



### *This Week in Review – July 4-8, 2005*

**(1) STAPPA and ALAPCO Oppose Extension of Ozone Attainment Deadlines (July 7, 2005)** – STAPPA and ALAPCO sent a letter to Senate energy conferees expressing the associations' opposition to provisions in the House version of the Energy Policy Act of 2005 that would extend attainment deadlines for downwind ozone nonattainment areas. The reasons cited by the associations for their opposition include the following: 1) the provisions appear to make all subpart 2 ozone nonattainment areas determined to be affected by transport under the recently promulgated Clean Air Interstate Rule automatically eligible for an extension of their 8-hour ozone attainment deadlines; 2) the new attainment date for an area with an extension is unclear; and 3) because many areas are both upwind and downwind (i.e., are affected by and contribute to transport), if these areas are granted extensions without concomitant additional requirements to reduce pollution, they will continue to contribute transported pollution to downwind areas. STAPPA and ALAPCO also note in their letter that some states experience problems with overwhelming transport and that existing provisions of the Clean Air Act do not adequately address such areas; accordingly, the associations indicate they would welcome the opportunity to work with the authorizing congressional committees on an expedited basis to craft an alternative approach that avoids the above concerns. Senate energy conferees, named on July 1, 2005, include Senators Pete Domenici (R-NM), Chair of the Energy and Natural Resources Committee; Jeff Bingaman (D-NM), Ranking Member of the Energy and Natural Resources Committee; Charles Grassley (R-IA), Chair of the Finance Committee; Max Baucus (D-MT), Ranking Member of the Finance Committee; Lamar Alexander (R-TN); Richard Burr (R-NC); Larry Craig (R-ID); Orrin Hatch (R-UT); Lisa Murkowski (R-AK); Craig Thomas (R-WY); Daniel Akaka (D-HI); Byron Dorgan (D-ND); Tim Johnson (D-SD); and Ron Wyden (D-OR). STAPPA and ALAPCO will transmit the same letter to House energy conferees as soon as they are named. Conference discussions have not yet been scheduled but are expected to begin later this month. [For further information: Air Web – In the News and Criteria Pollutants Committee pages]

**(2) G-8 Releases Statement Calling for Action On Global Warming (July 8, 2005)** – From its summit in Gleneagles, Scotland, the Group of Eight (G-8) released a statement underscoring the serious threat of global warming and calling for action. While the G-8 does not set in its statement any targets for emissions reductions, it states that “[w]e will act with resolve and urgency now to meet our shared and

multiple objectives of reducing greenhouse gas [(GHG)] emissions.” In addition, the countries “reaffirm” their commitment to the U.N. Framework Convention on Climate Change and its ultimate objective of stabilizing GHG concentrations at a level that prevents dangerous anthropogenic interference with the climate system. The G-8 also notes that “[w]hile uncertainties remain in our understanding of climate science, we know enough to act now to put ourselves on a path to slow and, as the science justifies, stop and then reverse the growth of [GHGs].” The G-8 is comprised of Canada, France, Germany, Italy, Japan, Russia, the United Kingdom and the United States. [For further information: Air Web – Global Warming Committee page]

**(3) EPA Retains Provision Allowing States to Remove 1-Hour Ozone NSR Requirements (July 5, 2005)** – EPA took final action on a petition filed by Earthjustice requesting that the agency reconsider the treatment of NSR in the phase one implementation rule for the 8-hour ozone standard. EPA did not change any of the anti-backsliding requirements it announced in phase one with respect to NSR, which remain as follows: 1) NSR requirements applying to large sources in nonattainment areas for the 8-hour ozone standard are based on the area’s classification under the 8-hour standard, not on the area’s classification under the revoked 1-hour standard; and 2) states may remove 1-hour major NSR programs from their SIPs and replace them with NSR programs that are applicable to the 8-hour standard. This rule is effective August 8, 2005. [For further information: Air Web – In the News and Criteria Pollutants Committee pages]

**(4) D.C. Circuit Grants Right to Challenge Power Plant Permit to Environmental Group (July 1, 2005)** – Overturning a decision of the federal District Court, the U.S. Court of Appeals for the District of Columbia decided that the National Parks Conservation Association (NPCA) has the right to sue the U.S. Department of Interior in order to stop the construction of a proposed coal-fired power plant in Montana. The plant, to be located in Roundup, Montana near Yellowstone National Park, was approved in 2003 by Interior Department Assistant Secretary, Craig Manson, acting as federal land manager (FLM). Mr. Manson overturned the findings contained in a report sent by his staff and that of the U.S. Fish and Wildlife Service to the Montana DEQ, including the conclusion that the proposed Roundup Plant would cause perceptible visibility impairment at Yellowstone and UL Bend Wilderness Area. When NPCA sued, the District Court dismissed the case on the grounds that NPCA had not suffered injury caused by the grant of the permit. However, the Circuit Court held that NPCA’s members suffered injury from environmental damage to Yellowstone and UL Bend and that such injury was caused by the action of the FLM. The Circuit Court concluded, “[w]hen Interior acts in its capacity as Federal Land Manager, the agency exerts legal authority over the Montana DEQ; in determining whether to release an adverse impact report, Interior expects and intends its decision to influence the permitting authority...[and] the Montana DEQ is...not [a] truly independent actor...” [For further information: [caselaw.lp.findlaw.com/data2/circs/dc/045327a.pdf](http://caselaw.lp.findlaw.com/data2/circs/dc/045327a.pdf)]

**(5) EPA Provides Incentives for Early Diesel Fuel Distribution (July 7, 2005)** – In a direct final rule (and accompanying notice of proposed rulemaking), EPA seeks to “correct, amend, and revise certain provisions of the Clean Highway and Nonroad

Diesel Rules to assist regulated entities in the fuel distribution system with program implementation and compliance.” In the direct final rule, EPA allows fuel refiners and importers “better access” to early credits for highway diesel fuel by allowing them to claim credit for the entire volume of ultra-low-sulfur diesel fuel delivered, rather than sold, into the distribution system before the June 1, 2006 start date. In addition, EPA uses the rule to make “minor corrections to clarify the regulation governing compliance with the diesel fuel standards” and to amend the “designate and track” provisions to account for companies within the fuel distribution system that perform more than one function related to fuel production or distribution; EPA has indicated that the latter change “will alleviate the problem of inaccurate volume balances due to a company performing multiple functions.” The provisions of EPA’s direct final rule will take effect 45 days after publication in the *Federal Register* unless the agency receives adverse comments or a request for a public hearing by 15 days after publication. [For further information: [www.epa.gov/otaq/regs/fuels/diesel/diesel.htm#amend](http://www.epa.gov/otaq/regs/fuels/diesel/diesel.htm#amend)]

**(6) GAO Reports on Pros and Cons of Special Gasoline Blends (July 5 2005) –** The U.S. Government Accountability Office (GAO) issued a report on the results of its study of the following questions: 1) To what extent are special gasoline blends used in the U.S. and, how, if at all, is such use expected to change in the future? 2) What effect has the use of special gasoline blends had on reducing vehicle emissions and improving overall air quality? 3) What is the effect of special gasoline blends on the gasoline supply? and 4) How do special gasoline blends affect gasoline prices? In *Special Gasoline Blends Reduce Emissions and Improve Air Quality, but Complicate Supply and Contribute to Higher Prices* (GAO-05-421), GAO provides the results of its review of federal and state analyses of gasoline markets and the environmental effects of various special gasoline blends; examination of literature on gasoline supplies and prices; and analysis of wholesale gasoline price data for 100 cities and the national average. Based on its findings, GAO makes several recommendations to EPA, including 1) that the agency, with the U.S. Department of Energy and others, develop a plan to balance the environmental benefits of using special fuels with the impacts of such fuels on the gasoline supply infrastructure and 2) if warranted, that EPA work with other agencies to identify and request from Congress statutory or other changes that are required to implement this plan. [For further information: [www.gao.gov/new.items/d05421.pdf](http://www.gao.gov/new.items/d05421.pdf)]

**(7) Midwest States to Pursue Regional Strategy to Reduce Emissions from Coal-Fired Power Plants (July 6, 2005) –** Illinois Governor Rod R. Blagojevich, who also chairs the Midwest Governors Association (MGA), announced that Midwest states have agreed to pursue a regional strategy to reduce emissions of sulfur dioxide, nitrogen oxides and mercury from coal-fired power plants. Henry Henderson, former environmental commissioner for the city of Chicago, has been selected to work with MGA and the Lake Michigan Air Directors Consortium on the Regional Emissions Reductions Initiative. [For further information: [www.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=18&RecNum=4135](http://www.illinois.gov/PressReleases/ShowPressRelease.cfm?SubjectID=18&RecNum=4135)]

**(8) EPA Accepting Entries for Sixth Annual Clean Air Excellence Awards (July 6, 2005)** – EPA has announced that it is accepting applications for the sixth annual Clean Air Excellence Awards, which recognize and honor outstanding, innovative programs, projects or technologies that directly or indirectly reduce criteria or hazardous air pollutants. The awards are open to state, local and tribal governments and are given in the following categories: Clean Air Technology, Community Development/Re-Development, Education/Outreach, Regulatory/Policy Innovations and Transportation Efficiency Innovations. An Outstanding Individual Achievement Award is also given. Interested parties must submit entries to EPA by August 31, 2005. [For further information: [www.epa.gov/oar/caaac/about.html](http://www.epa.gov/oar/caaac/about.html) or Pat Childers of EPA at (202) 564-1082]

**(9) Final Regional Haze Rule with BART Guidelines Published in *Federal Register* (July 6, 2005)** – EPA published its final regional haze rule with guidelines for Best Available Retrofit Technology (BART) determinations in the *Federal Register*. The provisions of the rule and BART guidelines were described in the June 17, 2005 edition of *Washington Update*. The rule is effective September 6, 2005. [For further information: Air Web – Criteria Pollutants Committee page]

### ***The Week Ahead***

- Sundance Summit: A Mayors Gathering on Climate Protection, in Sundance, Utah – July 10-12, 2005
- Congress Reconvenes – July 11, 2005
- Senate Environment and Public Works Subcommittee on Clean Air, Climate Change and Nuclear Safety Legislative Hearing on S. 1265, Senator George Voinovich's Diesel Emissions Reduction Act of 2005, in Washington, DC – July 12, 2005

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