

MINUTES

**STATE AIR POLLUTION CONTROL BOARD SPECIAL
MEETING VIA ELECTRONIC COMMUNICATIONS
MONDAY, DECEMBER 8, 2003**

**DEPARTMENT OF ENVIRONMENTAL QUALITY OFFICES AT
629 EAST MAIN STREET
RICHMOND, VIRGINIA
And
13901 CROWN COURT
WOODBIDGE, VIRGINIA
And
3019 PETERS CREEK ROAD
ROANOKE, VIRGINIA**

Board Members Present:

Gary Baise - Chairman
Karlynn W. Bucher - Vice-Chairman
Vivian Thomson
Smita Siddhanti
Richard D. Langford

**Department of Environmental Quality
Staff:**

Robert G. Burnley, Director
Richard F. Weeks, Deputy Director
Cindy M. Berndt
John M. Daniel, Jr.
Robert A. Mann
Mary E. Major

Attorney General's Office:

Carl Josephson

- 1) The following minutes summarize activities, which took place at this Board meeting.
- 2) The meeting was convened at 10:10 a.m. on Monday, December 8, 2003. The Chair asked the Board members at the different locations to identify themselves and indicate whether other persons were at their individual locations. After consideration of the single agenda item, the Board and the public were advised that a report on the use of electronic communication meetings would be prepared and submitted on the Board's behalf as required by the Code of Virginia. The meeting was adjourned at 11:45 a.m.

Minute No. 1 - Emissions Trading, Virginia NOx Budget Trading Program (9 VAC 5 Chapter 140, Rev. F02)

Ms. Mary E. Major advised the Board that the regulation establishes a NOx Budget Trading Program as a means of mitigating the interstate transport of ozone and nitrogen oxides. The regulation includes

*Approved minute No. 9
Mar. 29, 2004*

provisions which establish a new source set-aside budget in the amount of 1,855 tons each year for the first five years (2004-2008) and 1,342 tons each year thereafter. She explained that the Appropriations Act includes a provision to enable the auctioning of NOx emission credits. Subsection D of Item 383 of Chapter 1042 of the 2003 Acts of Assembly indicates that the Department of Environmental Quality may auction the NOx emissions credits allocated under the NOx SIP Call as set-asides for new sources. Under the current regulation, distribution of set-aside is limited to newly permitted Virginia industries on a pro-rata basis. Ms. Major informed the Board that emergency regulation amendments had been developed which would provide for the auctioning of the new source set-aside budget and detailed the emergency regulation provisions for the Board.

In addition Ms. Major presented a summary of the comments on the proposed emergency regulation that were received in response to the Board's request for comments and the staff's response.

The Board, after discussion and questions, adopted the emergency regulation, with an effective date of the date the regulation is filed with the Registrar of Regulations. The vote on the motion was 4 to 1 with Ms. Bucher voting no. (Mr. Langford declared that he is an employee of Celanese Acetate LLC which could be affected by the adoption of the emergency regulation, but that he was able to participate in the transaction fairly, objectively and in the public interest. Mr. Baise also declared his interests in Dominion Resources which could be affected by the adoption of the emergency regulation, but that he was able to participate in the transaction fairly, objectively and in the public interest.)

Cindy M. Berndt