

Dennis H. Treacy, David A. Johnson - New Leadership for Virginia DEQ

The new acting director of the Virginia Department of Environmental Quality (DEQ) is no stranger to governmental affairs. Dennis H. Treacy comes to the DEQ from Browning-Ferris Industries, where he was in charge of governmental affairs for the Virginia, Maryland, and Delaware operations.

Treacy has worn various government hats since his law school days at Lewis and Clark College, including those of advisor to the director for regulatory and policy issues at the West Virginia Department of Natural Resources and assistant attorney general in the Environmental and Energy Division of the West Virginia Attorney General's Office. Also on Treacy's resume is his service in the Natural Resources Section of the Virginia

Attorney General's Office as lead counsel for DEQ's Water and Waste Divisions from 1990 to 1995.

DEQ employees have expressed support for Governor Gilmore's appointment of Treacy as their new director, and Treacy is regarded highly by the regulated community as well as environmental groups.

Joining Treacy as Chief Deputy of the DEQ is David A. Johnson, who brings to the DEQ his environmental engineering expertise and his experience assisting the governor with environmental policy issues. Johnson, who, like Treacy, is very well-respected, joins the DEQ from Cummins-Wagner Company, Inc. in Richmond, where he has worked as a sales engineer since 1987.

OSHA's CCP Meets Temporary Roadblock

The Occupational Safety & Health Administration's (OSHA) Cooperative Compliance Program (CCP) has been put on hold temporarily by order of the D.C. Court of Appeals in response to the recent suit filed by the U.S. Chamber of Commerce. Charles Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, asserted in a press release on February 27th that "the Court's ruling on February 17, 1998, was not based on the merits of the case, but was instead a *temporary* ruling until the issues could be fully considered." OSHA has resumed traditional enforcement operations for the next few months, while awaiting the final ruling on CCP. (See page 3 for OSHA's Alternative Plan)

Regulators are experiencing quite a bit of frustration in light of the judicial challenge to CCP. According to Jeffress, over 10,000 employers had joined CCP prior to the Court's ruling, and many have since **expressed the desire to continue in their cooperative efforts** with OSHA to develop and implement effective safety and health programs. Charles Jeffress and OSHA fully believe

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Phase II of EPA's Storm Water Program to Impact Smaller Construction Projects

The Environmental Protection Agency (EPA) has proposed Phase II of the National Pollutant Discharge Elimination System (NPDES) storm water program, adding small municipal separate storm sewer systems (MS4s) and *all construction sites larger than one acre* to the list of storm water sources to be covered under the regulation. The proposal also grants states the authority to require certain construction sites less than one acre to obtain permits and control storm water runoff. Minimum requirements for storm water management programs are as follows:

- Public education and outreach
- Public involvement
- Illicit discharge detection and elimination
- Construction site runoff control
- Post-construction storm water management in new development and redevelopment
- Pollution prevention and good housekeeping at municipal operations

The EPA aims to issue the final rule next March.

Company Size Not a Factor for RMP Compliance

The applicability of EPA's Risk Management Program (RMP) under the Clean Air Act, Section 112(r) is determined not by company size, but by the type and quantity of regulated substances used by the company. Therefore, large and small companies alike can be affected by the rule. Some regulated chemicals commonly used by small businesses include chlorine, ammonia, and propane. Exceeding 2,500 lbs. of chlorine and 10,000 lbs. of both ammonia and propane requires implementation of the RMP.

Basically, all companies using regulated substances which exceed their corresponding threshold quantities must comply with the rule, which became effective June 20, 1996. In addition, the deadline for developing and implementing the Risk Management Program and submitting the Risk Management Plan is June 21, 1999.

For more information on the Clean Air Act, Section 112(r), see "Prevention of Accidental Releases - A Brief Overview of the New Clean Air Act Rule," EI Alert, Vol. 6, No. 6. Both the EI Alert and a comprehensive list of regulated substances and their corresponding threshold quantities can be found on the Web at www.ei1.com. For further assistance with RMP compliance, please contact EI, Inc. at 1-800-717-3472.

Virginia's 1998 Water Quality Report

Virginia's 1998 water quality report, which covers the findings of the state's water monitoring activities conducted over approximately 17,000 miles of rivers and streams from 1992 to 1997, has been submitted to the EPA. The report lists all rivers and streams which fail to meet water quality standards, thus identifying 2,166 stream miles or 14% of Virginia's monitored waters.

While the majority of Virginia's waters have been shown to meet water quality standards, many rivers and streams barely made the cut. In addition to the state's 240 impaired stream and river segments, the Virginia Department of Health has concluded that the quality of 262 other water segments warrants restrictions on shellfish harvesting. Furthermore, the DEQ expects 224 water bodies to fall below standard unless more stringent permits are issued for the wastewater treatment plants discharging to these waters. The report also shows 1,567 additional stream miles to be threatened.

Three major changes in quality assessment protocol, two of which were based on guidance from EPA, have resulted in more accurate findings in the 1998 report as compared to the previous 1996 report. These changes are as follows:

- An increase in the assessment period from two to five years;
- A decrease in the number of stream miles tested by each monitoring station;
- Mandatory monitoring of those waters covered by Health Department fish consumption advisories and shellfish restrictions as required by Virginia's Water Quality Monitoring, Information and Restoration Act.

These protocol changes have been cited as the primary reason for what appears to be an increase in the quantity of impaired waters by 700 stream miles since 1996. The higher numbers in the 1998 report simply present a more accurate picture of the state's water quality rather than an actual increase in the number of polluted waters. The enhanced monitoring is enabling better targeting of the sources of water pollution problems, and the DEQ and the Department of Conservation and Recreation are working to correct these problems.

Ozone Back in Richmond Forecast

Revisions in the federal air quality standards, which have made the ozone rule more stringent, are in place, and the DEQ has resumed its daily air quality forecasts for the Richmond area, including Richmond, Colonial Heights, Hopewell, Chesterfield County, Hanover County, Henrico County and part of Charles City County. The DEQ will issue the ozone forecasts by 2 p.m. on weekdays to local news groups and other organizations. The daily ozone forecasts may also be found on the DEQ web site at <http://www.deq.state.va.us>.

HAZCOM Standard Now User-Friendly

OSHA has recently released a directive that clarifies its **most frequently cited regulation**, the hazard communication (HAZCOM) standard. The directive makes compliance with the HAZCOM standard easier for employers, which allows for better protection of the 32 million employees covered under the regulation. The standard requires employers to maintain a comprehensive program which keeps workers informed about dangerous chemicals through the use of material safety data sheets (MSDSs), substance labeling and employee training.

One area addressed by the HAZCOM directive is the use of **electronic devices for accessing MSDSs**. Employers may provide MSDSs over the Internet and through other electronic means as long as the following guidelines are met:

- Workers must be trained in the use of the electronic devices;
- The electronic devices must always be available in the workplace;
- An adequate back-up system for handling power outages and other system failures must be installed;
- The system must be part of the workplace's comprehensive HAZCOM program;
- Hard copies of MSDSs must be available for employees and medical personnel in case of an emergency.

Other requirements of the standard are also updated and clarified in the new OSHA directive. *For information on the development of an "in house" electronic database for MSDS management, contact EI at 1-800-717-3472.*

Mothers-To-Be Should NOT Fear VDTs

According to an extensive two-part NIOSH study of the effects of video display terminals (VDTs) on reproductive health, women, employers, and VDT manufacturers should no longer be concerned about reproductive risks previously associated with VDT exposure. The study concludes that working with VDTs (e.g., computer monitors) does not increase the risk for low birth weight or premature birth.

Over 2,400 female telephone operators were interviewed over a 2-year period, 707 of whom delivered live babies. Of the 707 pregnant women, 304 worked with VDTs, while 403 did not. In the VDT group, 8.9 percent delivered low birth weight babies, and 7.9 percent delivered prematurely. Of the 403 women who did not work with VDTs, 9.7 percent delivered low birth weight babies, and 11.2 percent delivered prematurely. Little difference was seen in the results between the two groups.

OSHA's Alternative Plan to CCP

While CCP remains on hold, OSHA has resumed its traditional inspection strategy, now targeting 3,300 worksites in 99 industries, which range from meat packing plants to nursing and personal care facilities. Companies with Lost Workday Injury and Illness (LWDII) rates of 6.4 to 16.8 per 100 employees are on the target list for unannounced wall-to-wall inspections.

Lead Hazard Control - What to Expect

The EPA anticipates significant progress in lead hazard control this year. Several TSCA rules have reached the final stages and are expected to be published in the *Federal Register* by June 1.

Rule 403, which establishes criteria for the recognition of lead-based paint hazards, will result in more effective lead hazard management, and the Section 402 User's Fees Administrative Rule, which establishes a fee system for the 402 training and certification program, will ensure that lead-based paint professionals are fully qualified to conduct safe and effective inspections, risk

assessments, and lead-based paint abatements. Both rules should go into effect this year.

The proposed rule for the management of **lead abatement debris** transfers compliance requirements from RCRA to TSCA standards for the disposal, storage, reclamation and transportation of **lead-based paint debris as a nonhazardous**, rather than a hazardous material. The rule should result in lower costs for the abatement industry, and thus an increase in lead-based paint abatement activity.

The National Institute for Occupational Safety and Health (NIOSH) has also made lead a top priority. The organization is currently considering recommending a **lower exposure limit for lead** based on new toxicity studies regarding lead exposure. If this advisory does go into effect, OSHA could add lead to its long list of PELs to be lowered.

For a detailed account of North Carolina's and Virginia's lead-based paint hazard management programs, please refer to "Compliance with Lead-Based Paint Rules in North Carolina and Virginia," EI Alert, Vol. 8, No. 2.

OSHA'S VISIONS FOR 2002 . . .

OSHA has targeted the following goals for the next five years:

- 15% reduction in injuries and illnesses among five high hazard industries - food processing, nursing homes, shipyards, logging and construction;
- 15% reduction in three specific injuries and illnesses - silicosis, amputations and lead poisoning;
- 20% reduction in injury/illness rates in 100,000 workplaces;
- Permanent culture change regarding health and safety in the workplace.

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