



This Week in Review – February 9-13, 2004

(1) Senate Passes \$318 Billion Transportation Bill Despite Administration Veto Threat (February 12, 2004) – The Senate voted to approve the six-year, \$318 billion transportation bill, SAFETEA (S.1072), by a vote of 76-21, despite a statement from the administration that the President will veto the bill in its current form. The Statement of Administration Policy (SAP) states that the Administration supports enactment of a six-year bill, but one that would provide funding of \$256 billion, not \$318 billion. According to the SAP, the administration also opposes broadening the eligibility of projects for Congestion Mitigation and Air Quality (CMAQ) funding, saying that eligibility criteria should be limited to those projects that achieve air quality benefits. There were several hundred amendments expected to be offered to the transportation legislation, but the bill's floor managers prevented almost every one from being considered. This included the Boxer amendment on transportation conformity that would have retained the 20-year planning horizon for assessing the air quality impacts of transportation projects. The House Transportation and Infrastructure Committee will begin marking up a bill when Congress returns from recess the week of February 23. [For further information: Air Web -- In the News and Mobile Source and Fuels Committee pages]

(2) STAPPA and ALAPCO Meet with Administrator Leavitt on Nonroad Engines (February 12, 2004) – Bill Becker, representing STAPPA and ALAPCO, joined a group of CEOs from national health and environmental groups to urge EPA Administrator Mike Leavitt to publish the agency's nonroad proposal on time (April, 2004) and regulate locomotive and marine fuels as part of the nonroad final rule. Bill complimented the staff of EPA's Office of Transportation and Air Quality for the "truly superb job" they performed in seeking views from stakeholders, especially state and local air pollution control officials. He indicated agencies throughout the country are relying heavily on the significant benefits expected from the rule, including the prevention, annually, of 9,600 premature deaths, 8,300 hospitalizations and one million work days lost. Moreover, agencies will depend upon these emissions reductions when developing State Implementation Plans for ozone and fine particulate. The group also recommended that EPA immediately initiate a rulemaking to set emissions standards for locomotive and marine engines (as a follow on to the fuels standards). Leavitt indicated he has had "extensive briefings" with staff, will meet the April 2004 deadline for finalizing the rule, but provided "no signal" where the agency will come out on these and other nonroad issues.

(3) Senate Revises Energy Bill, Senate Floor Vote Possible After Recess (February 13, 2004) – The Senate Majority Leader (Bill Frist, R-TN) and Senate Minority Leader (Tom Daschle, D-SD) have announced an agreement on a scaled-down energy bill that they expect to bring to the Senate floor under “expedited consideration” when the Senate returns from recess the week of February 23. The new bill, S.2095, cuts the initial \$31 billion cost estimate to \$17 billion. Perhaps most important, however, the bill no longer includes language providing product liability protection to fuel oxygenates, including MTBE. Energy legislation still faces several considerable hurdles. Senate Democrats are concerned that they were not party to the recent negotiations between Frist and Daschle and are expected to offer many amendments. House officials have stated in the past the product liability protection provisions for fuel oxygenates are “not negotiable.” White House officials have commented the costs are still too high, preferring, instead, a bill on the order of \$8 billion. [For further information: Air Web – In the News and Energy Committee pages]

(4) Five U.S. Power Companies Announce Support for Mandatory Cap on CO₂ Emissions (February 11, 2004) – Five U.S. power companies joined the World Wildlife Fund’s PowerSwitch! Program that calls for binding limits on national carbon dioxide (CO₂) emissions. The five utilities are Austin Energy, Burlington Electric Department, FPL Group, Inc., Sacramento Municipal Utility District (SMUD), and Waverly Light and Power. The WWF PowerSwitch! Challenge is for power companies to support binding limits on national CO₂ emissions and undertake one or more of the following action targets: use renewables as the source for 20 percent of their electricity sold by 2020, increase energy efficiency by 15 percent by 2020, or retire the least efficient half of coal generation by 2020. Austin Energy, Burlington Electric, and SMUD each committed to generating 20 percent of the electricity it sells from renewable sources of energy. Austin Energy, FPL Group, Inc., and Waverly Light each committed to increasing its energy efficiency by 15 percent by 2020. [For further information: www.wwwfus.org]

(5) EPA Releases Further Details on Public Hearings for Mercury and Transport Rule Proposals (February 9, 2004) – EPA provided additional information on the three two-day public hearings it will hold on the Interstate Air Quality Rule and the Utility Mercury Reductions Rule proposals. The hearings will be held on February 25 and 26, 2004 at the following locations: 1) Hilton Chicago, 720 South Michigan Avenue, Chicago, Illinois 60605, phone 312-726-7500; 2) Wyndham Philadelphia at Franklin Plaza, 17th and Race Streets, Philadelphia, PA 19103, phone 215-448-2000; and 3) Holiday Inn Raleigh-Durham Airport, 4810 Old Page Road, Research Triangle Park, NC, 919-941-6000. Groups will be given 10 minutes to testify on either or both proposals, and must contact JoAnn Allman of EPA at allman.joann@epa.gov. STAPPA and ALAPCO will present testimony at each of the hearings. [For further information: Air Web – Air Toxics and Criteria Pollutants Committee pages]

(6) South Coast Approves More Than \$13 Million for Clean School Buses, Cancer Research (February 6, 2004) – The South Coast Air Quality Management District (SCAQMD) has approved two new air quality programs, committing \$12

million to replace and retrofit diesel school buses, and \$1.5 million for research into possible links between air pollution and cancer. The clean school bus initiative will provide funding to help purchase compressed natural gas (CNG) buses, as well as particulate traps for installation on newer model diesel buses. Under this program, public schools and private companies may receive as much as \$60,000 per CNG bus purchased, provided the bus being replaced is a 1986 or older model, and that the replaced bus is crushed so that the engine cannot be reused. This program, which totals \$7.2 million, should help replace about 120 diesel buses. Public schools may also receive an additional \$12,000 per CNG bus purchased to help build natural gas refueling facilities. SCAQMD has also approved \$4.8 million, or \$6,500 per diesel bus, for public and private bus fleets to install retrofit particulate traps on 1994 or newer diesel buses. Fleets may also be eligible for an additional \$500 to offset the initial incremental cost of low-sulfur diesel fuel. It is anticipated that this program will help install an additional 650 particulate traps on buses. The second initiative approved by the SCAQMD, will expand a health effects study currently underway that is examining air pollution as one possible cause of brain tumors. The additional \$1.5 million will expand these research efforts to also address air pollution and lung cancer. [For more information: www.aqmd.org]

(7) MATES III Study Launched (February 5, 2004) – The South Coast Air Quality Management District announced the beginning of a major one-year study on toxic air pollution within a region of the L.A. Basin. The study is designed to assess current levels of cancer-causing toxic air pollution and the risks they pose to area residents. The study will also help evaluate the effectiveness of current regulations and provide useful information for developing future strategies. The Multiple Air Toxics Exposure Study III (MATES III) will include sampling, updates to emission inventories, dispersion modeling, and evaluation of hot spots, among other things, in 10 sites cross the Los Angeles Basin. The first MATES study was conducted in 1986-1987 and MATES II took place in 1998-1999. [For further information: www.aqmd.gov/news1/MATESIIIpr.html]

(8) UARG and EPA Propose Modification of CALPUFF Dispersion Model in Lawsuit Settlement (February 12) – EPA has agreed to modify a final rule issued in 2003 that adopted the CALPUFF dispersion model for analysis of long-range transport of sulfur dioxide and particulate matter. Under the terms of the settlement, EPA will issue three documents: a guidance document for using CALPUFF to model long-range transport; a letter to the CALPUFF model developer describing procedures for EPA approval of changes to the EPA-approved version of the CALPUFF model, and a letter to the Utility Air Regulatory Group's (UARG) counsel clarifying EPA's statement in the preamble to the rule regarding the role of federal land managers in evaluating air quality related values. The agency requests comments by March 15 on the settlement. Like the settlement arrived at between UARG and EPA relating to "sufficiency monitoring," EPA did not file any reply brief or other motion responsive to UARG's petition before proceeding to settle the case and reconsider its previous regulations. [For further information: *69 Federal Register* 6977-6978]

(9) EPA Delay in Finalizing Penalty Inflation Adjustment Rule Cost \$39 Million (February 13, 2004) – EPA issued a final rule adjusting prospectively all pending civil penalty amounts by 17.23 per cent. According to the rule, the applicable Consumer Price Index (CPI) adjustment must be taken from the June preceding the date of the final rule. Because the CPI was 17.23 per cent in June 2003, that percentage will now be used to increase penalties. The U.S. Public Interest Research Group (PIRG) released an analysis on February 10 that quantified the cost of EPA's failure to adjust the maximum civil penalty amounts for inflation, which is required every four years under the Federal Civil Penalties Inflation Adjustment Act of 1990. According to PIRG, EPA's delay in making the required adjustment has cost the U.S. Treasury at least \$39 million in lost revenue between 2001 and 2008. Although EPA proposed in June 2003 to increase the maximum civil penalty by 14.8 per cent, the agency did not finalize the rule until today. [For further information: www.epa.gov/fedrgstr/EPAGENERAL/2004/February/Day-13/g3231.htm; http://uspirg.org/reports/StatutoryPenaltyAnalysis2_04.pdf]

(10) ACEEE Releases the 2004 Green Book (February 10, 2004) – The natural gas-powered Honda Civic GX has been named the "greenest" car of 2004, while the Volkswagen Touareg, a diesel sport utility vehicle (SUV) has been named the "meanest" 2004 vehicle by the American Council for an Energy-Efficient Economy (ACEEE). ACEEE is an independent, nonprofit organization dedicated to advancing energy efficiency as a means of promoting both economic prosperity and environmental protection. Each year, ACEEE examines all commercially available passenger vehicles, in all size and engine classes, and rates them based on three criteria – tailpipe emissions, fuel economy, and pollution from automobile manufacturing plants. The resulting data is then made available to consumers through ACEEE's Green Book and Green Book Online. For 2004, Honda had five cars in the top 12 cleanest vehicles, with Toyota close behind with three models. This year there were no domestic cars on ACEEE's list of cleanest cars, although Ford Motor Company's Focus sedan and station wagon came close. [For more information: www.aceee.org]

(11) HEI Offers New Research Grants (February 10, 2004) – The Health Effects Institute (HEI) is making available up to \$3.5 million, over a three-year period, to fund studies that are designed to assess the health impacts of actions taken to improve air quality and to develop the research methods necessary for conducting this type of research. In particular, HEI is looking for studies that evaluate actions taken with the express purpose of improving air quality and thereby benefiting public health. HEI also encourages applications from collaborations between environmental and health-related agencies that identify air quality interventions and use health tracking information to assess what the health benefits of those interventions might be. HEI anticipates funding 5 to 10 individual projects. Letters of intent must be received by March 1, 2004; applications are due on April 19, 2004. [For more information: www.healtheffects.org/RFA/RFA2004.htm]

(12) Phyllis Harris Named Acting Director of EPA Office of Enforcement and Compliance (OECA) (February 6, 2004) – Taking the chief enforcement spot for J.P.Suarez, who left last month to take a position as counsel for the Sam's Club

Division of Walmart, Phyllis Harris will serve as Director of OECA until President Bush makes a new permanent appointment. Ms. Harris, who has served as an attorney with EPA in various positions over the last 18 years, was most recently deputy assistant administrator of OECA. Before that, she directed the Environmental Accountability Division for EPA Region IV in Atlanta.

(13) EPA Promotes SmartWay Transport Partnership (February 9, 2004) – EPA Administrator Mike Leavitt this week recognized 52 members of the SmartWay Transport Partnership, a voluntary program designed to improve fuel efficiency and reduce air pollution and greenhouse gas emissions from the freight industry. Under the provisions of this program, SmartWay Transport partners can achieve fuel efficiency in a variety of ways, including “automatic tire-inflation systems, the use of low-viscosity lubricants, reducing truck idling time, and improving routing and scheduling.” EPA and its partners expect to reduce CO₂ emissions by 33 to 66 million tons per year and NO_x emissions by up to 200,000 tons per year by 2012. Carriers and shippers that become SmartWay Transport partners commit to improving their environmental performance over a three-year period and reporting their progress annually to EPA. Partners who achieve superior performance are eligible to display EPA’s SmartWay Transport Partnership logo in their advertising, marketing, and business-to-business interactions to demonstrate their environmental stewardship. [For further information: www.epa.gov/smartway]

(14) Climate Change Will Exacerbate Coral Reef Crisis (February 13, 2004) – A report by the Pew Center on Global Climate Change says that coral reefs, already under numerous environmental and human-induced stresses, will face even more severe challenges to their survival because of global warming. The report concludes that recent global increases in reef ecosystem degradation and mortality (the “coral reef crisis”) are exceeding the adaptive capacity of coral reef organisms and communities. Global warming will only add to the severity of this crisis. Coral reefs have the highest biodiversity of any marine ecosystem, providing important ecosystem services and direct economic benefits to the large and growing human populations in low-latitude coastal zones, according to the report. [For further information: www.pewclimate.org/global-warming-in-depth/all_reports/coral_reefs/index.cfm]

(15) EPA Announces Review of IRIS (February 9, 2004) – EPA has announced the list of chemical substances for which the agency will begin assessments this year as part of the review of the Integrated Risk Information System (IRIS). IRIS is an EPA database that contains scientific consensus positions on human health effects resulting from exposure to chemicals. As part of EPA’s assessments, the agency is requesting that scientific information on health effects that the public may be aware of be submitted by April 9, 2004. The *Federal Register* notice announcing EPA’s IRIS agenda for FY 2004 also includes the names of substances for which assessments have recently been completed or will soon be completed and the substances for which assessments are ongoing. [For further information: 69 *Federal Register* 5971]

The Week Ahead

- Congress in Recess Returning February 24, 2004
- President's Day Holiday – February 16, 2004

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