



## *This Week in Review – June 27-July 1, 2005*

(1) **STAPPA and ALAPCO Launch Two New Websites (July 1, 2005)** – STAPPA and ALAPCO have launched two websites that will provide the public with valuable information about air pollution control programs and agencies. The first site, the *STAPPA/ALAPCO Public Site* at [www.4cleanair.org](http://www.4cleanair.org), offers a wealth of information for the general public about air quality topics as well as contact information for the associations' members – state and local air pollution control programs across the United States. The *STAPPA/ALAPCO Public Site* also contains the associations' policies, positions, publications and other documents and links to related websites. The second site, *Clean Air World* at [www.cleanairworld.org](http://www.cleanairworld.org), was first launched in 2002, but has been updated and redesigned to allow better navigation. It provides contact information for governmental air quality agencies around the world at the national and local levels. The site offers an easy way for air quality regulators around the world to learn about each other's programs and to communicate more easily. Additionally, it presents the public with a tool for learning about air quality efforts around the globe. *Clean Air World* also includes background information about a variety of air-pollution-related topics and relevant links. Both sites are sponsored and maintained by STAPPA and ALAPCO. [For further information: [www.4cleanair.org](http://www.4cleanair.org) or [www.cleanairworld.org](http://www.cleanairworld.org)]

(2) **Senate Adopts FY 2006 Appropriations Legislation (June 29, 2005)** – The Senate passed legislation that includes appropriations for EPA's FY 2006 budget. The bill, H.R. 2361, provides a total of \$7.88 billion for EPA, with \$223.55 million for grants to state and local air agencies under Sections 103 and 105 of the Clean Air Act. This amount is \$350,000 more than the amount appropriated in FY 2005 and is equal to the amount requested by the President for FY 2006. It is also the same amount that the House bill includes for grants to state and local air agencies. During consideration of the bill on the floor of the Senate, Senator James Inhofe (R-OK) introduced and subsequently withdrew an amendment calling for grants to national associations that represent state, tribal and local governments to be awarded through a competitive process. STAPPA and ALAPCO sent a letter to the Senate Appropriations Committee leadership opposing the amendment, stating that, consistent with EPA policy, national organizations that represent state, tribal and local governments should be exempt from the requirements for grant competition because they represent the interests of co-regulators or co-implementors (state, tribal or local governments) in the execution of national or regional environmental programs. Other

organizations expressed opposition to the amendment as well. The House adopted its version of the appropriations bill on May 19, 2005. The House and Senate conference committee, expected to convene in July, must now resolve the differences between the two bills. [For further information: [thomas.loc.gov/home/approp/app06.html](http://thomas.loc.gov/home/approp/app06.html) or Air Web – In the News and Program Funding Committee pages]

**(3) Senate Passes Energy Bill (June 28, 2005)** – By a vote of 85 to 12, the Senate approved its energy bill, paving the way for conference negotiations with the House. The Senate bill, which was completed last week (see June 20-24, 2005 *Washington Update*), does not include numerous provisions that are part of the House bill (approved April 21, 2005 by a 249 to 183 vote). Specifically not included are several air-related provisions, such as those on “refinery revitalization” and boutique fuels, both of which STAPPA and ALAPCO opposed, as well as one to extend ozone attainment deadlines (see April 18-22, 2005 *Washington Update*). Following the vote, Senate Energy and Natural Resources Committee Chair Pete Domenici (R-NM) thanked his Committee colleagues “for writing a bill strong enough to receive the overwhelming endorsement of this Senate.” He further stated that he anticipates the “swift naming of conferees and immediate progress to conference,” noting that he intends to do everything he can to comply with the President’s request that a bill be on his desk by August 1, 2005. Jeff Bingaman (D-NM), Ranking Member of the Energy and Commerce Committee, called the bill “a step forward in helping our nation meet its energy challenges.” Noting that the bill does not go as far as he would have liked “to reduce our dependence on foreign oil, to improve vehicle fuel efficiency or to reduce greenhouse gas emissions,” Bingaman said “But it makes a good start.” The 12 dissenting votes in the Senate were by Senators Corzine (D-NJ), Feingold (D-WI), Gregg (R-NH), Kyl (R-AZ), Lautenberg (D-NJ), Martinez (R-FL), McCain (R-AZ), Nelson (D-FL), Reed (D-Rhode Island), Schumer (D-NY), Sununu (R-NH) and Wyden (D-OR). [For further information: [energy.senate.gov](http://energy.senate.gov)]

**(4) Congress Extends Highway Bill for Eighth Time as Conference Discussions Continue (June 30, 2005)** – For the eighth time, Congress approved an extension to the highway bill (TEA-21)—this time for three weeks—so that conferees would have additional time to resolve differences. The extension lasts until July 19, 2005.

**(5) EPA to Reconsider Mercury Regulatory Finding Revision, Denies Request for Stay (June 24, 2005)** – In a letter to the Natural Resources Defense Council and the Attorney General of New Jersey, EPA announced that it would commence the reconsideration process for the final rule entitled, “Revision of December 2000 Regulatory Finding on the Emissions of Hazardous Air Pollutants from Electric Utility Steam Generating Units and the Removal of Coal- and Oil-Fired Electric Utility Steam Generating Units from the Section 112(c) List.” The rule was the first of two final rules designed to address emissions of mercury from power plants (the second being the Clean Air Mercury Rule). EPA indicated that, while the agency was granting the request for reconsideration, it would deny the request for a stay on the implementation of the rule, since that would require the agency to stay the Clean Air Mercury Rule as well. EPA received two petitions for reconsideration and a stay –

one from a group of 14 states, led by New Jersey, and the other from a group of five environmental groups and four Indian Tribes. [For further information: [www.epa.gov/mercury/control\\_emissions/062405letter.pdf](http://www.epa.gov/mercury/control_emissions/062405letter.pdf)]

**(6) Resolution Introduced in Congress to Overturn EPA Mercury Rule that Delists Power Plants from HAP List (June 29, 2005)** – Thirty-two Senators and five Representatives introduced resolutions in their respective houses of Congress under the Congressional Review Act that disapprove of and could ultimately overturn EPA's rule that delists power plants as a source of hazardous air pollutants under Section 112 of the Clean Air Act. The rule was the first of the two that EPA issued as part of its strategy to regulate mercury emissions from power plants with a cap-and-trade program under Section 111 of the Act. The Congressional Review Act is a little-used provision that allows Congress to overturn a regulation within 60 legislative days after it has been submitted to Congress. The resolution must be adopted by both houses of Congress to go into effect. [For further information: [leahy.senate.gov/press/200506/062905.html](http://leahy.senate.gov/press/200506/062905.html) or [tomallen.house.gov/](http://tomallen.house.gov/)]

**(7) GAO Issues Report on Emerging Mercury Control Technologies (June 23, 2005)** – The U.S. Government Accountability Office (GAO) issued a report entitled, *Emerging Mercury Control Technologies Have Shown Promising Results, but Data on Long-Term Performance Are Limited*, in which it describes the use, availability and effectiveness of technologies to reduce emissions of mercury from power plants, identifies the factors that influence the cost of technologies and reports cost estimates. GAO has concluded that, while power plants have not been required to install mercury controls, there are some technologies that are available for purchase that have shown promising results during field tests. For example, tests of sorbent technologies have shown reductions of 30 to 95 percent, with effectiveness improving over time. However, there is no long-term data on power-plant emissions with this technology. GAO indicates that costs are expected to decrease as the market for the control technologies increases. Additionally, EPA now believes that the agency's "earlier cost estimates likely overstated the actual cost power plants would incur." [For further information: [www.gao.gov/new.items/d05612.pdf](http://www.gao.gov/new.items/d05612.pdf)]

**(8) Canadian Environment Ministers Agree on National Mercury Emission Standard for Power Plants (June 27, 2005)** – The Canadian Council of Ministers of the Environment (CCME) has agreed in principle to a Canadian national standard to reduce emissions of mercury from coal-fired power plants. The two-phased approach would call for provincial caps for existing plants equivalent to a 65-percent national capture of mercury from coal burned (or 70 percent, including recognition for early action) by 2010 and consideration of 80-percent capture or more by 2018. Emission limits for new sources would reflect Best Available Control Technology, effective immediately. The standard is expected to be endorsed in final form in the fall of 2005. The CCME includes the environment ministers from the 10 provinces, the three territories and the federal government of Canada. [For further information: [www.ccme.ca/initiatives/standards.html?category\\_id=53#158](http://www.ccme.ca/initiatives/standards.html?category_id=53#158)]

**(9) EPA's Final Staff Paper Recommends Strengthening Fine Particle Standard and Creating Indicator for Urban Coarse Particles (July 1, 2005)** – EPA released its final staff paper with recommendations for strengthening the PM<sub>2.5</sub> standard and creating an indicator for coarse particles in urban areas. The staff paper provides two alternative approaches to tightening the standard: 1) retain the annual PM<sub>2.5</sub> standard at 15 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ), together with a revised 24-hour PM<sub>2.5</sub> standard in the range of 35 to 25  $\mu\text{g}/\text{m}^3$  (based a 98th percentile form for a standard set at the middle to lower end of this range, or a 99th percentile form for a standard set at the middle to upper end of this range), or 2) revise the annual PM<sub>2.5</sub> standard, within the range of 14 to 12  $\mu\text{g}/\text{m}^3$ , together with a revised 24-hour PM<sub>2.5</sub> standard in the range of 30 to 40  $\mu\text{g}/\text{m}^3$ , with either the annual or the 24-hour standard, or both, at the middle to lower end of these ranges. The current annual standard is 15  $\mu\text{g}/\text{m}^3$  and the current daily standard is 65  $\mu\text{g}/\text{m}^3$ . For coarse particles, the staff paper recommends using an indicator that includes particles larger than 2.5 micrometers but smaller than 10 micrometers, with a focus on particles in the urban area, thus denominated as UPM<sub>10-2.5</sub>. The staff paper recommends consideration of a 24-hour UPM<sub>10-2.5</sub> standard with a level in the range of approximately 50 to 70  $\mu\text{g}/\text{m}^3$ , 98th percentile form, or approximately 60 to 85  $\mu\text{g}/\text{m}^3$ , 99th percentile form. According to the paper, the upper level of the recommendation would provide protection that is approximately equivalent to that provided by the current PM<sub>10</sub> standard. This paper will be forwarded to the EPA Administrator; under a consent decree, EPA is required to propose a new PM<sub>2.5</sub> standard by December 20, 2005 and finalize a new PM<sub>2.5</sub> standard by September 2006. Earlier in the week, the American Lung Association (ALA) held a press briefing to announce its recommendation that EPA tighten the standard to 12  $\mu\text{g}/\text{m}^3$  for the annual standard and 25  $\mu\text{g}/\text{m}^3$  as the daily standard, using a 99<sup>th</sup> percentile form. According to the ALA, this level would reduce deaths caused by PM<sub>2.5</sub> by 92 percent, as compared to the current standard. [For further information: Air Web – In the News and Criteria Pollutants Committee pages]

**(10) EPA Proposes NSPS for Stationary Diesel Engines (June 30, 2005)** – EPA proposed New Source Performance Standards (NSPS) for emissions of nitrogen oxides (NO<sub>x</sub>), particulate matter (PM), sulfur dioxide, carbon monoxide (CO) and hydrocarbons (HC) from stationary diesel engines. The proposed rule also contains fuel requirements that limit the amount of sulfur in the diesel fuel used to run these engines. The proposed rule contains a transition period for those engines built after the rule is proposed but before model year 2007. Beginning with model year 2007, all new, modified or reconstructed stationary diesel engines would be required to meet the stringent emissions levels for NO<sub>x</sub>, PM, CO and HC that are required for the same size engine and model year for nonroad diesel engines in Tiers 1 through 4, with a few exceptions. Beginning with 2011 model year engines, add-on controls would be required to achieve the emission limits for non-emergency engines. The requirements for stationary emergency diesel engines are slightly different. EPA was required to propose standards by June 29, 2005 and finalize standards on June 28, 2006 under a consent decree. EPA will accept comment on the proposed NSPS for 60 days following publication in the *Federal Register*. [For further information: Air Web – Criteria Pollutants Committee]

**(11) CARB and Railroads Enter Into MOU to Reduce Rail Yard Emissions (June 24, 2005)** – The California Air Resources Board has entered into a Memorandum of Agreement (MOU) with Union Pacific Railroad and Burlington Northern Santa Fe Railway to mitigate the risk associated with diesel emissions in and around the state's rail yards. Key elements of the MOU include 1) a statewide idling reduction program; 2) health risk assessments at all major rail yards; and 3) involvement by communities and air districts in the development of risk assessments, enforcement of MOU provisions and evaluation and development of measures to further reduce local impacts. The MOU also calls for maximized use of state or federal low-sulfur diesel in locomotives fueled in California, a statewide visible emission reduction and repair program, evaluation of advanced control measures to reduce diesel particulate from locomotives by 90 percent from uncontrolled levels, assessment of remote sensing technologies and enforcement provisions and financial penalties for noncompliance with MOU provisions. The MOU is effective as of June 30, 2005. [For further information: [www.arb.ca.gov/msprog/offroad/loco/loco.htm](http://www.arb.ca.gov/msprog/offroad/loco/loco.htm)]

**(12) Five States Sue Allegheny Energy Alleging NSR and PSD Violations (June 28, 2005)** – Connecticut, Maryland, New Jersey, New York and Pennsylvania filed suit in federal court alleging that Allegheny Energy and its subsidiaries upgraded three coal-fired power plants in Pennsylvania without installing required pollution control equipment in violation of NSR and PSD provisions of the Clean Air Act. In the suit, the states seek the following: 1) an injunction prohibiting further operation of the plants until Allegheny Energy installs Best Available Control Technology and/or Lowest Achievable Emission Rate technology on the plants and/or obtains any required offsets and otherwise fully complies with the Act and Pennsylvania air pollution control law; 2) civil penalties for past and ongoing violations of federal law; and 3) mitigation of the harm caused by emissions from these plants. [For further information: [www.oag.state.ny.us/press/2005/jun/jun28c\\_05.html](http://www.oag.state.ny.us/press/2005/jun/jun28c_05.html)]

**(13) New Jersey Legislature Adopts Diesel Emissions Reduction Bill (June 27, 2005)** – The New Jersey state legislature approved a bill to require diesel emission reduction technologies on school and transit buses, garbage trucks and other diesel engines. By allocating \$160 million over ten years to retrofit more than 30,000 public vehicles, the legislation would reduce diesel particulate emissions by 10 percent, removing over 400 tons of particulate from the air annually. In addition, the bill includes provisions for more rigorous enforcement of anti-idling laws and would require the use of ultra-low-sulfur diesel fuel in nonroad vehicles by 2007 (versus 2010, as required under current regulations). Backed by New Jersey Governor Richard Codey, the bill will go before New Jersey voters in November.

**(14) California Defines Animal Feeding Operations Subject to Local Air Regulation (June 27, 2005)** – The California Air Resources Board (CARB) adopted a regulation establishing a definition for large confined animal facility (CAF); local air districts in California will now need to adopt rules that require large CAFs to develop and implement pollution mitigation programs. CARB established different definitions for large CAFs depending on whether a facility is located in an attainment or nonattainment area for the 1-hour ozone standard. For example, in a nonattainment

area, a CAF with 1,000 milk-producing cows is considered large, while in an attainment area, a CAF would need to have 2,000 milk-producing cows to be considered large. CARB set definitions for large CAFs for the following kinds of livestock: dairy, beef feedlots, other cattle operations, broiler chickens, egg-laying chickens, turkeys, swine, sheep, goats, horses, ducks, rabbits, pheasant and llamas. Local air districts that are designated nonattainment for the ozone standard have until July 1, 2006 to adopt regulations for large CAFs to reduce their emissions. Local air districts that are designated attainment are also required to adopt these type of regulations unless the district makes a determination that any large CAFs in the region will not contribute to a violation of any state or federal air quality standard. [For further information: Air Web – Agriculture Committee page]

**(15) San Joaquin Valley Proposes New VOC Emission Factor for Dairies (June 28, 2005)** – San Joaquin Valley is proposing to use an emission factor for VOCs of 20.6 pounds per head per year for dairy farms. San Joaquin Valley will hold a hearing on July 11, 2005 to receive comment on this proposal. As part of a settlement of a lawsuit, the district must adopt a VOC emission factor for dairies by August 1, 2005. San Joaquin Valley based its emission factor on a report released by a group it convened, the Dairy Permitting Advisory Group, which could not reach consensus on an emission factor but provided a range of 5.6 to 38.2 pounds of VOCs per head per year. [For further information: Air Web – Agriculture Committee page]

**(16) U.S. Carbon Dioxide Emissions Up Almost Two Percent in 2004 (June 30, 2005)** – According to estimates by the Energy Information Administration, U.S. energy-related carbon dioxide (CO<sub>2</sub>) emissions increased by 1.7 percent in 2004 compared with 2003 levels. In 2004, CO<sub>2</sub> intensity – CO<sub>2</sub> emissions per unit of economic output -- fell by 2.6 percent compared with 2003 levels. Energy-related CO<sub>2</sub> emissions comprise 83 percent of greenhouse gas emissions in the U.S. [For further information: Air Web – Global Warming Committee page]

**(17) GAO Critical of EPA's Timeliness in Implementing Clean Air Act Rules (June 27, 2005)** – In a new report, the U.S. Government Accountability Office (GAO) finds that EPA has completed most of the actions required by the Clean Air Act Amendments of 1990, but that a significant number of those rules were completed after their statutory deadlines. GAO notes in the report that as of April 2005, EPA "had completed 404 of the 452 actions required to meet the objectives of Titles I, III, and IV of the Clean Air Act Amendments of 1990. Of the 338 requirements that had statutory deadlines prior to April 2005, EPA completed 256 late: many (162) 2 years or less after the required date, but others (94) more than 2 years after their deadlines. Consequently, improvements in air quality associated with some of these requirements may have been delayed." In responding to the draft report, EPA generally agreed with the findings and offered several reasons for why the agency had missed deadlines. Those reasons included the agency's emphasis on stakeholder review and involvement in regulatory development, the need for EPA to set priorities among the actions resulting from the 1990 amendments and competing demand for staff time associated with EPA's need to respond to lawsuits challenging

some of the agency's rules. [For more information: [www.gao.gov/cgi-bin/getrpt?GAO-05-613](http://www.gao.gov/cgi-bin/getrpt?GAO-05-613)]

**(18) Report Analyzes Impact of CAIR and CAMR on Environment and Public Health (July 1, 2005)** – In a report prepared by Resources for the Future for the New York State Energy Research and Development Authority, researchers analyzed the environmental and public health benefits from EPA's Clean Air Interstate Rule (CAIR) and Clean Air Mercury Rule (CAMR) and from more stringent requirements than these rules. The report found that additional sulfur dioxide (SO<sub>2</sub>) emissions reductions beyond those called for by the EPA rules would yield benefits that substantially exceed the additional cost. The report's evaluation of scenarios with tighter mercury emission controls shows that the net benefits of a maximum achievable control technology (MACT) approach exceed the net benefits of a cap and trade approach. In addition, the report notes that the final CAIR with the seasonal cap on nitrogen oxide (NO<sub>x</sub>) emissions produces higher net benefits relative to the originally proposed CAIR, which only had an annual cap. The authors calculate that, as proposed, the reductions in pollutant emissions from electricity generation brought about by CAIR and CAMR will provide benefits of more than \$1.7 billion to New York by 2010 and in excess of \$14 billion to the nation by 2020, even after accounting for the costs associated with technologies designed to reduce emissions of SO<sub>2</sub>, NO<sub>x</sub> and mercury. [For further information: Air Web – Criteria Pollutants Committee page]

**(19) EPA Announces Availability of Modeling Data to Support Inclusion of Delaware and New Jersey in CAIR for PM<sub>2.5</sub> (June 28, 2005)** – EPA published in the *Federal Register* a notice of data availability (NODA) announcing additional modeling data to support its proposal to include New Jersey and Delaware in the Clean Air Interstate Rule (CAIR) for PM<sub>2.5</sub> (these states are already covered by CAIR for ozone). Comments on the NODA and EPA's proposal to include New Jersey and Delaware for PM<sub>2.5</sub> in CAIR are due to EPA by July 19, 2005. [For further information: Air Web – Criteria Pollutants Committee page]

**(20) EPA Deletes MEK from Toxics Release Inventory (June 30, 2005)** – On June 30, 2005 EPA issued a final rule deleting Methyl Ethyl Ketone (MEK) from the list of chemicals required to report releases to the Toxics Release Inventory (TRI) on an annual basis. MEK is a volatile organic compound used in the surface coating industry as well as a solvent for adhesives, printing ink, degreasing and cleaning fluids, among other uses. In 1998, the American Chemical Council petitioned EPA to delete MEK from the TRI list. EPA denied the petition and the council filed suit in the U.S. District Court for the District of Columbia. In March 2004, the district court ruled in favor of EPA noting that the requirement to report MEK to the TRI "was consistent with the criteria for which chemicals are subject to reporting." The appeals court, however, overturned the lower court's ruling and has ordered that EPA to delete MEK from the TRI list.

## *The Week Ahead*

- Congressional Recess – July 2 - 10, 2005
- Federal Holiday – July 4, 2005

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