



This Week in Review – February 2-6, 2004

(1) **GAO Surveys Stakeholders on NSR Reform (February 2, 2004)** – In a new report entitled *Key Stakeholders' Views on Revisions to the New Source Review Program*, the General Accounting Office (GAO) surveyed state and local air quality officials, and representatives of environmental, public health and industry groups to learn their opinions on EPA's December 2002 final and proposed revisions to the NSR program. Of the state agencies surveyed, the clear majority (29 of 35 respondents with an opinion) felt that the proposed and final rules would result in increased emissions. Based on this survey, the GAO has recommended that EPA 1) provide assistance to state and local agencies in implementing the revisions; 2) consider stakeholders' opinions before undertaking any additional revisions to the NSR program; and 3) obtain data to assess the rules' emissions impact and correct any adverse effects. [For more information: www.gao.gov]

(2) **President Proposes Budget for FY 2005 (February 2, 2004)** – President Bush has proposed the federal budget for FY 2005, which includes level funding for state and local air grants under Sections 105 and 103 of the Clean Air Act, totaling \$228.6 million. The budget includes, among other things, a new multimedia fund – the proposed State and Tribal Performance Fund – which includes \$23 million for a performance grant program that will be available to state and tribal agencies on a competitive basis for any activities eligible for grant assistance. EPA has indicated that winners will be selected based on environmental and/or public health outcomes. The proposal also includes an increase of \$60 million – for a total of \$65 million – for EPA's Clean School Bus USA program, which is intended to reduce the emission of air pollutants from school buses. Overall funding for the air program would increase \$88.6 million over last year's request (to \$1 billion), with the largest increase being for "Healthier Outdoor Air" and more modest increases for programs to "Protect the Ozone Layer", "Reduce Greenhouse Gas Intensity" and "Enhance Science and Research." The total request for EPA's budget in FY 2005 is \$7.76 billion, a decrease of \$640 million from the amount appropriated for FY 2004. With respect to grants for other environmental media, the budget proposal includes an increase of \$22 million for water quality grants above last year's request, \$5 million of which is intended for implementation of the Concentrated Animal Feeding Operations program and to support issuance of storm sewer permits. The hazardous waste grant program would receive an increase of \$26 million above last year's request for underground storage

tanks. Proposals for the other environmental grant programs were generally equal to last year's request. [For further information: www.epa.gov]

(3) STAPPA and ALAPCO Testify at Senate NSR Hearing (February 6, 2004) – John Paul (Dayton, OH) represented the associations at a hearing convened by the Senate Democratic Policy Committee on the impacts of the Administration's changes to the NSR program. In sum, John advised the Committee that “the NSR regulatory changes promulgated by the U.S. Environmental Protection Agency in December 2002 and August 2003 are serious detriments to public health and environmental protection and severely erode the ability of state and local air quality regulators to fulfill their obligation to provide clean, healthful air to our citizens.” On behalf of the associations, John overviewed the background of NSR reform, including the progress made through the stakeholder process convened under the Clinton Administration, the associations' concerns that arose when that process ceased under the new Administration and the heightening of those concerns when the associations learned, in January 2002, of the NSR revisions being contemplated; in addition, he outlined the associations' concerns with the revisions that EPA promulgated. [For further information: Air Web – NSR page]

(4) Chair of Energy and Commerce Committee to Resign (February 3, 2004) – Rep. Bill Tauzin (R-LA) informed House Speaker Dennis Hastert (R-IL) that he will be stepping down as chairman of the House Energy and Commerce Committee, effective February 16. Tauzin, who has served in Congress for nearly 24 years, has decided not to seek reelection in November. It is widely expected that he will accept a job as the head of the Washington lobbying efforts for the Pharmaceutical Research Manufacturers Association. It is likely the House Republican Steering Committee will approve Rep. Joe Barton (R-TX), chairman of the Energy and Air Quality Subcommittee, to chair the full Committee, bypassing Rep. Michael Bilirakis (R-FL), who is next in line based on seniority. Rep. Ralph Hall (R-TX) is expected to be approved as chair the Energy and Air Quality Subcommittee. Hall has served as a Democrat in Congress for over twenty years, but switched his party affiliation in early January.

(5) Prenatal Exposure to Mercury More Than Twice Earlier EPA Estimate (January 26, 2004) – New research presented at EPA's National Forum on Contaminants in Fish, held January 25-28, 2004, in San Diego, California, has estimated that about 630,000 infants are born each year with unsafe levels of mercury, more than twice the 300,000 originally estimated by EPA. EPA considers children born with mercury-blood concentrations of about 5.8 parts per billion (ppb) to be at increased risk for adverse health effects. In 2003, EPA reported that based on mercury levels of 5.8 ppb or greater, 7.8 percent of women of child-bearing age were affected, representing 300,000 births. However, according to the new information presented at the Forum by Kathryn Mahaffey, an EPA scientist in the Office of Prevention, Pesticides, and Toxic Substances, mercury concentrations are higher in fetal cord blood than in maternal blood. Mahaffey noted that at a ratio of 1.7 to 1, concentrations of 5.8 percent in fetal cord blood equals 3.5 percent concentrations in maternal blood. Given that, the percentage of women of child-bearing age affected is

15.7 percent, representing about 630,000 births each year. [For more information: http://www.ewg.org/issues/mercury/ppt/Fish_Forum_2004.ppt]

(6) Senate to Cut MTBE Liability Waiver from “Leaner” Energy Bill (February 3, 2004) – Senate Energy and Natural Resources Committee Chair Pete Domenici (R-NM) announced his intent to remove the MTBE safe harbor provision from a revised, “leaner” energy bill before offering it on the Senate floor later this month as an amendment to a larger bill. Domenici believes that elimination of this provision “is necessary to get this bill through the Senate.” The energy bill was held up in the Senate in November when sponsors were unable to rally the 60 votes needed to avoid a filibuster over MTBE. It remains unclear to which bill Domenici seeks to attach the energy package, however, Senate Environment and Public Works Committee Chair James Inhofe (R-OK) has said he will oppose any amendments to the transportation reauthorization bill, including energy amendments that are not germane.

(7) OTC Adopts Position on Multi-Pollutant Strategy for Power Plants (February 2, 2004) – The Ozone Transport Commission announced its adoption of a position on multi-pollutant legislation for electric generation units, in which it calls for annual caps, including interim caps, on emissions of NO_x, SO₂ and mercury as follows: NO_x – 3.0 million tons in 2008 and 1.87 million tons in 2012; SO₂ – 2.0 million tons in 2008 and 1.28 million tons in 2013; and mercury – 15 tons in 2008, 10 tons in 2013 and approximately 5 tons in 2015. On the issue of CO₂, “[t]he OTC encourages Congress to act on a national program or programs promoting efficiencies that address emissions such as carbon dioxide and other greenhouse gases in a cost-effective, coordinate, and streamlined manner.” [For further information: Air Web – Energy Committee page]

(8) Midwest Legislators Announce Regional Effort to Reduce Mercury (February 4, 2004) – State legislators in several midwestern states have announced a regional initiative to reduce mercury pollution. The participating state senators and representatives are introducing state legislation in response to the “failure of the federal government to take effective action against the toxin, which threatens the brains of babies and developing fetuses.” Legislators from Illinois, Michigan, Minnesota, Ohio and Wisconsin, many who participate in the National Caucus of Environmental Legislators (NCEL), announced the new initiative in their respective state capitols on February 4, 2004. Their efforts include over a dozen new pieces of mercury-reducing legislation ranging from controlling emissions from coal-fired power plants to banning the sale and use of mercury-containing products. [For further information: www.ncel.net]

(9) NAS Study Finds Hydrogen-Based Economy Further Off Than Expected (February 4, 2004) – The National Academies National Research Council has concluded that it could be at least 25 years before Americans see any significant reduction in oil imports or carbon dioxide emissions from widespread use of fuel-cell powered cars. In its report, *The Hydrogen Economy: Opportunities, Costs, Barriers and R&D Needs*, the NRC states that its study “suggests that while hydrogen is a

potential long-term energy approach for the nation, the government should keep a balanced portfolio of research and development efforts to enhance U.S. energy efficiency and develop alternative energy sources." The report, which highlights some of the major barriers associated with implementing a hydrogen-based economy, is based on research provided by the Department of Energy, as well as industry and academic groups. [For more information: www.nationalacademies.org]

(10) U.S. Government Sending Mixed Signals to Business on Climate Change; State Action May Prompt Companies to Seek Federal Intervention, According to Panel (February 3, 2004) – Regardless of whether the Kyoto Protocol ever enters into force, climate change is an important issue that needs to be dealt with, and uncertainty about how the U.S. government will address climate change is not good for business, according to Kevin Fay, President of the business group, the International Climate Change Partnership. At a panel convened by the District of Columbia Bar Association, several panelists said that the mixed signals being sent by the federal government to U.S. businesses on climate change make it difficult for business planning. For example, the federal government has designed numerous programs to entice businesses to voluntarily reduce GHG emissions to help the U.S. meet the President's goal of reducing the nation's GHG emission intensity by 18 percent between 2002 and 2012. Yet, the Department of Energy's (DOE's) proposed revisions to the voluntary GHG reporting programs provide no credit for emission reduction activities prior to 2000, according to Fay, thus penalizing those companies that reduced their emissions early. Furthermore, according to Bill Fang, Deputy General Counsel and Climate Issues Director for Edison Electric Institute, which represents investor-owned utilities, the proposed DOE revisions contain no policy incentives – such as baseline protection, future credits or early action credits – to provide companies assurance that their participation in the voluntary programs will provide any protection in the event of future regulatory action. Fay and Fang also discussed how activity at the state level affects businesses' desire for a uniform national program. Fay said he believed that if 10-12 states were to take significant action to regulate GHG emissions of companies, that would be enough to "bring us to the federal government begging for federal action." Fang, on the other hand, noted that regional differences affect this calculus, implying that action by New England states and West Coast states was not enough to prompt businesses to seek federal uniformity; regulatory action by southern or midwestern states would need to be part of the mix.

(11) DOE Issues Report on Voluntary GHG Reporting Program Activities in 2002 (February 2, 2004) – The Department of Energy's (DOE's) Energy Information Administration (EIA) reported on the results of its voluntary program for reporting reductions of GHGs. A total of 228 U.S. companies and other organizations reported to EIA that, during 2002, they had undertaken 2,027 projects to reduce or sequester GHGs. The electric power sector, with 99 companies reporting, continued to provide the largest number of participants to the program. [For further information: [www.eia.doe.gov/oiarf/1605/vrrpt/pdf/0608\(02\).pdf](http://www.eia.doe.gov/oiarf/1605/vrrpt/pdf/0608(02).pdf)]

(12) EPA Publishes Final Organic Liquids Distribution MACT (February 3, 2004)
– EPA has published in the *Federal Register* the final Maximum Achievable Control Technology standard for new and existing organic liquids (non-gasoline) distribution operations located at storage terminals, refineries, crude oil pipeline stations and other manufacturing facilities. According to EPA estimates, the rule will result in a 60-percent reduction in emissions of hazardous air pollutants from these facilities. [For further information: 69 *Federal Register* 5038]

The Week Ahead

- STAPPA and ALAPCO 2004 Winter Boards of Directors and Committee Chairs Meeting, in Charleston, South Carolina – February 7-9, 2004

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