct trading of air emissions credits or allowances between private industries, provided such trades do not adversely impact air quality in Virginia.

B. Any new generation facility that received a Certificate of Public Convenience and Necessity (CPCN) from the State Corporation Commission and a Prevention of Significant Deterioration (PSD) Permit from the Department prior to the effective date of the final carbon trading regulation that was approved by the Board on April 19, 2019, and became effective on June 26, 2019, shall, pursuant to the Conditional Allocation Methodology regulations adopted by the Board, receive an allocation of allowances for the first three years of operation based upon the carbon dioxide compliance limits set forth in such PSD Permit. At the end of the initial three-year period, an accounting true-up against actual emissions for the same three-year control period shall be required for any such new facility. After the initial three-year period, such new facility shall be allocated allowances pursuant to applicable regulations.

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