



VMA Environmental Letter

INDUSTRY'S ADVOCATE

AUGUST 2008

INSIDE THIS ISSUE:

Legislative Updates	2
Regulatory Updates	4
VMA Outreach	5
Announcements	5
Governor's Environmental Excellence Awards	6
Energy Efficiency and CO ₂	7
Background	7

Issue Overview: Climate Change

Climate change legislation is a reaction to various reports of the International Panel on Climate Change (IPCC). Advocates have used the IPCC estimates, which are based on a computer model that predicts future climate change based upon historic data, as a mandate to take a leap forward in developing legislative remedies.

United States Senators Lieberman (I-CT) and Warner (R-VA) recently introduced Senate Bill 2191, America's Climate Security Act of 2007. Lieberman-Warner, as it is also known, would set limits (caps) on carbon dioxide emissions. Each applicable facility would be given allowances based on past emissions. Companies that emit less carbon dioxide than permitted by their allowances could sell (trade) their excess credits. Lieberman-Warner sets an aggressive and arguably arbitrary target requiring that emissions decline to 15 percent below 2005 levels by 2020.

Most scientists support the notion that the global climate has natural warming and cooling cycles that span thousands of years. But, climate change regulation proponents argue that the IPCC report is definitive proof of the human contribution to climate change, leaving the science "settled." As a result of this revelation, they are demanding that world economies immediately engage in geo-engineering policies that will "reverse" the warming trend caused by human greenhouse gas production. Opponents, however,

point to the historically cyclical nature of climate change and argue that the human contribution to global warming is contextually negligible.

As the scientific debate and political remedies continue to rage, there is consensus that climate change is a global issue. Emissions in China can impact the environment in the United States. Emissions in New York can impact the environment in Virginia. As many people have said, there is no silver bullet solution. However, it is clear to the VMA that global environmental challenges require global solutions.

Despite such a logical conclusion, some states and localities have begun to enact regulations to address global climate change independently. If such a trend is allowed to continue, U.S. environmental policy will become a patchwork quilt of regulation. In an attempt to fill the void of federal regulation, states and localities may harm the economic backbone of their local economies while rendering American manufacturers uncompetitive in a global marketplace without a significant benefit to the global ecological environment. It is scientifically impossible for one state to single-handedly reverse global climate change. Virginia accounts for .47% of global carbon dioxide emissions, less than half of 1%. Virginia industry must advocate for policies grounded in science and fact that consider the necessary equilibrium of environmental protection, scientific rigor and economic development.

A Message from EAC Chairman: Tom Botkins, MWV

The Environmental Affairs Committee (EAC) is the largest committee in the VMA—the most respected trade association in Virginia on matters of environmental regulation. The work of the EAC's membership is critical to the promotion of a science and fact-based approach to environmental policy that considers the necessary balance of environmental protection and industry's ability to compete. Manufacturing is essential to the economic vitality of the Commonwealth. However, we are part of a global marketplace and we must compete with companies around the world.

VMA members have an excellent track record of environmental stewardship. The Governor's Environmental Excellence Awards continue to highlight the environmental achievements of Virginia industry that exceed regulatory mandates. The best way for us to reinforce the advocacy efforts of VMA is to continue to demon-

strate our environmental stewardship to our communities and our Commonwealth.

Governor Tim Kaine has announced that he will be focusing on energy and the environment in 2009. As a result, we anticipate this upcoming General Assembly session will find the VMA team with an abnormally large environmental agenda. However, environmental policies are not limited in their impact to EAC members. The entire manufacturing community must be prepared to engage in these issues. Encourage your colleagues, whether VMA members or not, to become involved.

As a team, we have been successful in promoting environmental policy that considers the necessary balance of environmental protection and industry's ability to compete. With your help, the VMA EAC is poised to carry that momentum into what we anticipate will be one of our most challenging sessions of the Virginia General Assembly.

Thank you for your continued support.

Legislative Updates

The 2008 General Assembly Session considered dozens of important environmental bills. The VMA specifically monitored 24 environmental bills due to their significant impact on Virginia industry. Because of the Environmental Affairs Committee and the Government Affairs Council, the VMA successfully advocated for and against key proposals that directly affected Virginia's ability to remain competitive. Listed below are just a few of the legislative highlights from the 2008 session.

2008 General Assembly Legislative Highlights:

SB 234/ HB 1230: These pieces of legislation called for mandatory reporting of greenhouse gas emissions from those sources that emit more than the "de minimis" amount of greenhouse gases that are already required to report other air emissions. The bills further called on the State Air Pollution Control Board to draft regulations. The VMA led the advocacy effort against these bills. The VMA position rested on the fact that a Federal Omnibus Appropriations bill that passed Congress already directed the EPA to establish a rule regarding Greenhouse Gas Mandatory Reporting. Virginia has long stood by a policy that abstains from the imposition of regulatory requirements that are more stringent than federal requirements. Although this bill passed the Senate, it was left in the House Commerce and Labor Committee. This redundant regulation would have cost industry \$26.5 million in staff and special costs alone and had no impact on Virginia's environment.

SB 423/ HB 1332: Currently, the State Air Pollution Control Board is made up of 5 members selected by the Governor. These pieces of legislation expand the Air Board to a 7 member panel. Provisions of the bills call for the authority of permit issuance and enforcement to be vested in the Director of the Department of Environmental Quality. However, the Board can still issue a decision on a permit. In the instance that the Board de-

nies or amends a permit, the Board would be required to prepare written findings of fact and conclusions of law that guide the basis of their decision. Also, the restrictions on Board memberships have been lifted to allow for greater participation from industry. The VMA worked to ensure that industry was well represented on the Air Board. This legislation reinforces the roll of the Citizen Boards' duty-as a regulator rather than policy maker. The VMA contributed over 120 hours of staff expertise to a coalition effort that resulted in the resolution of all 13 of VMA's objections to the 2007 carryover bill that led to this final legislation; thus, retaining three Citizen Boards-Air, Water and Waste. Governor Tim Kaine announced his appointments to the Air Board this week. The coalition that VMA participated in submitted a slate of six candidates for the Air Board. However, none of the coalition's candidates were appointed.

HB 643: This piece of legislation specifically targeted the manufacturing industry. It called for the compliance with National Ambient Air Quality Standards by December 31, 2008. In essence, this would have required certain manufacturers to build new stacks in order to achieve the dispersion standards. This legislation would have cost the manufacturing industry in Virginia upwards of \$100 million.

SB 50/ SB 49: These bills addressed the issue zoning ordinances. The legislation called for zoning ordinances to be designed within the context of land, water, and air protection from discharges and emissions. This legislation would have set a dangerous precedent for industry. Localities would have been given the authority to act on matters that have traditionally been an exclusive responsibility of DEQ. Further, it would give localities the ability to rezone industry out of their communities. In 2006, the Virginia Supreme Court ruled that Alexandria's zoning ordinance-targeting a local business-invalid. Therefore, the issue was taken up in the General Assembly in an

attempt to circumvent the Va. Supreme Court. Both pieces of legislation passed the Senate and died in Committee in the House.

SB 464/ SB 627: The legislation establishes the Virginia Commission on Energy and Environment. The Commission is tasked with the review of and recommendations for implementation of the Virginia Energy Plan. The Commission is composed of House and Senate members as well as citizens that are supposed to demonstrate expertise in energy issues. The VMA monitored the legislation and expressed concerns that it would be a duplicative commission that may create confusion in policy development. Senator Whipple's bill incorporated SB 627 and passed both houses.

HB 124: This legislation addresses exemptions in machinery and tools taxes. In addition to exemptions for new machinery and tools investments, HB 124 would exempt certified pollution control equipment. The VMA has advocated for these incentives to bolster industrial environmental stewardship and competitiveness. Approximately 20 other states have fully or partially repealed machinery and tools taxation. HB 124 has been continued into the 2009 General Assembly. If passed, it will send a message to industry that the Commonwealth encourages environmental stewardship and values manufacturing investments. This legislation is a product of the Manufacturing Development Commission.

Looking Ahead to the 2009 Session and potential DEQ legislative proposals:

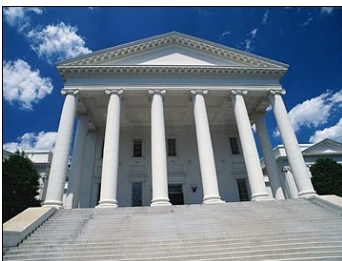
The Governor has stated his focus on energy and the environment for this upcoming legislative session.

In 2009 the VMA intends to support legislation that will exempt pollution control equipment from machinery and tools taxation. The efforts of the Governor's Climate Change Commission could result in legislation that promotes the concept of adaptation. Also, the Virginia Commission on Energy and the Environment, chaired by Sen. Mary Margaret Whipple, could be a source of an array of legislation. The VMA Climate Change Council is preparing a legislative information package that will represent the position of industry on climate change issues.

In addition to the efforts of the Climate Change Council, the VMA submitted a list of legislative interests that reflected our members input on environmental priorities to DEQ, including stormwater management fees and recycling programs.

Specifically, current law allows localities to establish stormwater management programs and fund those programs with stormwater maintenance fees. The law states that local governments "may" issue credits to businesses that have independent stormwater treatment facilities. However, the ambiguity in the wording is an issue that the VMA intends to address in the upcoming session. The law should exempt independent stormwater treatment facilities from local fees.

Additionally, recycling efforts in the Commonwealth have increased annually and the VMA supports the voluntary practice of environmental stewardship and beneficial uses of waste. A recent push in California toward zero-waste is an issue that the VMA is following closely. The expansion of California's solid waste and recycling statutes is probable.



In addition to our focus on membership priorities, we will be monitoring several potential DEQ legislative proposals which are listed below.

- *Certified Stormwater Management Developments and Property.* Code § 58.1-3660.1 allows real estate improvements constructed from permeable material, such as parking lots and driveways, to be classified as a separate class of property that may be exempt from local taxation if they are certified by DEQ as constructed primarily for the purpose of abating pollution by minimizing stormwater runoff. Because DEQ's storm water authority for construction activity was transferred to the Department of Conservation and Recreation in 2004, DEQ is considering an amendment to allow DCR to be the certifying agency.
 - *Social Security Numbers.* DEQ is considering an amendment to Code § 10.1-1400 of the Waste Management Act which requires the use of social security numbers in disclosure statements. DEQ believes that requiring social security number information is unnecessary and wants to allow individuals the option to provide their control numbers issued by the Department of Motor Vehicles instead.
 - *Virginia Environmental Emergency Response Fund (VEERF).* Under Code § 10.1-2502, the DEQ Director has the authority to access the VEERF for up to \$100,000 per occurrence. The Director must obtain the Governor's written approval in order to access the VEERF for any amount over \$100,000. DEQ is considering an amendment to increase that amount to \$250,000 per occurrence to be more reflective of increasing inflation and costs for addressing environmental emergencies.
 - *Construction Assistance Program Administrative Fees.* DEQ is considering an amendment to Code § 62.1-255, the authorizing statutes for the State Revolving Loan Fund to allow DEQ to share in the administrative fees that the Virginia Resource Authority
- collects to maintain the program. DEQ's program could then be partly supported by such fees thereby allowing general fund money to be redistributed to other DEQ programs in need of funding.
- *Consumer Price Index Adjustments for Water Permit Fees.* Code § 62.1-44.15:6 requires that permit fees charged for processing Virginia Pollutant Discharge Elimination System permits, Virginia Pollution Abatement permits, Virginia Water Protection permits, surface water and ground water withdrawal permits reflect the average time and complexity of processing a permit. The last time permit fees were adjusted was 2004. DEQ is considering an amendment to Code § 62.1-44.15:6 to add a provision that would adjust the fees annually by the Consumer Price Index starting in 2009 in order to keep up with inflation.
 - *State Title V Permit Fees.* DEQ is considering an amendment to Code § 10.1-1322 to raise the cap on Title V permit fees for major air sources from 4,000 tons per year per pollutant to 10,000 tons per year per pollutant beginning in 2010. The Clean Air Act requires that state fees be sufficient to run the program. Under the current fee structure, the program will not be able to fully fund itself by 2011. The cap will need to be increased beginning January 1, 2010 because fees are based on the actual emissions from the previous calendar year.

Current Commissions and Committees being monitored by VMA:

- Governor's Climate Change Council
- Virginia Commission on Energy and the Environment
- ACEEE Energy Efficiency Study



Regulatory Updates



From the Desk of Tom Knauer,
VMA Environmental Counsel:

Over the past year VMA's Air Regulation Subcommittee has tracked and actively advocated VMA positions on a number of significant issues. The Subcommittee has met twice with DEQ on implementation of case-by-case boiler MACT requirements in Virginia, most recently to convince DEQ to avoid the use of unfavorable "guidance" and to otherwise minimize any adverse effects of case-by-case boiler MACT implementation on VMA member companies. DEQ has drafted general guidance to implement Virginia's new major NSR reform regulations. The Subcommittee has reviewed this guidance and will continue to monitor DEQ's implementation of the new regulations, *e.g.*, through communications with DEQ and comments on its guidance and policy documents. The Subcommittee has met twice with DEQ to discuss regulation of mercury emissions in Virginia and has asked for the opportunity to review DEQ's draft of its mercury report and recommendations due to the General Assembly in October. Three members of the Subcommittee are participating on a work group formed to advise DEQ on the implementation in Virginia of the national ambient air quality standards for fine particulate matter (PM_{2.5}). Among the important issues under consideration are the applicability and implementation of NSR (PSD and major nonattainment NSR) for both direct and precursor emissions of PM_{2.5}. The Subcommittee's "Biomass Work Group" has met with DEQ to explain the importance and urgency of adopting the biomass exemption into Virginia's CAIR regulations and will meet with DEQ shortly to discuss the recent court decision invalidating the federal CAIR regulations. Through participation on the DEQ's ad hoc advisory group, the Subcommittee has been deeply involved in the development of new minor NSR regulations. These important regulations should come before the Air Board for adoption this fall. The Subcommittee has several members participating on VMA's Climate Change Council to develop proactive approaches to upcoming federal and Virginia greenhouse gas regulation.

From the Desk of Brooks Smith,
VMA Environmental Counsel:



The VMA Water Subcommittee has long served as the voice of industry in the water regulation environment, trusted by members, DEQ, DCR and other stakeholders. Over the past year, our Subcommittee has tackled issues along the entire range of the water quality continuum, including the triennial review of water quality standards, continued efforts to address nutrient overenrichment in the Chesapeake Bay, development of TMDLs, monitoring of PCBs, reuse of wastewater and permitting of stormwater. We have also been involved in state and local efforts on water supply planning, and DEQ's revised regulation of impounding structures. In the near future, we anticipate state action on a number of key proceedings, including finalization of the triennial review, submittal of the next impaired waters report to EPA, reissuance of the stormwater general permit for industrial activities and development of many new TMDLs. We will continue to engage with DEQ management on these and other developments, while maintaining a continuing dialogue with members on water issues of greatest importance to them.

DEQ Mercury Report

A Department of Environmental Quality report on mercury is expected to be finalized in October 2008. The study was commissioned by 2006 General Assembly legislation that asked DEQ to examine actions to control mercury emissions. In 2007 DEQ began to study the implications of mercury air emissions. Areas of investigation include: health risks associated with mercury contaminated fish, local mercury deposition, and a cost analysis. VMA has requested to participate in a draft review of the final report.

The 2009 General Assembly could bring about more mercury related legislation. VMA's participation in the mercury report draft review process will be crucial in establishing a solid proactive posture on mercury issues. The VMA will continue to promote legislation that accounts for the cost of environmental compliance and encourages environmental stewardship.

The 2006 General Assembly passed legislation requiring the removal of mercury switches from certain motor vehicles prior to demolition. Virginia manufacturers supported the legislation, demonstrating commitment to the environment and industry.



VMA Outreach

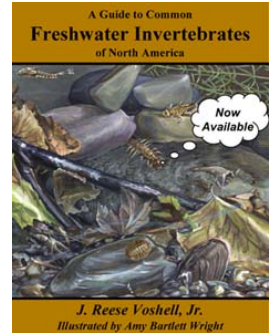
The Virginia Industry Foundation was founded in 2006 with the purpose of promoting environmental stewardship, career education, and scientific information. VMA Outreach is now a program of VIF and an affiliate of the VMA. Outreach promotes the Foundation's goal of environmental stewardship through various media.

VMA Outreach continues its involvement in the Governor's Environmental Excellence Awards. Also, *A Guide to Common Freshwater Invertebrates of North America* written by J. Reese Voshell, Jr. was made possible by VMA Outreach. Through its sponsorship of the Virginia Envirothon, VMA Outreach is encouraging environmental science in high schools statewide. This year's winners of the state competition competed in the Canon Envirothon from July 28 through August 3, 2008 at Northern Arizona University. The VMA would like to congratulate the Fort Defiance High School

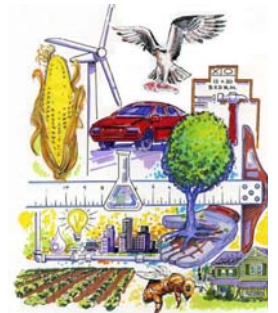
Envirothon team for their outstanding performance. In 2007, Harrison High School won the Virginia Envirothon and went on to place 6th in the national Canon Envirothon.

The VMA Outreach Committee has continued its commitment to environmental education in Virginia's schools. Partnered with several education groups, VMA Outreach lead the way in the development of a curriculum designed to help youth understand scientific and economic principles governing the sustainable management of Virginia's natural resources. The "Green Toolbox Curriculum" is aimed at sixth grade science and structured for teaching SOL 6.9. A copy of the curriculum is available at <http://www.aaec.vt.edu/vma>.

For more information about VMA Outreach, go to www.vmaoutreach.com



ENVIROTHON



Announcements

New VMA Environmental Resource Coming in September

The VMA will launch a new up-to-date Environmental Resource Center website September 17, 2008. The VMA Environmental Resource Center will be a news and resource portal for environmental information important to business and industry. In today's fast-paced business world it's important to remain informed about news and issues affecting your business. The Environmental Resource center puts the information you need to be informed at your fingertips. The VMA Environmental Resource Center will have links to environmental news, climate change information, and it will serve as a portal to the work of the Environmental Affairs Committee. The VMA Environmental Resource Center will also offer unique advertising opportunities for our Members.



VMA Team Recognized

Chambers USA issues national rankings based on market research into the strengths and reputations of U.S. attorneys and law firms. VMA Environmental Counsels, Tom Knauer and Brooks Smith, were recognized for their expertise in environmental law.



Congratulations to Tom and Brooks!

2008 Governor's Environmental Excellence Awards



The Governor's Environmental Excellence Award (GEEA) has been in existence for 13 years and has continued to grow in participation and award categories. The GEEA program was codified as part of the DEQ Environmental Excellence Program in 2005. Through partnerships with DEQ and DCR, this award program encourages excellence in envi-

ronmental management by recognizing achievements that go beyond compliance and promote environmental stewardship. The GEEA was founded by VMA Outreach and it continues to sponsor and administer the program with DEQ.

This year's 50 applicant pool, 20 from business/industry and 30 from government programs and individuals, was judged by two separate judging committees. The applicants were assessed on a variety of criteria including environmental scope, impact, management and protection; community outreach, involvement and access and compliance with environmental regulations. The awards were announced by the Secretary of Natu-

ral Resources L. Preston Bryant, Jr., on April 2nd at the Environment Virginia conference at Virginia Military Institute in Lexington. The awards recognized environmental contributions in three categories: environmental projects, environmental programs, and land conservation.

2008 GEEA Industry Winners will be recognized at the Virginia Industry Environmental Conference on September 17th in Richmond.

For more information or to apply please visit the GEEA website: <http://www.vamanufacturers.com/geea/index.php>

2008 Governor's Environmental Excellence Award

Recipients in Industry

Environmental Programs

Large Business

- Gold (Flag winner): Micron Technology-Manassas
- Gold: MeadWestvaco Corp.-Covington
- Gold: BAE Systems-Norfolk Ship Repair
- Bronze: Lockheed Martin (Manassas)
- Bronze: Cargill Meat Solutions (Dayton)

Small Business

- Bronze: SOZO Clean (Newport News)

Environmental Projects

Large Business

- Gold (Flag winner): Volvo Trucks North America-NRV Plant (Dublin)
- Silver: Canon Virginia (Newport News)
- Silver: Boehringer Ingelheim Chemicals (Petersburg)
- Silver: Columbia Gas of Virginia (Chester)
- Silver: Coors Brewing Company's Shenandoah Facility (Elkton)
- Bronze: Smithfield-North
- Bronze: Smithfield Ham & Products
- Bronze: Philip Morris USA-Park 500

Small Business

- Silver: Hopewell Cogeneration Facility
- Silver: Chesapeake Energy Center Carbon Burn Out Plant

DEQ Citizen Board Appointments

On May 5, 2008, the Virginia Manufacturers Association submitted candidates for consideration of appointment to the DEQ Citizen Boards. In a letter to Katherine Hanley, Secretary of the Commonwealth, Joe Croce stressed the importance of the DEQ Citizen Boards as they "insure that there is transparency in the process that the public and the regulated businesses of Virginia depend upon to protect Virginia's environment."

All five of VMA's nominated candidates would serve a four year term from 2008-2012 if selected.

Nominee	Board
Mr. Tedd Jett	Air Board
Mr. Paul Pitts	Air Board
Mr. Robert Dunn	Water Board
Mr. William Blankenship	Waste Board
Mr. Ed Schneider	Waste Board

NAM and VMA Members Lead the Way in Energy Efficiency and CO₂ Reduction



In 1991 the manufacturing sector in the United States had a carbon intensity of .42 metric tons of carbon dioxide per thousand dollars of gross output (adjusted to year 2000 dollars). However, in 2002 that number had been cut to .36. In both cases the manufacturing sector was better than the national average. As energy prices have continued to rise, manufacturers have responded by becoming more efficient.

Examples include two Virginia companies promoting energy-efficiency and environmental stewardship. Roanoke Cement, a subsidiary of Titan America, earned a 2007 Energy Star award from the U.S. Environmental Protection

Agency. The company embraced energy efficient solutions and in doing so spent more than \$100 million in plant renovations. They replaced five kilns with a single production tower. Not only does the upgrade benefit Roanoke Cement's bottom line, it demonstrates the environmental stewardship that Virginia industry embraces. Dominion Virginia Power recently announced an energy conservation plan that would yield environmental benefits as well as save customers money. The main premise of the plan is the installation of "smart grid" technology to deliver energy more efficiently. The plan also calls for more energy-efficient home construction and

more efficient appliances. Dominion estimates saving 2.6 million megawatt-hours by 2013 under the proposal, which is the equivalent to the electrical use of 216,000 homes.

Finally, the National Association of Manufacturers and the U.S. EPA signed an agreement to encourage U.S. manufacturers to take the ENERGY STAR challenge and improve energy efficiency.

For more information on the Energy Star program visit www.energystar.gov and attend the Virginia Industry Environmental Conference for the session on industrial energy efficiency.

Environmental Affairs Background

The Environmental Letter:

The VMA Environmental Letter is a periodic update on the environment-related activities of the VMA. The growing number of studies, commissions and rulemaking actions have created a need for the VMA to provide its members with a consolidated overview of current environmental activities.

Mission Statement of the VMA Environmental Program:

The VMA monitors and comments on the Department of Environmental Quality's (DEQ) administration of federally-delegated programs. The VMA also monitors the legislative process by offering constructive science-based comments and guidance to the legislators in their development of state specific legislation. The VMA believes that these programs should have an appropriate balance between environmental protection and the cost of compliance imposed on the regulated community that pro-

vides industry with the opportunity to remain globally competitive.

Environmental Program Structure:

The VMA Environmental program is supported by staff and membership. The regulatory program and committees are the responsibility of Joe Croce, VMA Senior Vice President. VMA has five professionals representing industry in legislative and regulatory affairs. The membership's participation in environmental affair is critical to the overall success of VMA's environmental program.

The VMA's largest member committee is the Environmental Affairs Committee. This committee meets twice a year to discuss current and future environmental issues and network with Virginia regulators. The EAC divides its work into two subcommittees: Air and Water. The subcommittees are specifically funded by their members and retain legal counsel to represent the subcommittees on specific regulatory concerns.

Visit www.vamanufacturers.com for more information on:

- VMA Outreach
- The Governors Environmental Excellence Awards
- The Environmental Affairs Committee
- Upcoming Events
- Important Legislation



P.O. Box 412
Richmond, VA 23218-0412



September 16-17, 2008
Marriott Hotel
Downtown Richmond



Individual Registration: \$150
Exhibitor Registration: \$225
Sponsorship Registration: \$500-\$5,000

