



This Week in Review – January 10-14, 2005

(1) **NAS Releases Interim Report on NSR (January 14, 2005)** – In response to a Congressional mandate, the National Academies of Science (NAS) issued an interim report evaluating the potential air quality, public health and other impacts of EPA's final rules of December 31, 2002 and October 27, 2003 relating to the New Source Review (NSR) programs in prevention of significant deterioration (PSD) areas and nonattainment areas. Responding to a charge to estimate and evaluate increases or decreases in emissions of pollutants to result from the rules, and related impacts on human health, as well as impacts on energy efficiency projects, the NAS Committee on Changes in New Source Review Programs for Stationary Sources of Air Pollutants discusses in detail its approach and methodology in this report. Included are chapters on the framework of the Clean Air Act and, in particular, NSR; the health effects of different criteria pollutants; emission sources and technology options; and analytic methods for assessing the effects of NSR rule changes. A central focus of the analysis is to address EPA's assertions in the rules that energy efficiency projects were not undertaken by firms before NSR reforms because they wished to avoid NSR and such projects would have triggered NSR. The Committee notes that "some computer models of the electricity-generating sector appear to be sufficiently detailed and sensitive to allow a first assessment of how changes in NSR rules might affect technology adoption and emission trends" but that models outside this sector are not sufficiently accurate to use. Acknowledging the magnitude and considerable uncertainties inherent in the task of linking the new rules, impacts on emissions and impacts on human health, the Committee states that it "will focus on the NSR program changes, industries, and pathways that appear likely to contribute substantially to changes in emissions of specific pollutants, pollution prevention, pollution control and energy efficiency. The committee will conduct this analysis on a pollutant-by-pollutant basis, evaluating factors such as geographic location, stack height, and proximity to population centers..." In the Regulatory Overview chapter of the report, the Committee notes, "In general, NSR provides more stringent emission limits for new and modified major sources than do the programs listed here [Clear Skies legislation and the CAIR rule]." The final NAS report on the NSR rules is due in late 2005. [For further information: Air Web – In the News and Permitting, New Source Review and Enforcement Committee pages]

(2) **CEC Issues Report on Fossil-Fuel Power Plants (January 11, 2005)** – The Commission for Environmental Cooperation (CEC) issued a report comparing

emissions data from over 1,000 fossil-fuel power plants in Canada, the U.S. and Mexico. According to CEC's Executive Director, William Kennedy, "The report shows, site by site, coal-fired power plants are the dominant sources of harmful air emissions from the electricity sector in North America." The report, entitled *North American Power Plant Air Emissions*, examines the mix of fuels and technologies used in the production of electricity for each of the three countries, as well as the relative contribution of mercury, NO_x, SO₂ and CO₂ emissions. Nearly half of the electricity production in the U.S. is from coal, compared to 20 percent and 8 percent in Canada and Mexico, respectively. In Mexico, most electricity production is from oil and natural gas, whereas Canada relies heavily on hydropower. In the report, CEC concludes that "while coal combustion accounts for only 44 percent of the electricity on the continent, it is responsible for 86 percent of total sulfur dioxide emissions from electricity and 90 percent of nitrogen oxides. The vast majority of mercury emissions from electricity generation in each country also come from coal combustion." The report is the first one to contain a compilation of emissions data for individual power plants in the NAFTA region, the initial step toward the possible development of a shared emissions inventory for North America. [For more information: www.cec.org/new]

(3) New York State Settles NSR Violations with Coal-Fired Power Plants (January 11, 2005) -- New York Governor George Pataki and Attorney General Eliot Spitzer announced settlements that will significantly reduce emissions from six upstate coal-fired power plants. The settlement with NRG Energy Inc. will reduce SO₂ emissions at two coal-burning power plants by 87 percent and NO_x emissions by 81 percent. Agreement was also reached with AES and New York State Electric and Gas Corporation that will achieve reductions at four coal-burning power plants of 90 percent for SO₂ and 70 percent for NO_x. According to the state's press release, NRG's emissions reductions will be accomplished through installation of new pollution controls, switching to cleaner burning low-sulfur coal and retiring the four oldest and most inefficient units of the company's Huntley coal-burning power plant. AES will install innovative clean coal technology at one plant, and will either shut down or install new pollution controls at another. AES and NRG were alleged by New York to have made unlawful modifications without NSR permitting or installation of the best available control technology. New York has sued eight utilities that operate 17 Midwest power plants for contributing to their state's pollution problems. Attorney General Spitzer stated, "Just as we expect out-of-state power plants to adhere to the law, we are holding New York's in-state power plants accountable as well." [For further information: www.oag.state.ny.us]

(4) EPA and Kansas Settle NSR Lawsuit with U.S. Energy Partners (January 13, 2005) – EPA, together with the state of Kansas, has settled a lawsuit alleging NSR violations with U.S. Energy Partners LLC of Russell, Kansas. The company was charged by EPA with violating NSR provisions requiring permitting and installation of pollution control devices when it carried out a major expansion of its ethanol plant. The company agreed to install \$2 million in pollution controls, including a thermal oxidizer and other controls that will reduce emissions of VOCs, CO, NO_x and PM.

U.S. Energy will also pay a \$30,000 fine. [For further information: United States v. U.S. Energy Partners LLC, D. Kan., No. 6:05-CV-01011-JTM, 1/13/05]

(5) EPA Publishes Announcement of Title V Hearing in San Francisco (January 14, 2005) – EPA published in the *Federal Register* a notice providing details of the Title V Task Force hearing to be convened February 7, 2005 in San Francisco. EPA solicits interested parties with experience in the Title V program to provide testimony to the Task Force on what is working well and/or poorly in this program. Those desiring to testify are asked to notify EPA by January 24, 2005. The notice also sets forth how to submit written comments. In addition, EPA has announced that there will be an opportunity for state and local agencies to testify by telephone on February 8, 2005. Those interested in taking advantage of this opportunity should contact Ray Vogel of EPA at as soon as possible. [For further information: Ray Vogel at vogel.ray@epa.gov or (919) 541-3153, or 70 *Federal Register* 2631]

(6) Gap Funding Available for State and Local Air Agencies (January 13, 2005) – EPA is consulting with STAPPA/ALAPCO and ECOS on the best way to address Congress' reductions to Section 103/105 grants in FY 2005. EPA had initially requested comments by January 14, 2005, but has extended that deadline until January 26, 2005. Several state and local air agencies have expressed concern about the additional delay this process will cause in distributing grant funds to state and local air agencies. EPA staff has indicated that any state or local air agency that expects to encounter problems due to this delay should contact its Regional Air Grant Coordinator, since there may be funding available to fill any gaps that temporarily exist. [For further information: Air Web – Program Funding Committee page]

(7) STAPPA and ALAPCO to Cosponsor Air Toxics Workshop with EPA (January 10, 2005) -- EPA and STAPPA/ALAPCO will cosponsor the 2005 Air Toxics Workshop and Training on March 29-April 1, 2005 in Research Triangle Park, North Carolina. The optional training day will be on March 29, 2005 with the workshop following on March 30-April 1, 2005. The workshop provides an opportunity for EPA, state, local and tribal air pollution control officials to share ideas and exchange information on current and future air toxics programs. Agenda items will include MACT implementation and risk-related topics. [For further information: www.cleanairinfo.com/airtoxics2005]

(8) EPA Amends Refrigeration Leak Repair Requirements (January 11, 2005) – EPA issued a final rule to clarify how requirements of section 608 of the Clean Air Act (CAA) extend to appliances using substitutes for chlorofluorocarbon (CFC) and hydrochlorofluorocarbon (HCFC) refrigerants. (Section 608(c)(2) of the CAA prohibits the knowing venting, release or disposal of any substitute for CFC and HCFC refrigerants by any person maintaining, servicing, repairing or disposing of air-conditioning and refrigeration equipment.) The final rule amends the leak repair regulations covering CFC and HCFC refrigerants and extends these requirements to owners or operators of appliances containing substitutes that consist of a class I or class II ozone-depleting substance. (Class I substances consist of CFCs, halons, carbon tetrachloride and methyl chloroform and class II substances consist of

HCFCs.) The final rule is effective March 14, 2005. [For further information: 70 *Federal Register* 1971]

(9) Energy Efficiency Advocates Call for Tougher State Appliance and Equipment Efficiency Standards (January 13, 2005) – The American Council for an Energy Efficient Economy (ACEEE) and the Appliance Standards Awareness Project (ASAP) have issued a report commending state agencies for taking the lead in setting new efficiency standards for appliances in light of what the groups see as “paralysis at the national level.” According to ACEEE and ASAP, a number of national efficiency standards have been negotiated between manufacturers and efficiency supporters but they have not been adopted because they are part of pending federal energy legislation. The new report, *Leading the Way: Continued Opportunities for New State Appliance and Equipment Efficiency Standards*, identifies 14 appliances and other types of equipment for which states could set minimum energy efficiency standards. ACEEE and ASAP highlight that California, Connecticut and Maryland adopted new energy efficiency standards in 2004; New Jersey is expected to finalize its standards shortly; and there are at least six other states expected to adopt energy efficiency standards in the future. [For more information: www.aceee.org/pubs]

(10) Los Angeles Amends Pollution Credit Trading Program to Increase Emission Reductions (January 7, 2005) – The South Coast Air Quality Management District (SCAQMD) adopted changes to its Regional Clean Air Incentives Market (RECLAIM) Program to increase emission reductions from the area’s largest facilities. The changes are designed to result in cumulative reductions of 7.7 tons per day of NO_x from all affected facilities, to be phased in by 2011. Such increased reductions – which rely on currently available, cost-effective technologies -- represent a 20-percent reduction from the 330 facilities in the RECLAIM program, including power plants, refineries and other manufacturing plants. (For further information: www.aqmd.gov/news1/2005/1_07_05bs.html)

The Week Ahead

- Martin Luther King, Jr. Day Holiday – January 17, 2004
- Mid-Atlantic Regional Air Management Association’s SIP Planning Workshop, 15th Anniversary Dinner and Executive Board Meeting, in Williamsburg, Virginia -- January 18-20, 2005
- Inauguration Day – January 20, 2005

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