



This Week in Review – June 13-17, 2005

(1) **Senator Voinovich Introduces Diesel Retrofit Bill, STAPPA and ALAPCO Offer Support (June 16, 2005)** – Ohio Senator George Voinovich, Chairman of the Energy and Commerce Subcommittee on Clean Air, Climate Change and Nuclear Safety, introduced bipartisan legislation to reduce emissions from diesel engines. S. 1265, the Diesel Emissions Reduction Act of 2005, authorizes \$1 billion over five years (2006-2010) to establish voluntary grant and loan programs for diesel emission reduction projects that improve air quality and protect public health. In announcing his bill, Senator Voinovich stated, “I am pleased that the Administration has taken strong action with new diesel fuel and engine regulations which were developed in a collaborative effort to substantially reduce diesel emissions. However, I am concerned that the full health benefits will not be realized until 2030 because these regulations address only new engines. The estimated 11 million existing diesel engines have a long life ahead of them and need to be addressed as well. The Diesel Emissions Reduction Act of 2005 will provide pivotal funding through national and state-level grant and loan programs for the voluntary retrofitting of existing diesel engines. I am pleased that such a strong, diverse coalition of environmental, industry, and public officials understands the need for this legislation and is working hard to make it a reality.” STAPPA and ALAPCO are among those who support Senator Voinovich’s bill; in a June 14, 2005 letter to the Senator, the associations wrote “By authorizing funds for grants and loans to states and other organizations for the purpose of reducing emissions from diesel engines, the Diesel Emissions Reduction Act of 2005 will help states and localities achieve their air quality goals, including attaining and maintaining health-based National Ambient Air Quality Standards for ozone and PM_{2.5} and reducing exposure to toxic air pollution.” Also among the bill’s supporters is John Paul, ALAPCO President and Supervisor of the Regional Air Pollution Control Agency in Dayton, Ohio, who, on behalf of his agency, participated on the bill drafting team and who said “This bill will help areas reduce air toxics and meet health-based standards in a very effective manner.” STAPPA/ALAPCO Executive Director Bill Becker was invited to appear with Senator Voinovich and other coalition members at a press conference at which the bill was announced and will be part of a panel that briefs House and Senate staff on Monday, June 18, 2005. Co-sponsors of the bill include Senators Carper (D-DE), Clinton (D-NY), Isakson (R-GA), Hutchinson (R-TX), Feinstein (D-CA), Inhofe (R-OK) and Jeffords (I-VT). Senator Voinovich has indicated that next week he will offer S. 1265 as an amendment to the energy bill. [For further

information: Air Web – Mobile Sources and Fuels Committee page – and voinovich.senate.gov/news_center/releases.cfm]

(2) EPA Releases Final Regional Haze and BART Rule (June 16, 2005) – EPA released final amendments to its 1999 regional haze rule to clarify how to apply Best Available Retrofit Technology (BART) requirements to industrial facilities that emit pollutants that reduce visibility. The amendments assist states as they identify which of their BART-eligible sources should undergo a BART analysis (i.e., which are “sources subject to BART”) and select controls in light of the statutory factors (“the BART determination”). Any electric generating units (EGUs) greater than 750 megawatts (MW) are required to put on controls. For SO₂, the presumptive controls are 95-percent control or 0.15 pounds per million British Thermal Units (lbs/MMBtu). For NO_x, in the NO_x SIP Call area, controls must be used year-round; outside this area, the presumptive controls are 0.2–0.45 lbs/MMBtu. States that adopt the cap-and-trade program under the Clean Air Interstate Rule (CAIR) for EGUs for SO₂ and NO_x are allowed to apply CAIR controls as a substitute for controls required under BART because EPA’s analysis concluded that CAIR controls are “better than BART” for EGUs in the states subject to CAIR. For other sources (i.e., EGUs under 750 MW and other sources deemed BART-eligible under the Clean Air Act), EPA provides guidelines to states on determining which sources are subject to BART and which controls can be considered BART. The rule will be final 60 days after it is published in the *Federal Register*. States are required to submit SIPs by December 17, 2007. EPA will propose a rule in the next few weeks to provide states with alternative programs (like a cap-and-trade program) to address BART and will finalize this rule by November 8, 2005. [For further information: www.epa.gov/visibility/actions.html]

(3) Senate Debates Energy Bill, Adds Ethanol Mandate and RPS (June 14-17, 2005) – The Energy Policy Act of 2005 (H.R. 6) reached the floor of the Senate this week. Among the issues considered during the opening days of debate were an ethanol/biodiesel mandate and a renewable portfolio standard (RPS). With respect to ethanol, the Senate approved an amendment offered by Energy and Natural Resources Committee Chair Pete Domenici (R-NM) retaining the Committee bill’s requirement to increase, by 2012, the use of cellulosic biomass ethanol and biodiesel in gasoline to 8 billion gallons (from the current 3-billion-gallon level of renewable use), but also, among other things, repealing the Clean Air Act’s 2-percent oxygenate requirement for federal reformulated gasoline (RFG); allowing additional opt-in areas under the RFG program – limited, however, only to areas in the Ozone Transportation Region; establishing a credit trading program for ethanol producers; providing immunity for ethanol producers from defective product lawsuits; and banning the use of MTBE after four years. Several attempts to strike the amendment, in whole or in part, were unsuccessful. The Senate also added to the bill a requirement, offered by Senator Jeff Bingaman (D-NM), Ranking Member of the Energy Committee, for electric utilities, by 2020, to derive at least 10 percent of their electricity from renewable sources such as wind, solar or geothermal power or biomass fuels. An amendment from Senator Maria Cantwell (D-WA) that would have required the President to take action to reduce U.S. oil consumption by 40 percent by 2025 failed. Meanwhile, on Tuesday, the White House issued a Statement of Administration Policy (SAP)

supporting Senate passage of the energy bill voted out by the Energy and Natural Resources Committee. In the SAP, the Administration indicates that it opposes amendments to set a national RPS, as well as “any amendments to legislate an arbitrary increase in CAFE standards that could reduce vehicle safety and eliminate auto sector jobs,” and supports increasing the use of clean, domestically produced renewable fuels, such as ethanol and biodiesel, as well as the repeal of the RFG oxygenate requirement. The Administration further states that it “is not convinced of the need for additional legislation with respect to global climate change, and will oppose any climate change amendments that are inconsistent with the President’s climate change strategy.” The Senate will continue debate of the energy bill next week; Senators Domenici and Bingaman have indicated that they expect the Senate to complete work on the bill before the Fourth of July break. [For further information: thomas.loc.gov and www.whitehouse.gov/omb/legislative/sap/109-1/index-date.html]

(4) Appeals Court Rules in Favor of Duke Energy on NSR (June 15, 2004) -- The U.S. Court of Appeals for the Fourth Circuit upheld a lower court ruling against EPA and several environmental and public health organizations that Duke Energy Corporation did not violate the New Source Review (NSR) provisions of the Clean Air Act. At issue was the extent to which Duke Energy modified its facilities without first obtaining appropriate permits under the Clean Air Act and installing modern pollution controls. Specifically, between 1988 and 2000, Duke Energy replaced and/or redesigned one or more boiler tubes in 29 projects, resulting in the extended life of the projects and increased hours of operation. EPA concluded that these life-extension projects increased total annual emissions and therefore represented “major modifications,” thus triggering NSR. The Fourth Circuit, which covers five southeastern states, sided with the lower court, concluding that increases in hourly emissions rates, not increases in annual emissions, trigger NSR. The Circuit Court concluded that “EPA must...interpret its PSD regulations defining ‘modification’ congruently” [with the NSPS statutory definition of “modification”]. [For further information: pacer.ca4.uscourts.gov/opinion.pdf/041763.P.pdf]

(5) U.S. Conference of Mayors Unanimously Supports Global Warming Reduction Targets (June 14, 2005) – At its annual meeting, the U.S. Conference of Mayors unanimously endorsed a resolution calling on state governments and the federal government to meet ambitious targets for reducing greenhouse gas (GHG) emissions and calling for passage of the Climate Stewardship Act sponsored by Senators John McCain (R-AZ) and Joe Lieberman (D-CT). The Climate Stewardship Act caps GHG emissions from the transportation, electric utility, industrial and commercial sectors and allows trading to meet the cap, which is set at 2000 levels in the year 2010. The resolution urges the federal government and state governments to “enact policies and programs to meet or beat the Kyoto Protocol target of reducing global warming pollution levels to 7 percent below 1990 levels by 2012.” The resolution further provides that mayors will strive to meet or exceed the Kyoto Protocol targets for reducing GHG emissions and lists 12 actions that can be undertaken to meet these goals. The group also endorsed the U.S. Mayors Climate Protection Agreement, which 164 mayors have signed to date; this agreement contains commitments almost identical to those in the resolution passed by the U.S.

Conference of Mayors. [For further information:
www.usmayors.org/73rdAnnualMeeting/resolutions/Res2005051.htm]

(6) EPA Reaches Settlements with Sunoco and Valero to Reduce NO_x and SO₂ Emissions (June 16, 2005) – EPA announced that it has reached a settlement agreement with petroleum refiners Sunoco and Valero to reduce emissions from 18 refineries across the U.S. Valero and Tesoro (which purchased a refinery formerly owned by Valero) are required to spend more than \$700 million to install and implement emission control technologies at their refineries; these technologies are expected to reduce annual emissions of NO_x by more than 4,400 tons and SO₂ by more than 16,000 tons. Sunoco is required to spend approximately \$285 million to install and implement emission control technologies at its refineries; these technologies are expected to reduce annual emissions of NO_x by more than 4,400 tons and SO₂ by more than 19,500 tons. Valero and Sunoco are also required to pay civil penalties of \$5.5 million and \$3 million, respectively, and spend more than \$5.5 million and more than \$3.9 million, respectively, on environmentally beneficial projects. Colorado, Louisiana, New Jersey, Oklahoma and Texas joined EPA in the settlement with Valero; Pennsylvania, Ohio, Oklahoma and Philadelphia, Pennsylvania joined EPA in the settlement with Sunoco. The settlements are part of EPA's Petroleum Refinery Initiative and are subject to a 30-day comment period. [For further information: www.epa.gov/compliance/resources/cases/civil/caa/oil/index.html]

(7) New Mexico Forms Climate Change Advisory Group; Sets GHG Reduction Targets (June 13, 2005) – New Mexico Governor Bill Richardson issued an executive order forming the New Mexico Climate Change Advisory Group, which is tasked with developing proposals to reduce New Mexico's greenhouse gas (GHG) emissions to 2000 levels by 2012, to 10 percent below 2000 levels by 2020 and to 75 percent below 2000 levels by 2050. The order calls on the Advisory Group to explore regional and national initiatives to address global warming, especially with nearby states, and to develop a report with findings and recommendations by December 1, 2006. The order also creates a high-level group within the government to advise the Governor on global warming; the Advisory Group will present its GHG reduction proposals to this Climate Change Action Council, and the Council will be responsible for reviewing and providing recommendations to the Governor on global warming. [For further information: Air Web – Global Warming Committee page]

(8) EPA Launches Model Wood Stove Change-Out Campaign in Libby, Montana (June 16, 2005) – As part of a national wood stove change-out campaign, EPA is facilitating an effort in Libby, Montana to replace older polluting wood stoves and fireplaces with new ones. Researchers estimate that about 80 percent of Lincoln County's fine particle pollution comes from residential wood smoke from woodstoves, fireplaces and outdoor wood heaters. The goal is to replace at least 300 wood stoves and fireplace inserts with cleaner-burning equipment in 2005, with more replacements in future years as funds become available. The Hearth, Patio and Barbecue Association provided \$1 million to install new EPA-certified stoves and chimneys free of charge to 300 lower-income households. [For further information: www.epa.gov/woodstoves/changeout.html#model]

(9) Environmental Defense Releases Reports on Western Haze and Reducing Diesel Emissions (June 13 and 16, 2005) – Environmental Defense (ED) released two reports, each of which addresses a timely air quality issue. In *Clearing the Haze from Western Skies*, ED examines NO_x and/or SO₂ emissions from sources in the West that are eligible for Best Available Retrofit Technology (BART) requirements and identifies national parks and monuments located in states with these sources that are experiencing worsening trends for one or more air pollutants. ED concludes that, because the amount of pollution released by these sources is so large and because air quality in nearby parks is worsening, EPA should set stringent BART-applicability requirements and stringent requirements for what type of technology qualifies as BART. In *Cleaner Air for America*, ED examines the public health, policy and economic case for a national program to reduce pollution from today's diesel engines, concluding that "each dollar invested in lowering pollution from diesel engines yields human health dividends of at least twelve-fold." In announcing the report, ED noted that the legislation introduced this week by Senator George Voinovich to authorize funds for retrofitting in-use diesels (see related article) "will help speed the transition to healthier air." [For further information: environmentaldefense.org/documents/4481_ClearingHaze.pdf and www.environmentaldefense.org/documents/4488_cleanerairamerica.pdf]

(10) Four Health Organizations Intervene in Suit Over EPA's Utility Mercury Rule (June 14, 2005) – Four health organizations have intervened in the lawsuit over the Clean Air Mercury Rule (CAMR), which EPA adopted on March 15, 2005. The American Academy of Pediatrics, the American Nurses Association, the American Public Health Association and Physicians for Social Responsibility, which together represent over 300,000 public health professionals, have joined together to intervene in the suit brought by 13 state attorneys general and environmental groups. The four organizations consider the CAMR to be a "clear threat to public health," and they are asking the court to overturn it. [For further information: www.mercuryaction.org]

The Week Ahead

- Senate Debate on Energy Legislation Continues, in Washington, DC – Week of June 20, 2005
- Transportation Bill Conference Continues, in Washington, DC – Week of June 20, 2005
- Congressional Renewable Energy and Energy Efficiency Expo, in Washington, DC – June 21, 2005
- Air and Waste Management Association Annual Conference, in Minneapolis, Minnesota – June 21-24, 2005
- Senate Environment and Public Works Committee Oversight Hearing on Grants Management within EPA, in Washington, DC – June 22, 2005

- National Association of Regional Councils Climate Change Workshop: A Transportation Planning Approach to Reducing Greenhouse Gases, in Monterey, California – June 26, 2005

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