

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

November 16, 2005

Docket ID No. OAR-2002-0056
Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mailcode: 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

Dear Sir/Madam:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), we submit this letter in lieu of in-person testimony at the United States Environmental Protection Agency's (EPA's) November 17, 2005 hearing in Research Triangle Park, NC. Please include this letter and our attachment in the hearing record. The hearing is on EPA's Notice of Reconsideration of the "Revision of December 2000 Regulatory Finding on the Emissions of Hazardous Air Pollutants from Electric Utility Steam Generating Units and the Removal of Coal- and Oil-Fired Electric Utility Steam Generating Units from the Section 112(c) List" and the "Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units" (70 *Federal Register* 62200 and 62213, respectively). Both reconsiderations were published on October 28, 2005.

As we have commented in the past, we believe EPA's rules addressing emissions of hazardous air pollutants from electric utilities, published on March 29, 2005, are inadequate to protect public health and the environment. Specifically, the emission limits contained in EPA's *Clean Air Mercury Rule* (CAMR) are much weaker than the requirements of the Clean Air Act and the deadlines are far too protracted. Additionally, the law clearly called for a technology-based regulation under Section 112 to reduce emissions of hazardous air pollutants, including mercury, from power plants; EPA's cap-and-trade approach under Section 111 is inconsistent with the mandates of the law.

In light of the concern that the members of STAPPA and ALAPCO have with EPA's mercury utility rule, the associations developed a model mercury rule that we believe more accurately reflects the intent of the Clean Air Act with respect to controlling mercury from electric utilities. On November 14, 2005, STAPPA and ALAPCO released *Mercury from Power Plants: A Model Rule for States and Localities*, which provides state and local governments with the tools needed to obtain reductions in mercury emissions necessary to meet the requirements of the Clean Air Act. We also feel it outlines an approach that EPA should adopt in revamping the agency's mercury utility rule. We are providing you with a copy of the STAPPA/ALAPCO Model Rule and request that it, along with this letter, be submitted into the hearing record.

Mercury from Power Plants: A Model Rule for States and Localities describes two options for a utility mercury rule that require expeditious application of state-of-the-art emission control technology to each electric generating unit, which is an approach that is more protective of public health and the environment than the CAMR. We believe the approach outlined in our model rule is far preferable to the CAMR in various ways, including the following:

Deadlines – The STAPPA/ALAPCO Model Rule includes two phases – 2008 and 2012. The CAMR includes two phases, with deadlines in 2010 and 2018. However, the 2018 deadline may actually extend into the 2020’s when “banking” is considered. Therefore, our model rule calls for more expeditious reductions.

Emission Reductions – The STAPPA/ALAPCO approach calls for 80-percent capture of mercury emissions in Phase 1 and 90-95 percent capture in Phase 2. The CAMR calls for reductions of only 21 percent from current levels in Phase 1, which are based on collateral benefits from the Clean Air Interstate Rule, and Phase II reductions of 69 percent in Phase 2. Moreover, as stated above, the Phase 2 reductions in the CAMR may not be realized until much later, due to banking.

Requirements for New Facilities – Our Model Rule requires state-of-the art control technology, updated on a periodic basis, while the CAMR only requires sources to meet less stringent New Source Performance Standards.

Trading – While the CAMR allows interstate trading of mercury emissions, our Model Rule prohibits it.

Additional Flexibilities – The CAMR relies on trading for flexibility. The STAPPA/ALAPCO Model Rule provides for compliance on a “rolling average,” intrastate averaging in Phase 1 (provided it is limited to the same owner) and extensions of Phase 1 deadlines (under one of the two options) if multi-pollutant control commitments are made.

We urge you to consider carefully the approach we have outlined in this Model Rule and incorporate our recommendations into an amended mercury utility rule. Additionally, we may have additional comments on EPA’s reconsideration, which we will submit to the docket prior to the close of the public comment period.

Please do not hesitate to contact us if you need additional information.

Sincerely,



Eddie Terrill
President of STAPPA



John A. Paul
President of ALAPCO

cc: Mr. William Maxwell, ESD, OAQPS, EPA