



This Week in Review – August 2-6, 2004

(1) STAPPA and ALAPCO Testify at EPA Hearing to Reconsider Equipment Replacement Rule (August 2, 2004) – Testifying on behalf of STAPPA and ALAPCO, John Paul (Dayton, Ohio), expressed strong opposition to the Equipment Replacement Provision of the Routine Maintenance, Repair, and Replacement Exclusion (“the Equipment Replacement rule”). John presented the testimony at an EPA hearing for the purpose of reconsidering the legal basis for the rule, the 20-percent threshold and automatic incorporation of prevention of significant deterioration provisions into Federal Implementation Plans in delegated states. The Equipment Replacement rule, promulgated on October 27, 2003, sets forth an exception from NSR requirements for permitting and installation of pollution control equipment when equipment that is replaced is valued at 20 percent or less than the total value of the process unit. John stated, “this huge exemption virtually eliminates the NSR program as we have administered it over the years and will result in increased emissions and poorer air quality in many areas.” Noting that an alternative approach could clarify the “routine maintenance” exception to NSR, he stated that STAPPA and ALAPCO favor development of two lists for each major industrial sector identifying activities that would and would not be considered routine. “Gray areas” would be decided by the permitting agencies. Others testifying at the hearing included Edison Electric Institute, the National Petrochemical & Refiners Association, the Natural Resources Defense Council, and Clear the Air. The deadline for submitting written comments on the issues raised by the reconsideration is August 30. [For further information: Air Web – NSR Subcommittee page]

(2) Climate Change Will Exacerbate Ozone Problems (August 4, 2004) – A report by the Natural Resources Defense Council (NRDC) projects that global warming will lead to more unhealthy air quality days in more than a dozen U.S. cities. NRDC asked researchers at several universities, including Johns Hopkins University and Columbia University, to analyze what the impact of rising temperatures would be on ozone levels in 15 small, medium-sized and large cities in the eastern half of the U.S. The researchers found that by mid-century, people living in these 15 cities would experience, on average: 1) a 60-percent increase in the number of days when ozone levels exceed the health-based air quality standard set by EPA (using an 8-hour measurement); 2) a 20-percent drop in the number of summer days with “good” air quality based on EPA criteria, from an average of 50 days per summer to 40 days per

summer; and 3) a doubling of "red alert" air quality days from two per summer today to four per summer. [For further information: www.nrdc.org/globalwarming/heatadvisory/contents.asp]

(3) Colorado Voters Will Consider RPS Ballot Initiative in November (August 5, 2004) – The voters of Colorado will become the first in the nation to consider a renewable portfolio standard (RPS) on the ballot this November. The initiative, which is being proposed by the group Coloradans for Renewable Energy, submitted nearly twice as many signatures as necessary to win a spot on the ballot. Coloradans for Renewable Energy is co-chaired by U.S. Representative Mark Udall (D-CO) and House Speaker Lola Spradley (R). The RPS initiative would require seven of Colorado's largest energy suppliers to generate 10 percent of the state's electricity from solar, wind, geothermal, biomass, small hydroelectricity or hydrogen fuel cells by 2015. Colorado currently gets about 2 percent of its electricity from renewables. The initiative would apply only to utilities with more than 40,000 customers. Earlier this year, Coloradans for Renewable Energy conducted a poll that found that more than 70 percent of voters favored the initiative. Several bills containing renewable energy provisions have failed in the Colorado State Legislature. At least a dozen other states have renewable energy standards, all of which were enacted legislatively. Colorado will become the first state to take an RPS measure directly to the voters. [For further information: www.coenergy.info/home.htm]

(4) EPA Releases Final Guidance for SIP Credits for Energy Efficiency and Renewable Energy Measures (August 5, 2004) – EPA has released a final document that provides guidance to states and localities on quantifying and including emission reductions from energy efficiency and renewable energy (EE/RE) measures in state SIPs. The guidance includes what types of projects would qualify for SIP credits, a step-by-step procedure for determining the amount of SIP credit for an EE/RE measure, and what information a state should submit to EPA to support the incorporation of an EE/RE measure to reduce emissions in a SIP. [For further information: Air Web – Criteria Pollutants Committee page]

(5) Environmental Group Reports that EPA Fish Tests Find Mercury in Every Sample (August 3, 2004) – A report issued by the environmental organization, Clear the Air, announced that recent EPA tests of fish caught in lakes in the United States detected mercury in every fish sample. According to *Reel Danger: Power Plant Mercury Emissions and the Fish We Eat*, mercury levels that exceeded EPA's safe amount for women of childbearing age were present in 55 percent of the samples, while 76 percent contained amounts above the safe limit for children under age three. Clear the Air, which is a joint project of the Clean Air Task Force, the National Environmental Trust, and the U.S. Public Interest Research Group, is calling for EPA to mandate mercury reductions in the near term and not to wait 10 years for cuts that can be made now. [For further information: http://cta.policy.net/reports/reel_danger/reel_danger_report.pdf]

(6) EPA Publishes Notice of Data Availability for Transport Rule (August 6, 2004) – EPA has released a Notice of Data Availability (NODA) for its proposed Clean

Air Interstate Rule (CAIR) indicating that it has placed on the CAIR docket additional information relevant to the rulemaking, including, among other things, a new modeling platform that EPA proposes to use to support the proposed rule. This new modeling platform consists of new meteorological data, updated emissions data, an updated air quality model, and revised procedures for projecting future air quality concentrations. The additional information also includes revised state NO_x budgets. Comments are due on or before August 27, 2004. CAIR is designed to deal with interstate transport of NO_x and SO₂. [For further information: Air Web – In the News and Criteria Pollutants Committee pages]

(7) Court Rejects Challenge to Regional Haze Rule Deadline (August 3, 2004) – The U.S. District Court for the District of Columbia rejected a challenge to a settlement that requires EPA to finalize a regional haze rule and guidelines for Best Available Retrofit Technology (BART) by April 15, 2005. The court ruled that the group challenging the deadline, the Center for Energy and Economic Development, did not have standing to intervene in the case. The court formally approved the settlement between EPA and Environmental Defense, which had sued EPA to force it to propose new BART guidelines and a regional haze rule. [For further information: www.earthjustice.org/news/documents/8-04/Court_Opinion_8-3-04.pdf]

(8) Court Agrees to Hear Environmental Groups Opposed to Wisconsin Electric Power Company (WEPCO) Settlement (August 3, 2004) – More than a year after settlement was reached between EPA and WEPCO, interveners in the case -- the Sierra Club, Clean Wisconsin, and Citizens' Utility Board -- will be heard by the U.S. District Court for the Eastern District of Wisconsin. One of the utilities sued by EPA in its 1999 "NSR Initiative," WEPCO allegedly failed to obtain NSR permits and install pollution control equipment for major modifications at its five plants. Although settlement was reached in April 2003, both the State Attorney General and the three environmental groups had strongly opposed the settlement, claiming that only three of the five WEPCO plants were addressed, that WEPCO was wrongfully released prospectively from any future violations of NSR for the next two decades, and that the settlement left unanswered numerous relevant questions about the nature and extent of the violations. The court agreed to hear the opposition of the groups to the terms of the settlement on August 17, 2004.

(9) STAPPA and ALAPCO Comment on Information Collection Request Relating to Burdens of Reporting Compliance Data (August 2, 2004) – STAPPA and ALAPCO commented on EPA's proposed submission to the Office of Management and Budget (OMB) titled, *Source Compliance and State Action Reporting for Stationary Sources of Air Pollution* (69 *Federal Register* 30897). EPA proposed significantly increasing the number of enforcement- and compliance-related data elements required to be reported to the Air Facility System (AFS). STAPPA and ALAPCO strongly opposed reporting partial compliance evaluations (PCEs) and increasing the frequency of reporting from the current quarterly basis to a monthly basis. The associations advocated continuation of the existing system of optional PCE reporting. All agencies that require and collect information must establish with OMB

that the information is necessary under the Paperwork Reduction Act. [For further information: Air Web – Enforcement Committee page]

(10) EPA Publishes Proposed Information Collection Request for NSR Activities (August 3, 2004) – EPA has proposed submitting a continuing Information Collection Request to OMB that would renew the existing collection of information currently required by EPA for activities relating to prevention of significant deterioration (PSD) and nonattainment NSR. EPA solicits comment on whether the proposed collection of information is necessary and will have “practical utility,” and “the accuracy of the Agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.” The deadline for submitting comments is October 4, 2004. [For further information: *69 Federal Register* 46532]

(11) EPA Publishes MACT for Plywood and Composite Wood Products (July 30, 2004) – EPA has published in the *Federal Register* the final Maximum Achievable Control Technology (MACT) standard for Plywood and Composite Wood Products. The notice also includes amendments to the wastewater effluent limitations guidelines, related to air pollution control devices, for four subcategories of the timber industry. The MACT, which was signed on February 26, 2004, contains provisions that allow sources to obtain exemptions to the standard based on the amount of risk they pose. STAPPA and ALAPCO had commented in opposition to the risk-based exemptions when the rule was proposed. [For further information: *69 Federal Register* 45943]

(12) EPA Appoints Stephen L. Johnston as Deputy Administrator (August 2, 2004) – Stephen L. Johnson was sworn in as Deputy Administrator of EPA by EPA Administrator Michael Leavitt. Johnson, who was appointed formally by President George W. Bush last week, has served in the position of Acting Deputy Administrator for the past year. Prior to serving as Acting Deputy Administrator, Johnson was the Assistant Administrator of the Office of Prevention, Pesticides, and Toxic Substances. [For further information: www.epa.gov/newsroom/]

(13) EPA Certifies Ford Escape First SUV Hybrid (August 5, 2004) – The U.S. Environmental Protection Agency has certified the 2005 Ford Escape as the first SUV hybrid to meet the federal and California standards, with a *Green Vehicle Guide* score of 9 out of a possible 10. According to EPA estimates, the two-wheel drive version of the vehicle gets 36 miles per gallon (mpg) in the city and 31 mpg on the highway, while the four-wheel drive version gets 33 mpg in the city and 29 mpg on the highway. The Ford Escape also will achieve the California Advanced Technology Partially Zero Emission Vehicle (AT-PZEV) standard because of its dual power sources and it complies with EPA’s stringent new emission standards for light-duty vehicles and trucks. EPA data shows however, that each year since 1999 Ford has had the lowest average fleet fuel economy of any of the major U.S. automakers.

The Week Ahead

- Congress in Recess
- EPA Air Innovations Conference in Chicago, Illinois – August 10-12, 2004
- Energy 2004: DOE's Federal Energy Management Program, DOD and GSA's 7th Annual Workshop for Federal, State, Local and Private Sector Energy Managers, Service Companies, Utilities, Procurement Officials, Engineers and Other Energy Professionals in Rochester, New York – August 8-11, 2004

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