



# IN PERSPECTIVE

## Industry's Environmental Newsletter

Summer 2009

### Committee Chairs

#### *Environmental Affairs*

Tom Botkins, MWV

#### *Air Subcommittee*

#### *Water Subcommittee*

## EPA Moves Quickly to Regulate GHG Emissions



*“These two actions at the federal level will have profound effects on Virginia’s manufacturing sector.”*

The start of the summer has brought with it a flurry of environmental activity out of the EPA. In June alone, the public comment period ended on two critical regulatory proposals.

The first resulted from a short directive embedded in the 2008 omnibus appropriations act to avoid true deliberative Congressional debate on the issue of climate change. The directive ordered the EPA to set standards for mandatory reporting of greenhouse gas (GHG) emissions. In the proposed rule, a threshold of 25,000 metric tons was established as the benchmark for reporting. The EPA states that the 25,000 threshold will encompass roughly 85-90% of U.S. emissions. In order to account for vehicle and household

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emissions, the rule establishes a mandate for upstream and downstream reporting. Therefore, refineries would report the emissions potential of the fuel they sell in order to account for car emissions.

The VMA filed comments on behalf of industry calling for the use of sound science and significant revisions to the draft proposal. The mandatory reporting rule allows for governmental regulation of GHG emissions, which could destroy manufacturing competitiveness. This rule is likely the first step toward cap and trade.

The second important regulatory action resulted from the ruling in *Massachusetts v. EPA* that the EPA should determine whether GHG emissions are an endangerment to public health. Industry urged the EPA to allow for Congressional deliberation on the public policy implications of an EPA endangerment finding. If the EPA issues an endangerment finding, GHG emissions would be subject to regulation under the Clean Air Act, which is intended to deal with localized emissions—not global emissions.

These two actions at the federal level will have profound effects on Virginia’s manufacturing sector. The VMA remains committed to promoting the interests of Virginia industry on climate change policies through the Virginia Climate Change Council.



## Croce's Corner

Welcome to our new environmental newsletter In Perspective. We are changing the frequency to bi-annual and delivering more timely content. Our air and water subcommittee counsels Tom Knauer and Brooks Smith will be regular contributors.

This issue highlights significant efforts by the EPA to promote regulation. VMA has successfully overcome efforts of the General Assembly related to carbon and climate change issues in anticipation of this federal regulation. The EPA and Congress both want to own this issue. Either way industry will be challenged.

Finally, we will be changing the Environmental Affairs Committee to the Environmental Health & Safety Affairs Committee. We have found that many companies are combining environmental duties and safety into one department or assigning the role to one person. This committee change will allow everyone the opportunity to receive combined information through a single committee network.

Enjoy the newsletter and please contact me with any comments or suggestions at (804) 643-7489 ext#17 or

## Upcoming Events



### VIEC

September 16-17, 2009  
The Westin Richmond



### Regional Meetings

#### Valley

October 15, 2009

#### Southwest

October 22, 2009

#### Tidewater

November 12, 2009

### Virginia Industry Leadership Forum

December 3-4, 2009  
Charlottesville

## The VMA holds Regional Meetings with DEQ

The VMA and the Virginia Department of Environmental Quality (DEQ) have an excellent relationship. A partnership that began with the Virginia Industry Environmental Conference, evolved to include the facilitation of networking opportunities for Virginia industry with DEQ. The VMA has now held a joint meeting with DEQ in each of the DEQ jurisdictional regions in the Commonwealth.

Each meeting featured a breakfast that allowed attendees to network and catch up. Afterward, DEQ representatives gave a brief summary of regulatory updates. Then the floor was open to Q & A that allowed industry to pose questions directly to DEQ representatives.

The first meeting took place in July 2008 in Roanoke. The pilot meeting received great

feedback; and, the regional meetings quickly outgrew hotel conference rooms. Later meetings took place at a member company's plant. This gave our members an opportunity to showcase their facilities to DEQ employees and industry colleagues.

In addition to the time spent by staff of both the VMA and DEQ to organize the meetings, generous sponsorships made them financially viable. Breakfast sponsors were given time to present their companies and services to Virginia manufacturers.

The VMA and DEQ have begun a second round of meetings. We hope that these regional meetings will become an annual event.

## Governor Launches New Green Initiative

In December 2008, Governor Tim Kaine launched an executive program to focus on energy and the environment in the Commonwealth called “Renew Virginia.” The initiative consists of a year-long dedication to legislative and administrative actions that promote renewable energy, green jobs, and environmental preservation.

To facilitate the development of renewable energy in the Commonwealth, the General Assembly approved an increase in the renewable portfolio standard to 15% by 2025. Also, the Governor has established the Interagency Task Force for Energy Project Recruitment. Through this task force, the Virginia Economic Development Partnership and Secretary of Commerce and Trade Patrick Gottschalk will recruit renewable energy—related businesses to Virginia. By expanding renewable energy in the Commonwealth, the “Renew Virginia” initiative aims to create green jobs. Governor Kaine announced, “Our goal is to position the Commonwealth as a leader in alternative energy generation, energy conservation, and research and development. By developing a green energy industry here, we will not only move towards a more environmentally responsible approach to addressing our growing energy needs, but we will also help stimulate



Virginia's economy."

“Renew Virginia” is focused on preserving the environment.

Through Chesapeake Bay clean-up and the Governor’s land conservation goal of 400,000 acres, “Renew Virginia” aims to benefit the Commonwealth’s environment.

Also, Governor Kaine recently signed Executive Order 82. This order seeks to demonstrate the government’s leadership in environmental stewardship.

Governor Kaine set aside money to ensure that government buildings are energy efficient to demonstrate government’s role in environmental protection. In addition to infrastructure changes, the executive order aims to decrease state employee travel and commuting. The executive order also decreases the

amount of government’s disposable waste by banning agencies from purchasing items like bottled water. The VMA commends the state government’s effort to emulate the energy efficient practices and environmental stewardship that characterize Virginia industry.



## The New Workforce: Green Jobs

Commentary by Spencer Mobley

It seems that every environmental policy pitch requires a promise of job creation. In the current economy of rising unemployment, declining orders, and dwindling consumer confidence, it is important to discuss a policy’s potential impact on the American people.

*Eco-Jobs. Green Laborer. Biocentric Employment.* These terms lost the political rhetoric lottery, resigned to await a new fad without a name. Instead, politicians chose “green jobs” to rebrand the workforce in a “new” environmentally conscious society. But legislators should not simply sign onto the idea with a trendy name. Instead they need to step back and ask—*what is a green job?*

In the world of optimism, each environmental policy is creating green jobs. But what is missing is how the policies are affecting so-called “blue collar” jobs. The

reality is that green jobs are blue collar jobs. In fact many current blue collar jobs could be reclassified as “green jobs,” including construction workers, chemical engineers, machinists, and even lawyers.

In the rhetorical promises of job creation, it’s politically convenient to overlook the net job impact. The truth is that Virginia manufacturers have supplied green jobs for decades. By distorting the truth about green jobs, legislators are able to pass laws that inflict heavy burdens on the drivers of the American economy, real green job employer, that could result in the loss of these jobs.

In reality, reckless environmental policies ignore the chemical engineer, machinist, and welder. The best way to create green jobs is to consider the impact of legislation on Virginia industry. Manufacturing in Virginia is a green job. Virginia industry is leading the way in environmental stewardship.

## VMA Air Regulation Subcommittee Update

Thomas E. 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. In October of last year, DEQ released its report to the General Assembly on mercury emissions and mercury in Virginia's environment. I believe it's fair to characterize the report in general as showing that alarmist cries that Virginia industry is poisoning the environment of the Commonwealth with mercury are completely unfounded. The study showed that concentrations of mercury in the environment in Virginia do not pose a significant health threat and much of the mercury that does occur in Virginia comes from emission sources outside Virginia. Indeed, much of the mercury in Virginia's environment comes from emission sources in other countries, *e.g.*, China.

During the past year, DEQ concluded the initial portion of another study of "air toxics." DEQ monitored the ambient air concentrations in the Hopewell area of several hazardous air pollutants commonly found in urban areas. This study showed two substances – formaldehyde and acrolein – at concentrations above screening levels that trigger a review of possible health concerns. However, both substances were found at concentrations similar to those found in urban areas across the country. The Subcommittee will continue to track this study as DEQ conducts a more detailed health risk analysis for these two substances.

On the regulatory front, the Subcommittee successfully worked with DEQ to get Virginia's air regulations amended to include the federal "biomass exemption" into Virginia's CAIR regulations. This is important for Virginia industries that burn biomass, a renewable fuel, for energy production. The Subcommittee also advocated that the Air Pollution Control Board deny a petition to amend Virginia's air regulations to reduce allowable opacity from 20% to 10%. Finally, the Subcommittee is actively tracking Virginia's implementation of the new national ambient air quality standards for ozone and fine particulate matter. Implementation of these new NAAQS may profoundly affect manufacturing operations in Virginia in the near future.

## Lisa Jackson Begins Duties as EPA Administrator

As the President of the United States, Barack Obama has the daunting task of staffing the executive agencies. New administrators must be nominated by the President and then confirmed by the Senate. Lisa Jackson, President Obama's nominee, was confirmed by the Senate on January 23, 2009. A former New Jersey Commissioner of Environmental Protection, Jackson is the first African-American to hold the office of EPA Administrator.



Jackson has declared that science will be the cornerstone of EPA actions during her tenure. Her top priorities are: reducing greenhouse gas (GHG) emissions, improving air quality, managing chemical risks, protecting America's water, and cleaning up hazardous waste sites.

Since assuming her role as administrator, Jackson has moved quickly to address her priorities. In the arena of greenhouse gas reductions, she has ordered the EPA to consider California's request for more stringent GHG regulations on cars. Also, she has moved forward with the proposed endangerment finding for carbon dioxide and overseen the rulemaking process to require mandatory reporting of GHG emissions.

The VMA is encouraged that Administrator Jackson is dedicated to science-based environmental policies. However, recent regulatory actions by the EPA appear to be lacking a firm scientific grounding. The proposed mandatory reporting rule is based on a statistical calculation on coverage, rather than environmental science.

# Updates

## Stormwater Regulatory Update

Brooks Smith, VMA Environmental Counsel



Stormwater is one of the leading environmental issues in Virginia and across the country. Management of stormwater is complicated by both science and law. Storm events are inherently unpredictable. The level of pollutants in stormwater varies widely. And in some cases, those pollutants originate outside of a plant site (for example, through run-off from a neighboring site or even from air deposition). Legally, only certain stormwater sources are required to obtain permits and control their discharges. In some watersheds, these sources comprise only a small portion of the problem, but are forced to bear the brunt of the regulatory controls.

These complications are exacerbated in Virginia because two agencies are responsible for implementing different pieces of the stormwater management program. The Department of Environmental Quality oversees permitting for industrial stormwater dischargers, and the Department of Conservation and Recreation oversees permitting for construction dischargers, as well as municipal separate storm sewers. While most VMA members are subject to industrial stormwater permitting requirements, some are also subject to construction permitting (for example, through plant expansions, renovations or new site development).

Recently, VMA has commented on proposed rules from DEQ and DCR to reissue the VPDES general permits for industrial and construction activity. Later this summer, VMA also expects to comment on DCR's proposed substantive rules for construction.

In every case, the rules are becoming more stringent, due to both changes in Washington and intense advocacy from environmental groups, who apparently will not be satisfied until all industrial permits come with numeric water quality-based limits and all construction permits come with post-construction land use controls.

We will continue to fight very hard for rules that are fair, reasonable and grounded in sound science. We will also fight for equity among sources, so that currently unregulated sites bear their fair share.



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Learn.  
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**Register Now**

September 16-17, 2009  
The Westin Richmond  
[www.vamanufacturers.com/environment](http://www.vamanufacturers.com/environment)

# Legislative Updates

The 2009 Session of the Virginia General Assembly convened on January 14<sup>th</sup> and adjourned February 28<sup>th</sup>. In that short 45-day session, members of the General Assembly considered 2,577 bills. Of those bills, the VMA staff managed 243, roughly 10 percent. There continues to be a growing number of environmental bills, a total of 37 this session. The effectiveness of VMA's legislative efforts is a testament to the hard work of the Environmental Affairs Committee, Governmental Affairs Council, and VMA staff. More information about all of VMA's General Assembly efforts can be found in the 2009 General Assembly Wrap-Up Report (forthcoming). Looking forward to next session, we anticipate a continued push for environmental legislation. However, the Governor's race and House of Delegates elections will ultimately shape the type of legislation that we see. Below are several key environmental bills that the VMA handled this session.

## HB 2084

A continuance of our efforts in the last legislative session, HB 2084 exempts certain pollution control equipment and facilities from local property taxes. Prior to the passage of this legislation, there were approximately 20 other states that fully or partially repealed machinery and tools taxation. As our members know, machinery and tools tax is levied at the local level. While some localities had previously exempted pollution control equipment, there were many counties that did not. The result was an inconsistent message that industry should install more pollution control equipment, yet have to be subject to M&T tax. Now that is no longer an option. Delegate Purkey's bill sends a clear message to Virginia industry that the Commonwealth encourages environmental stewardship and values manufacturing investments.

## SB 982

Many Virginia manufacturing facilities implement best practices for stormwater management. Under the previous version of the law, localities had the option of providing stormwater management charge waivers. However, there were some localities that did not waive charges for manu-

facturers in their area that use best management practice. Senate bill 982, patroned by Senator Frank Wagner, was deemed a VMA priority bill due to the implications of the language in the current code. The passage of SB 982 means that localities to provide full or partial waivers for plants with stormwater management facilities. The VMA argued that it is in the best interests of the Commonwealth to maintain a vibrant industrial base. Taxes that punish environmental stewardship send the wrong message to Virginia manufacturers.

## SB 1145/HB 2202

These pieces of legislation called for mandatory reporting of greenhouse gas emissions from sources that emit more than the "de minimis" amount of that are already required to report other air emissions. The VMA advocated strongly against these bills. If passed, mandatory reporting would have cost industry \$26.5 million in staff and special costs alone and had no impact on Virginia's environment. Virginia has a history of abstaining from the imposition regulations that are more stringent than federal requirements. This summer's announcement by the EPA concerning mandatory reporting cited the 10,000 tpy threshold as being overly broad. Greenhouse gas emissions are not a localized issue, their global scope demands that the issue should be handled at the national level.

## Looking ahead 2010 General Assembly

Because this year is an important election year with a number of policy implications for Virginia, it is unclear what the new administration's environmental priorities will be when they take office. Many groups are awaiting the results of the House of Delegates elections and the gubernatorial race to shape their legislative proposals. The VMA has reached out to both candidates for Governor. While other organizations follow the political winds to set legislative priorities, the VMA is committed to ensuring that environmental regulations are based on sound science and balance the economic implications with environmental benefit regardless of the party in power.

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## *Environmental Affairs Background*

### **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 provides 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.



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