



This Week in Review – January 26-30, 2004

(1) STAPPA and ALAPCO Announce Initiative to Ensure Implementation of 2007 Diesel Engine Standards (January 30, 2004) – In a letter to the American Trucking Associations (ATA), the Presidents of STAPPA and ALAPCO advised that the associations will work over the coming year to help states utilize their authority under the Clean Air Act to opt in to California's highway diesel emission standards for 2007. The letter was prompted by continued public statements by ATA officials calling for a delay in the implementation of EPA's federal rule imposing strict emission standards for diesel trucks and buses, to begin with the 2007 model year. In a letter to ATA last summer, the associations and environmental and public health groups called for assurance that ATA does not endorse, and will not pursue, efforts to delay or weaken EPA's 2007 diesel rule. Specifically absent from ATA's subsequent response, however, was any such assurance. As STAPPA and ALAPCO note in their letter, "[t]he extensive, thoughtful and inclusive process that preceded final promulgation of this rule, in which ATA participated, and the remarkable level of scrutiny it has withstood since adoption, have provided more than adequate certainty that the rule is technically and economically viable....The fact that at least three major diesel engine manufacturers have announced that they are on schedule to comply with the rule further supports the justification for moving forward without delay." If ATA is successful in pressuring Congress or EPA to delay or weaken the 2007 diesel rule, clean air efforts across the country will be severely undermined and public health will suffer. However, since California has adopted diesel engine standards virtually identical to EPA's, other states across the country have the option of opting into California standards; such "backstop" action would provide certainty that the 2007 diesel engine standard take effect on time, whether by federal rule or by state rule. [For further information: Air Web – In the News and Mobile Sources and Fuels Committee page]

(2) STAPPA and ALAPCO Brief Congressional Staff on Air Quality Impacts of Transportation Legislation (January 27 and 30, 2004) – STAPPA and ALAPCO took part in briefings for House and Senate staff to provide the associations' perspectives on transportation conformity and CMAQ issues related to transportation legislation currently being developed and debated in Congress. Highlighting the importance of conformity to the achievement of clean air goals, the associations urged against proposed changes that would undercut the program, including, among others, one to reduce the transportation planning horizon from 20 years to 10. In addition,

STAPPA and ALAPCO advocated for a concurrence role for state and local air agencies in the selection of projects to be funded under the Congestion Mitigation and Air Quality Improvement Program. This week the associations also provided technical comments on S. 1072, the transportation bill reported by the Senate Environment and Public Works Committee on November 20, 2003 that resulted from an agreement between majority (Senators James Inhofe and Christopher Bond) and minority (Senators James Jeffords and Harry Reid). S. 1072, which includes a number of extremely problematic provisions from an air quality perspective, is slated to go before the full Senate for debate beginning next week. [For more information: Air Web – Mobile Sources and Fuels Committee page]

(3) EPA's Proposed Utility Mercury Reductions Rule and Interstate Air Quality Rule Published in *Federal Register* (January 30, 2004) – EPA published in the *Federal Register* two proposed rules to address emissions of NO_x, SO₂ and mercury from utilities: the Interstate Air Quality Rule (requiring cuts in NO_x and SO₂ emissions) and the Utility Mercury Reductions Rule (requiring cuts in mercury emissions). Comments are due on or before March 30, 2004. Three public hearings will be held on February 25 and 26, 2004 to take comment on both rules. The hearings will take place in Chicago, Illinois; Philadelphia, Pennsylvania; and Research Triangle Park, North Carolina. [For further information: Air Web – In the News, and Air Toxics and Criteria Pollutants Committees pages]

(4) National Research Council Releases “Air Quality Management in the United States” (January 29, 2004) – The Committee on Air Quality Management, formed by the National Academies' National Research Council to “examine the role of science and technology in the implementation of the Clean Air Act,” released a comprehensive report and recommendations on air quality management in the U.S. The Committee praised the implementation of the current Clean Air Act, noting in particular the “substantial decreases in emissions of several pollutants” and “substantial net economic benefits.” In addition, the report includes the following five interrelated recommendations for guiding further improvement in the national air quality management system (AQM): 1) Strengthen the scientific and technical capacity of the AQM to assess risk and track progress, including enhancing assessments of air quality and health, ecosystem monitoring and emissions tracking. 2) Expand national and multistate performance-oriented control strategies to support local, state and tribal efforts, including controlling currently unregulated and under-regulated sources. 3) Transform the SIP process into a more dynamic and collaborative performance-oriented, multipollutant air quality management plan process, including enhancing the effectiveness and innovation of state and local air quality planning. 4) Develop an integrated program for criteria pollutants and hazardous air pollutants. 5) Enhance protection of ecosystems and other aspects of public welfare, including better tracking of ecosystem effects and building an improved basis for implementing secondary or alternative standards to protect ecosystems. Although noting that the implementation of these recommendations would require substantial resources and possibly new legislation from Congress, the Committee concludes that “they should not be overwhelming, especially when compared with current expenditures for CAA compliance and costs resulting from harmful effects of air pollution on human health

and welfare." [For further information: Air Web – In the News page – and www.nap.edu/books/0309089328/html/]

(5) EPA Files NSR Lawsuit, Issues Notice of Violation, and Pursues Investigations (January 26-29) – In the wake of the U.S. Circuit Court of Appeals for the District of Columbia's December 24, 2003 stay of the Equipment Replacement rule, EPA has filed a lawsuit against East Kentucky Power Cooperative for making major modifications to coal-fired power plants without complying with NSR requirements. NSR is triggered when modifications of process units cause significant emissions increases. The question of when NSR applied to a facility had become clouded recently by EPA's promulgation of the Equipment Replacement rule, under which utilities could replace equipment costing up to 20 percent of the value of the entire unit, in effect substituting emissions analysis for cost analysis. It remains to be seen whether the Kentucky case, the first filed by EPA against an electric utility during the Bush administration, presages resumption of EPA's NSR enforcement initiative, in which numerous lawsuits were filed against power plants and other facilities claiming that major modifications were only "routine maintenance." In addition, EPA filed a notice of violation against Westar Energy's Jeffrey Energy Center in Kansas for failing to apply for a PSD permit while it increased its capacity and, correspondingly, its emissions by upgrading three boiler units. Finally, EPA is also investigating coal-fired utilities in Arizona and Louisiana for possibly mischaracterizing significant boiler modifications as routine maintenance. Information requests under section 114 of the Clean Air Act were sent to the Salt River Project in Phoenix and to Louisiana Generating regarding changes made at its Big Cajun 2 coal-fired power plants. [For further information: Air Web – Enforcement Committee page]

(6) EPA Marks Start of Tier 2 Program (January 26, 2004) – EPA Administrator Mike Leavitt launched EPA's Tier 2 program for cleaner cars and fuels, which begins phasing in with the 2004 model year. It is expected that the Tier 2 vehicle and gasoline standards will result in a 77- to 95-percent reduction in emissions from cars, light-duty trucks and SUVs as compared to today's vehicles. At the same time, the program will provide clean burning gasoline that contains 90 percent less sulfur. This rulemaking, promulgated in December 1999, represents the first time that EPA considered vehicles and fuels as a system, since emission control technologies work much more effectively when combined with low-sulfur fuels. This week's launch included displays of 17 2004 model-year vehicles that meet the new standards. Twenty-five percent of all cars, light trucks and SUVs sold in 2004 must meet the Tier 2 standards, however, auto manufacturers anticipate that as much as 35 percent of the 2004-model year fleet will comply; all affected vehicles must meet the standards by 2009.

(7) President to Propose Major New Funding in FY 2005 for Clean School Bus USA Program (January 30, 2004) – EPA announced that its Clean School Bus USA program is slated to receive an increase in funding from \$5 million to \$65 million under President Bush's forthcoming budget proposal for FY 2005. With this additional funding, EPA plans to expand the program from the 17 districts that are participating in 2004, to nearly 220 districts across the country in 2005. The Clean School Bus

USA program was started in April 2003 with the goal of upgrading the nation's entire school bus fleet to low-emission buses by 2010. Under the expanded program, government entities can apply for grants to replace pre-1991 school buses with new, clean school buses equipped with state-of the-art emission controls and safety features or they can apply for grants to retrofit post-1990 school buses with similar emission controls. [For more information: www.epa.gov/cleanschoolbus]

(8) Smart Technology Investment Decisions Can Lead to Economic Growth and Reduced Pollution (January 26, 2004) – A study released by the Department of Energy's Argonne National Laboratory concludes that smart technology investments can sustain economic activity in ways that reduce energy use and associated emissions of air pollutants and GHGs. The authors modeled various growth and energy use scenarios to compare their impact on economic growth. The modeling showed that low energy prices can lead to high economic growth, but the analysis also found that an investment path that emphasizes both energy efficiency improvements and advanced energy supply technologies can provide economic growth similar to lower energy prices. In other words, policies introduced to improve energy efficiency and accelerate the introduction of new technologies did not appreciably reduce the prospects for economic growth. In addition, this latter strategy can better position the economy to respond to unexpected outcomes or disruptions. The report is entitled *Engines of Growth: Energy Challenges, Opportunities, and Uncertainties in the 21st Century*. [For further information: Air Web – Energy and Global Warming Committees]

(9) IJC Issues Report on Canada-U.S. Air Issues (January 27, 2004) – The International Joint Commission (IJC) released a report highlighting significant transboundary air quality issues facing Canada and the U.S. The report identifies seven critical issues and presents recommendations for action to improve air quality in the transboundary region. For example, while many persistent toxics are diminishing in the Great Lakes, several persist in wildlife, particularly fish, posing a health threat. Emissions of mercury, particulate matter and nitrogen compounds (such as NO_x) remain problematic, and more focus is needed on ammonia emissions from large animal feedlots and other sources. The IJC is a binational organization established in 1909 that provides advice to the governments of Canada and the U.S. on boundary waters and on transboundary air quality issues. [For further information: www.ijc.org]

(10) EPA Allocates ODS Essential Use Allowances for 2004 (January 28, 2004) – EPA announced that it has allocated essential use allowances for ozone-depleting substances (ODS) for 2004. Essential use allowances are allowances to produce or import certain ozone-depleting chemicals in the U.S. for purposes that have been deemed "essential" by the Parties to the Montreal Protocol and the U.S. government. EPA allocated ODS allowances to 1) five companies for use in metered dose inhalers used to treat asthma and chronic obstructive pulmonary disease and 2) the National Aeronautics Space Administration for cleaning, bonding and surface activation applications for the space shuttle rockets and Titan rockets. This final rule was

effective on the date of publication. [For further information: 69 *Federal Register* 4059]

(11) GAO Reviews Completeness of GHG Emission Inventories for Selected Countries (January 26, 2004) – According to the General Accounting Office (GAO), the most recent expert reviews of GHG emission inventories submitted by Germany, Japan, the United Kingdom (UK) and the U.S. found that the U.S. and UK submissions were largely complete, but that the submissions by Germany and Japan lacked certain critical elements. Countries that are parties to the U.N. Framework Convention on Climate Change (UNFCCC) are required to submit GHG emission inventories to the UNFCCC Secretariat. These submissions are reviewed by expert review teams for completeness and adherence to reporting standards. Representatives Billy Tauzin, Joe Barton, and James Greenwood of the House Committee on Energy and Commerce asked GAO to report on the expert review teams' assessment of the emission inventory submissions of four developed countries – Germany, Japan, the UK and the US – and three developing nations – China, India and Mexico, determine the extent developed nations have confidence in their inventory data, and what steps the UNFCCC parties are taking to improve the data. Neither China nor India has submitted inventories; they are due to due so in November 2004 and July 2004, respectively. Mexico submitted an inventory in 2001, but the Secretariat assessed the developing nations' inventories as a group only so GAO was unable to provide an assessment of Mexico's inventory. All four developed nations reported high quality in their inventory data. The GAO report also describes steps the parties are taking to improve the quality of the data submissions. [For further information: www.gao.gov/new.items/d0498.pdf]

The Week Ahead

- Senate Begins Floor Debate of S. 1072 (the Environment and Public Works Committee's Transportation Bill) – February 2, 2004
- STAPPA/ALAPCO Conference Call with EPA on the Interstate Air Quality Rule, from 2:00 to 4:00 p.m. Eastern Time – February 4, 2004
- STAPPA and ALAPCO 2004 Winter Boards of Directors and Committee Chairs Meeting, in Charleston, South Carolina – February 7-9, 2004

STAPPA/ALAPCO
444 North Capitol Street, NW, Suite 307
Washington, DC 20001
Tel: (202) 624-7864/Fax: (202) 624-7863
4clnair@4cleanair.org