



This Week in Review – March 15-19, 2004

(1) STAPPA and ALAPCO Complete Analysis of Multi-Pollutant Principles (March 15, 2004) – STAPPA and ALAPCO completed work on an analysis to illustrate what nationwide emission caps for NO_x, SO₂ and mercury could result from application of the associations' *Principles for a Multi-Pollutant Strategy for Power Plants*; the principles were adopted by the memberships on May 7, 2002 in support of "an integrated approach for regulating air emissions from electric power plants on an expeditious schedule with synchronized deadlines." Based on their analysis, the associations have concluded that application of air pollution control technologies consistent with what various states across the country have committed or proposed to implement over the next decade (i.e., through state permits, court-ordered settlement agreements or state regulations) would achieve the most stringent NO_x, SO₂ and mercury caps contemplated in prominent national multi-pollutant proposals, with a reasonable margin for flexibility and opportunities for increased power generation. [For further information: Air Web – In the News and Energy Committee pages – and Clean Air World "What's New" page at www.cleanairworld.org/stappa/news.html]

(2) Senator Jeffords Requests Reproposal of Mercury Utility Rule and Investigation into Rulemaking Process (March 16, 2004) – Senator James Jeffords (I-VT), ranking member of the Senate Environment and Public Works Committee, has written a letter to EPA Administrator Michael Leavitt criticizing EPA's recently proposed rule to reduce emissions of mercury from electric generating units and the process by which the agency developed it. Specifically, Jeffords states that the proposal is inadequate, violates the settlement agreement EPA has with the Natural Resources Defense Council, and should be withdrawn and repropoed. Additionally, he calls for the EPA Inspector General to conduct an investigation of the "undue industry influence in the rulemaking process" and requests specifics about certain EPA interactions with industry representatives during the development of the proposal. [For further information: epw.senate.gov/pressitem.cfm?id=219220&party=dem]

(3) EPA Faces Legal Challenge Over Sufficiency Monitoring Rules (March 18, 2004) – The Environmental Integrity Project (EIP), joined by the Natural Resources Defense Council, the Physicians for Social Responsibility and several other environmental groups, filed a petition for review in the U.S. Court of Appeals for the D.C. Circuit seeking to overturn monitoring regulations issued by EPA on January 22,

2004. Under the agency's previous interpretation of monitoring regulations contained in 40 CFR Part 70, permitting authorities could add monitoring requirements to Title V permits that supplemented the periodic monitoring requirements. Such monitoring was commonly known as "gap-filling monitoring" or "sufficiency monitoring." In the January 22 regulations, however, EPA eliminated the regulatory provision for such monitoring, stating that the relevant regulatory language "no longer had independent meaning." The agency had agreed to promulgate the new regulations (and eliminate the old monitoring) under the terms of an agreement with the Utility Air Regulatory Group (UARG). UARG had filed two lawsuits against EPA on this issue. The first was dismissed; the second was settled without litigation. EIP and the other plaintiffs seek to reinstate the ability of permitting authorities to impose "gap-filling monitoring" when periodic monitoring is considered insufficient to ensure compliance. EIP states, "[w]ithout such monitoring it is impossible to determine what sources are emitting and whether or not those emissions are violations of pollution limits."

(4) North Carolina Files Section 126 Petition Seeking Action Against 13 States (March 18, 2004) – North Carolina filed a petition with EPA under Clean Air Act section 126 seeking relief from air pollution from 13 states that it claims is contributing significantly to nonattainment, or interfering with maintenance, of the National Ambient Air Quality Standards (NAAQS) in North Carolina. The 13 states are Alabama, Georgia, Illinois, Indiana, Kentucky, Maryland, Michigan, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia. The petition alleges that NO_x and SO₂ emissions from electric generating units in these 13 states are preventing North Carolina from meeting the NAAQS for PM_{2.5} and ozone. The petition says that compliance with the proposed EGU emission budgets in EPA's proposed Interstate Air Quality Rule (IAQR) "would satisfy the requirements of this petition" and that North Carolina "does not oppose the flexibility discussed by EPA [in the IAQR proposal] to allow equivalent reductions from other source categories in a given state . . . so long as those reductions are real and enforceable." However, North Carolina is concerned that the interstate trading regime proposed in the IAQR might deny the state the benefit of needed reductions in states whose emissions particularly affect North Carolina's quality. In addition, section 110 (under which the IAQR is being promulgated) and section 126 do not provide mutually exclusive remedies; North Carolina believes its section 126 petition will assist in assuring expeditious implementation of controls on interstate transport affecting North Carolina. Section 126(b) of the Clean Air Act states that, within 60 days after receiving a section 126 petition, EPA must make a finding of violation of the Act's "significant contribution" provision or deny the petition. Section 307(d)(10) authorizes EPA to extend this period. [For further information: Air Web – Criteria Pollutants Committee page]

(5) EPA Publishes Supplemental Mercury Proposal and Extension to Public Comment Period (March 16, 2004) – EPA has published in the *Federal Register* the supplemental proposal to the mercury utility rule that was announced on February 24, 2004 (69 FR 12398). The supplemental proposal primarily addresses the cap-and-trade program, as well as monitoring and reporting provisions. EPA will hold a hearing on the supplemental proposal in Denver, Colorado, on March 31, 2004, and

accept written comments on it until April 30, 2004. Additionally, EPA has published in the *Federal Register* a notice extending until April 30, 2004 the comment period for the main mercury utility proposal that was proposed in the *Federal Register* on January 30, 2004. [For further information: www.epa.gov/mercury/actions.htm]

(6) ECOS Weighs in on Conformity and CMAQ (March 17, 2004) – In a letter to the Chairman of the U.S. House of Representatives' Subcommittee on Highways, Transit and Pipelines, the Environmental Council of the States (ECOS) expressed concern with two provisions of S. 1072, the Senate-passed transportation bill. Specifically, with respect to conformity, ECOS opposes the Senate bill's provision to shorten from 20 years to 10 the horizon over which conformity must be demonstrated for the Regional Transportation Plan and urges retention of the 20-year horizon. With respect to the Congestion Mitigation and Air Quality Improvement (CMAQ) Program, ECOS opposes the expansion of CMAQ project eligibility to "operations management" projects and urges that the "concurrence" of state environmental agencies be required for CMAQ project selection. [For further information: Air Web – Mobile Sources and Fuels Committee page]

(7) STAPPA and ALAPCO Release FYs 2005/2006 Training Needs Assessment Survey Report (March 18, 2004) – STAPPA and ALAPCO released a report summarizing the training needs identified by state and local air agencies for Fiscal Years 2005 and 2006. A total of 88 agencies completed the FY2005/2006 Training Needs Assessment Survey, which queried agencies on their training needs relative to current classroom courses and potential new topics. For the first time, the survey asked whether projected staff attendance changed depending on whether a class was offered in state, in the state's region or out of the region. Respondents indicated that if it was necessary to send staff out of state, but within the state's region to attend a class, projected attendance dropped by over 60 percent; sending staff out of the state's region decreased projected attendance by over 85 percent. [For further information: Air Web – In the News and Training Committee pages]

(8) EPA Preparing to Select FY 2004 Clean School Bus USA Grant Recipients (March 16, 2004) – EPA advised STAPPA and ALAPCO that it will not solicit new applications for grants under the FY 2004 Clean School Bus USA program. Instead, the agency will select recipients of the \$5 million in FY 2004 Clean School Bus USA funds from among the grant requests submitted, but not selected, under the FY 2003 program. EPA's decision was based on the fact that the response to last year's request for proposals included so many worthy programs and selecting from among those already in hand would allow the agency to award the grants more quickly and in time for the projects to be put in place for the 2004-2005 school year. The EPA Regional Offices are currently reviewing last year's submittals to verify their continued eligibility, in preparation for a meeting next week of the national selection panel. The agency anticipates announcing its FY 2004 selections around May 1, 2004.

(9) New Report Focuses on Highway Capacity and Vehicle Emissions (March 9, 2004) – In a new report, the U.S. Public Interest Research Group (U.S. PIRG) concludes that "building new roads will do little to alleviate traffic congestion in the

long run and likely will exacerbate already severe air pollution problems across the country." In *More Highways, More Pollution*, U.S. PIRG analyzes highway capacity and vehicle emissions data for 314 metropolitan areas, finding that 1) highway expansion in the U.S. has contributed to an increase in driving, 2) cities with more major highway capacity per capita have higher levels of vehicle-related air pollution per capita and 3) the average large metro area that expands its highway capacity by 14.6% (the national urban area growth rate in the 1990s) can expect a 10.9% increase in NO_x and a 10.7% increase in VOCs, all other things being equal. The report also identifies the 20 large U.S. cities with the most vehicle-related air pollution per capita in 1999. [For further information: www.uspirg.org]

The Week Ahead

- Clean Air Act Advisory Committee Subcommittee Meetings, in Washington, DC - March 23, 2004
- Clean Air Act Advisory Committee Meeting, in Washington, DC – March 24, 2004

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