



Federal Issues Report

October 22, 2009

This is an e-newsletter of the West Virginia Chamber of Commerce focusing on key federal policy issues and bills. Provided are overviews and status updates on a number of major federal matters that are of concern to business and economic development in West Virginia.

Small Business To Suffer Under EPA Efforts

Provided is a statement from W.Va. Chamber President Steve Roberts:

“Small business is the backbone of our state. Small business owners are neighbors of ours, and they will be hurt badly by the ongoing attack on mining and energy jobs in West Virginia. The West Virginia Chamber is made up of our state’s small businesses, and their future depends on a strong energy industry and lower business costs. Halting coal mining, creating new burdensome regulations on natural gas production or imposing the proposed “cap-and-trade” electricity tax will only hurt these small businesses and cost more jobs. Nearly 90 percent of our members are small companies, and they need customers in our mining, timbering and natural gas producing sectors. This EPA attack on energy is an attack on our hard-working friends and neighbors. The West Virginia Chamber will continue its work to help small business in these challenging times.”

Governor Continues Outrage About EPA

Governor Joe Manchin continues to use the public airways in his efforts to get the EPA to back down on its attacks against coal. Late last week the Governor issued the following statement in response to the EPA’s decision to rescind an existing surface mining permit in Logan County:

“To say that I am mad would be an understatement,” Gov. Joe Manchin said about his learning of the EPA’s announcement today. “The Spruce Number 1 Mine permit was one of the most reviewed and carefully examined permits in history, taking almost 10 years to get approval finally in 2007, and now the EPA is telling the employees and the business that made the investment that no you cannot work. This is a prime example of how the federal government is not working for the people.

“This federal bureaucracy is misleading, and is adding excessive red tape that is affecting people’s livelihoods. Government should be a facilitator and partner, not a hindrance to Americans working to obtain the American Dream – and that is to have a good job, make a decent wage and provide for their family.”

This week the Governor told media outlets in the state that EPA is “cruel” and “way out of orbit” and that he will continue the fight to stop the economic disruption that is taking place. “Knowing their intention of wrecking havoc on the economy and the lives of the people of our state is not something I’m going to tolerate,” Manchin told MetroNews on October 19.” And I will do everything humanly possible to bring that to their attention.” The Governor said he is working to get up a meeting with President Obama to discuss EPA’s activities and to reinforce the importance of maintaining domestic coal production.

NEWS

Manchin Seeks 'Balance' From EPA

Governor says state will be part of solution, but says coal still best energy choice

Charleston Daily Mail, Oct. 20, 2009

<http://www.dailymail.com/Business/200910190785>

W.Va. Senate President Calls For Expedited EPA Review Effort

West Virginia State Senate President Earl Ray Tomblin (D-Logan) has asked the Environmental Protection Agency administrator to make a quick decision on any changes being considered for coal mining permits. In the wake of several interstate public hearings on proposed national and regional mining permit changes, President Tomblin sent a letter October 15 to EPA Administrator Lisa P. Jackson and asked her to "graciously help" West Virginians with "an expedient decision" which has left many in the state wondering if coal mining will be a part of their future "as it has been a part of our past." He told Administrator Jackson that no constituent will come through the issue "unscathed and unaffected."

"It is of the utmost importance that this situation be resolved not in a matter of weeks, but days." Tomblin said he felt that whatever the outcome, state citizens need to know what the EPA is going to do so that plans can be made for whatever legal or other steps might need to be taken to help preserve the state's historic economic backbone. "It is as if things are just hanging there and no one knows which way to turn while we wait for an answer," he said.

Text of letter:

Dear Administrator Jackson,

Recent decisions by the federal EPA concerning reconsideration of national and regional coal mining permits, policies and procedures have unquestionably shaken a large number of West Virginians, and their state government. Emotions are running high, plans have been frozen and planning is, for the moment, out of the question, as we await the completion of the legal process and an ultimate decision from you and your agency. We have every right to wonder and worry if coal mining will be a part of our future as it has been a part of our past.

In view of the state of limbo the industry and those who depend upon it seem to be occupied with at this time, it appears to me and a great many others, that one of the things you and the EPA could do, is to make an expedient decision. To prolong an outcome serves only to extend the pain already being endured by our citizens, and delay the progress we must make as a state. This has an impact on those on both sides of the issue. Whatever the result, all parties involved will need time to make plans about whatever steps will become necessary, once that decision has been reached.

As a State Senator representing a coal mining district, I am keenly aware of the high stakes at risk regarding this historic decision. No constituent will come through this unscathed and unaffected. It is of the utmost importance that this situation be resolved not in a matter of weeks, but days. It is my fervent hope you will agree and take whatever measures at your disposal to move quickly on this issue.

You have my kindest regards and best wishes for a successful administration.

*Sincerely,
Earl Ray Tomblin
Senate President - Lt. Governor*

Groups, Businesses Urged To Provide Comments To U.S. Army Corps

Trade groups, elected officials and businesses are urged to send comments to the U.S. Army Corps of Engineers and tell the agency that their communities and businesses depend on coal for economic activity, jobs and tax revenues, and that without NWP21, coal operations across Appalachia will be forced to cease. Tell the Army Corps that you OPPOSE its plan to suspend NWP 21. To submit your comments, you must use the online form at

<http://www.regulations.gov/search/Regs/home.html#submitComment?R=09000064809f83d2>.

Here are the comments provided by the West Virginia Chamber of Commerce:

On behalf of the West Virginia Chamber of Commerce, I am writing to oppose the U.S. Army Corps of Engineers' proposal to modify or suspend the use of the NWP 21 in the Appalachian region of six coal-mining states, including Kentucky, Ohio, Pennsylvania, Tennessee, Virginia and West Virginia.

Coal mining throughout Appalachia relies on these permits to keep people employed and to produce coal. Coal mining creates an important economic cycle of good jobs and opportunities that benefits families, strengthens communities, and generates millions of dollars in tax revenue that funds vital government services such as emergency services and K-12 education. Coal also is an affordable, abundant domestic energy source, and, therefore, is vitally important to our nation's economic stability and security interests.

Moreover, coal mining operations are working hard to continually and progressively be good stewards of the environment and create new opportunities for economic growth, recreation and wildlife throughout Appalachia.

Neither the Corps nor EPA has provided any justification for this possible sudden policy change or the ongoing moratorium on coal mining permits. At a time when one out of every 10 American workers is unemployed, the Obama administration's "review" of coal mining permits jeopardizes 80,000 direct coal mining jobs in Appalachia and hundreds of thousands of additional jobs in sectors such as manufacturing, banking, retail and hospitality.

Our jobs and the economic health of our communities are being put at risk due to environmentalists and outsiders who have an agenda against the continued use of coal.

The West Virginia Chamber of Commerce urges the U.S. Army Corps to reject this proposal and other ongoing actions that threaten our state's future and the future of coal mining in Appalachia.

The U.S. Army Corps of Engineers held a series of public meetings last week on the topic of national coal mine permits. The Corps said it is gathering public comments on the two proposals related to the use of Nationwide Permit (NWP) 21 in the nation's Appalachian region. NWP 21 authorizes discharges of dredged or fill material into waters of the United States for surface coal mining activities. [Click to read](#) a press release about the hearings.

CBO Study: National Medical Malpractice Law Could Save \$54 Billion

A new report shows that medical liability reforms could provide up to \$54 billion in federal deficit reductions over the next decade. That's according to an analysis by the non-partisan Congressional Budget Office (CBO) of the Senate Finance Committee health care reform proposal. "The evidence is clear: Lawsuit abuse raises the cost of health care -- and threatens access to quality, affordable health care for all Americans," according to a statement from the U.S. Chamber of Commerce's Institute for Legal Reform. "The CBO's findings underscore what two-thirds of American voters have said: Congress should include medical liability reform in the health care bill."

White House officials and U.S. Senate leaders continue to working to craft health care reform legislation that will go to the full Senate for a vote. The U.S. House also is working to craft its own bill out of several versions for future floor action.

According to an article in today's *The New York Times*, the U.S. House Judiciary Committee has voted (20-9) to revoke federal anti-trust exemptions now provided to insurance companies. U.S. Senate leaders say they add this to Senate health care reform legislation.

W.Va. Chamber's policy position in support of national health care reform – [click to read](#)

OTHER KEY FEDERAL ISSUES PENDING IN CONGRESS

Cap-And-Trade Sitting In Senate

A new "cap-and-trade" bill is pending in the U.S. Senate. The measure, the [Clean Energy Jobs and American Power Act](#), was introduced in late September by Senators Barbara Boxley (D-California) and John Kerry (D-Massachusetts). It contains more aggressive emission reduction goals than outlined in the House's version (American Clean Energy and Security Act of 2009 - [HR 2454](#)). The Senate bill would require "carbon pollution" to be cut by 20 percent by 2020. West Virginia's Senators Byrd and Rockefeller have issued statements against the Senate's version.

OPINION

Commentary: Pete DuPont

Time for Inaction on Global Warming

Congress should consider the costs before passing "cap and trade."

[Wall Street Journal, Oct. 20, 2009](#)

W.Va. Chamber's cap-and-trade policy paper – [click to read](#)

U.S. Chamber's statement on climate change – [click to read](#)

Coal Permits: EPA Halts 23 Permits In West Virginia

The U.S. EPA has halted issuance of 79 federal surface mining permits and has directed that these go back for extensive reviews. This action affects 23 pending permits in West Virginia and is part of the Obama Administration's ongoing actions against domestic coal production. The permits represent all of the backlogged surface coal mining projects under review by the Army Corps of Engineers. "EPA believes that the majority of the permit applications recommended for further evaluation have not yet adequately demonstrated that anticipated environmental and water quality impacts have been fully avoided and minimized as required by guidelines," according to an [EPA letter to the U.S. Corps of Engineers](#). The agency, which launched a review process back in April 2009, said it "remains concerned that all the 79 applications identified in the initial list involve surface coal mining projects raising potentially significant water quality and environmental issues." The EPA said it wants "the mining companies to reduce anticipated environmental and water quality impacts."

EPA Initiative Targets CO2 From Power Plants, Large Manufacturers

The U.S. EPA has launched another regulatory initiative designed to "address greenhouse gas (GHG) emissions under the Clean Air Act." The EPA's latest proposal will require large industrial facilities, which emit at least 25,000 tons of GHGs, a year to obtain construction and operating permits covering these emissions. "These permits must demonstrate the use of best available control technologies and energy efficiency measures to minimize GHG emissions when facilities are constructed or significantly modified." According to the EPA's proposed rule, these large facilities would include power plants, refineries, and factories. Small businesses such as farms, restaurants and many other types of small

facilities would not be included in these requirements. Click to see the proposed rules or for more information: <http://www.epa.gov/nsr>

EFCA

Employee Free Choice Act (EFCA) ([H.R. 1409](#), [S. 560](#))

A proposal to enact a “card check” system for unionization is still pending in the United States Congress. The Employee Free Choice Act is one of the major objectives of organized labor groups, and it continues to have the full backing of President Obama. Speaking recently at both a Labor Day union rally and at the AFL-CIO’s national meeting, the President expressed his continued support for seeing that this legislation be enacted. One new development related to the legislation is that the AFL-CIO has signaled it may be willing to accept an EFCA bill without a “card check” provision. However, anti-EFCA groups are wary that this represents any significant concession on the part of organized labor. W.Va. Chamber members, both large and small...and from all business sectors, continue to be overwhelmingly (85 percent) opposed to EFCA.

EFCA Positions of W.Va.’s Delegation:

Congressmen Mollohan and Rahall are co-sponsors of HR 1409 ([Source: Thomas](#))

Congresswoman Shelley Moore Capito opposes HR 1409

Senators Byrd and Rockefeller are co-sponsors of S. 560 ([Source: Thomas](#))

W.Va. Chamber’s EFCA policy paper – [click to read](#)

Oppose the Consumer Financial Protection Agency Act

Legislation is pending in Congress that would create a new government agency to regulate consumer financial products. The legislation is [H.R. 3126](#), the Consumer Financial Protection Agency (CFPA) Act. Unfortunately, this bill will do far more harm than good.

The bill would replace personal choice with federal bureaucrats who would decide the types of financial products and services that a person can choose to own, buy, or sell. Instead of a common sense approach to improving consumer protection, this proposal will restrict access to credit and affordable financial products, impose vast new regulations and costs on businesses, and ultimately harm the economy at exactly the time when signs of a recovery are on the horizon.

The bill also would affect virtually every business. If your business allows customers to pay with credit, to use a lay-away program, or even to pay in more than one installment, then your business would face significant new regulation. Even businesses that are indirectly related to consumer finance, such as sellers of gift cards, advertisers, accountants, homebuilders, utilities and internet providers, will be covered by this sweeping new law.

In addition, the bill would give the government authority to request and hold information about a person’s bank accounts from financial institutions, including how much money is in each account. This is a drastic affront on the privacy and security of a person’s financial information.

Efforts to enhance consumer protection should focus on weeding out fraudulent actors and predatory products and ensuring consumers have access to clear and concise information about the terms and conditions of products, and the risks they pose. However, this bill actually weakens consumer protection by allowing government to dictate the financial products you can choose, adding new layers of government bureaucracy, imposing new costs on taxpayers, consumers and businesses, and threatening the privacy of personal financial information.

[H.R. 12](#): Paycheck Fairness Act

[H.R. 635](#) – National Commission on State Workers’ Compensation Laws Act of 2009

[H.R. 3042](#), S. 1374 -- Federal Oversight, Reform, and Enforcement of the WARN

("FOREWARN") Act

[H.R. 2460](#); S. 1152 -- The Healthy Families Act (Mandated Paid Sick Leave)

TAKE ACTION -- RESOURCES:

Contact information for W.Va.'s Congressional delegation: [click to read](#)

(Note: The most immediate way to get your voice heard is to call or send a fax to any of the D.C. offices.)

Vote For Business: West Virginia - <http://www.wvbusinessvoice.com/>

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