

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 334

An Act to amend and reenact § 10.1-1322.3 of the Code of Virginia, relating to the air emissions trading program.

[S 386]

Approved April 8, 2004

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.

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 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. In promulgating such regulations 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.

2. Nothing in this act, however, shall be construed to interfere with, apply to, or affect the auction of Virginia's allocation of nitrogen oxide pollution credits set aside for new sources of electric power generation and other facilities for the years 2004 and 2005 as authorized by Chapter 1042 of the Acts of Assembly of 2003.