



### ***This Week in Review – September 13-17, 2004***

**(1) EPA Approves Reclassification of Nine 8-Hour Ozone Nonattainment Areas from Moderate to Marginal (September 15, 2004)** – EPA approved requests from nine areas to “bump down” the 8-hour ozone classification from Moderate to Marginal: Cass County, Michigan; Muskegon County, Michigan; Detroit, Michigan; Greensboro, North Carolina; Kent/Queen Anne Counties, Maryland; Lancaster, Pennsylvania; LaPorte, Indiana; Memphis, Tennessee/Arkansas; and Richmond, Virginia. Because of the bump down, these areas now must attain the 8-hour ozone standard by 2007 rather than 2010. The Clean Air Act authorizes EPA to reclassify an ozone nonattainment area to the next higher or lower classification under certain conditions; EPA received nine requests for reclassification to a lower category (a “bump down”) and no requests for reclassification to a higher category (a “bump up”). [For further information: Air Web – In the News and Criteria Pollutants Committee pages]

**(2) New Jersey to Regulate Carbon Dioxide as an Air Pollutant (September 16, 2004)** – Governor James McGreevey announced that New Jersey would revise its air pollution regulations to define carbon dioxide (CO<sub>2</sub>) as an air pollutant. The New Jersey Department of Environmental Protection (NJDEP) will revise several air pollution control rules to reflect that CO<sub>2</sub> is considered an air pollutant. As part of the rule proposal, NJDEP will publish a formal determination that CO<sub>2</sub> emissions are responsible for significant adverse impacts on human health and the environment by contributing to global warming. This proposed confirmation that CO<sub>2</sub> is an air contaminant will appear in the October 18, 2004 *New Jersey Register* and will be subject to a 60-day public comment period. [For further information: [www.state.nj.us/cgi-bin/governor/njnewsline/view\\_article.pl?id=2144](http://www.state.nj.us/cgi-bin/governor/njnewsline/view_article.pl?id=2144)]

**(3) Senate Commerce Committee Holds Hearing on Global Warming Impacts (September 15, 2004)** – The Senate Committee on Commerce, Science and Technology held a hearing examining recent scientific research concerning climate change impacts, the third hearing on global warming it has held this year. Committee Chairman John McCain (R-AZ) noted that recent scientific analysis predicts severe impacts from climate change and said “now the challenge is to update policy to reflect the science...It has been said that we are the first generation to contribute to climate change and the last one not to experience it.” The Committee heard from three scientists and the Chair of the Inuit Circumpolar Conference. Dr. Daniel Cayan, Scripps Institution of Oceanography, and Dr. Peter Frumhoff, Union of Concerned

Scientists, reported on the results of a study on the impacts of global warming on California. The scientists used two models to examine the impacts on California of a low-emissions scenario and a high-emissions scenario in this century. The differences between the two scenarios were not apparent until the middle of the century and later, indicating that California is already committed to some degree of climate change. For example, climate change will lead to increased frequency, intensity and duration of heat waves in the five major metropolitan areas in California; one of the more startling conclusions of the study is that a lower-emissions pathway could prevent between 500 and 5,000 heat-related deaths during the 2050s and more than 8,000 heat-related deaths during the 2090s. That the impacts of reducing emissions now will not be felt for decades is one of the challenges, said Dr. Cayan. Senator Olympia Snowe (R-ME) commented that Congress is reactive, rather than proactive, so that "is the huge challenge we have – to show that the tremendous investment [to reduce GHG emissions] will pay huge dividends." Sheila Watt-Cloutier of the Inuit Circumpolar Conference noted that because the Arctic is experiencing dramatic climate impacts now, action must be taken to reduce emissions so that her Inuit culture can survive. "Our Earth is literally melting," she said; the permafrost is melting, glaciers are melting and sea ice is disappearing. [For further information: Air Web – Global Warming Committee page]

**(4) EPA Publishes MACT for Industrial Boilers, Includes Risk-Based Exemptions (September 13, 2004)** – EPA has published in the *Federal Register* a final MACT standard for Industrial, Commercial, and Institutional Boilers and Process Heaters that includes controversial risk-based exemptions. The rule was announced on February 26, 2004, along with several other MACT standards, one of which also contains the risk-based exemptions (affecting plywood manufacturers). STAPPA and ALAPCO had commented on and testified about the proposed boiler rule, expressing opposition to the provisions that would allow sources to avoid MACT based on the risk they pose. [For further information: 69 *Federal Register* 55217]

**(5) Illinois Calls for Voluntary Shutdown of Hospital Medical Waste Incinerators (September 13, 2004)** – Illinois Governor Rod Blagojevich called for the 11 hospitals around the state that operate medical waste incinerators (MWIs) to voluntarily shut down their incinerators. The Governor indicated that he would also seek legislation this fall that would ban all hospital incinerators at any hospitals that failed to comply with the voluntary ban. Illinois EPA will work with hospitals to implement cleaner disposal options and to expedite permitting of alternatives for those hospitals that rely on their MWIs for some of their heating. The federal Maximum Achievable Control Technology standard for MWIs resulted in the shutdown of 99 incinerators and a reduction of 97 percent in MWI emissions in Illinois since 2000. However, local communities near the remaining MWIs have expressed their concern about exposure to toxic emissions. In making this announcement, the Governor cited new technology and alternatives to burning medical waste. [For further information: [www.illinois.gov/news/Environment.cfm](http://www.illinois.gov/news/Environment.cfm)]

**(6) Environmental Groups Sue EPA Seeking Response to Objections to Power Plant Operating Permits (September 13, 2004)** – A coalition of environmental

groups, including the Illinois Chapter of the Sierra Club, the American Lung Association of Metropolitan Chicago and the Environmental Law and Policy Center have filed suit against EPA for failing to respond to their objections to permits proposed to be granted to five coal-fired power plants operated by Midwest Generation Corporation. The environmental groups object to granting Title V operating permits to the Chicago-area plants because they contend that the permits do not address NO<sub>x</sub> and fine particle emissions from the plants. Midwest Generation submitted the Title V permit applications to the Illinois EPA in 1995. Illinois EPA released its draft Title V permits for public comment in 2003 and subsequently submitted the permits to U.S. EPA for review. In early 2004, the environmental groups petitioned EPA with their objections to the operating permits, but EPA did not respond. The suit, filed in the U.S. District Court for the Northern District of Illinois, seeks a response from EPA to the environmental groups' objections to the permits. [For further information: [www.suntimes.com/output/news/cst-nws-coal14.html](http://www.suntimes.com/output/news/cst-nws-coal14.html)]

**(7) ECOS Survey of State Performance Measures Sent to OMB for ICR Approval (September 13, 2004)** – A proposed ECOS survey has been sent to the Office of Management and Budget (OMB) for approval as an Information Collection Request (ICR) under the Paperwork Reduction Act. Titled "ECOS Survey of State Performance Measures," the survey asks state environmental commissioners to report on their contribution to enforcement and compliance assistance for 2000-2003. The *Federal Register* notice announcing the proposed survey notes that states "will be asked to account for the number of inspections, reviews, complaints, etc. that have taken shape during this time." The notice further states that "the survey is designed to capture compliance rates and activities directly from state records [in order to] provide a means in which the states' efforts to promote the EPA's philosophy of enforcement and compliance can be more readily monitored." Comments on the ICR are due to EPA by October 1, 2004. [For further information: 69 *Federal Register* 55159]

**(8) EPA Asks to Renew ICR Assessing Title V Operating Permit Burdens (September 13, 2004)** – EPA has revised its estimates of the costs and paperwork burdens attributable to compliance with Title V permitting requirements. Under the Paperwork Reduction Act, EPA is prohibited from collecting information unless it estimates the burdens – in hours and costs – of complying with its Information Collection Requests (ICRs) and receives approval from the Office of Management and Budget (OMB). Every request for information from a federal agency must display a currently valid OMB control number. Because its previous Title V information collection approval from OMB is due to expire, EPA is now submitting a request for renewal to OMB. The ICR sent to OMB estimates the total annual hour burden is 5,109,548; the annual cost of compliance with permitting requirements is \$170,343,958. EPA states in the *Federal Register* notice that "there is an increase of 329,928 hours from the burden currently identified in the OMB Inventory Approved ICR Burdens. This increase is an adjustment related to the nature of the activities associated with implementing the part 70 program." Comments on the ICR are due October 1, 2004. [For further information: 69 *Federal Register* 55157]

**(9) Appeals Court Vacates Baton Rouge 1-Hour Ozone SIP Contingency Measure (September 8, 2004)** – The U.S. Court of Appeals for the Fifth Circuit held that EPA erroneously approved the Baton Rouge 1-hour ozone SIP contingency measure that provided for reductions at a facility outside the Baton Rouge nonattainment area. The court remanded the SIP to EPA for further proceedings consistent with the court opinion. The contingency measure consisted of 6.1 tons per day of VOC emissions reduction from the Trunkline facility in St. Mary's Parish. The court noted that the facility is located south of the Baton Rouge nonattainment area, while Louisiana had identified counties north of Baton Rouge as influencing attainment. Furthermore, the 1997 EPA policy that allows for taking credit for emission reductions from outside of nonattainment areas expressly applies to "reasonable further progress" demonstrations, which were not at issue in this approval. Hence, the court said, "EPA does not persuasively demonstrate that the 1997 policy has any rational connection with the relevant issue of what contingency measures to apply when an attainment deadline passes." Finally, the court found the additional modeling evidence provided by EPA unpersuasive; the modeling evidence showed that emissions from the so-called Grid D areas affected attainment in Baton Rouge, but EPA did not show that the Trunkline facility was located in Grid D. [For further information: [www.ca5.uscourts.gov/opinions/pub/02/02-60991-CV0.wpd.pdf](http://www.ca5.uscourts.gov/opinions/pub/02/02-60991-CV0.wpd.pdf)]

**(10) FTC Revises Labeling Requirements for Alternative Fuels and Vehicles (September 14, 2004)** – The Federal Trade Commission (FTC) has revised its labeling requirements for alternative-fueled vehicles to provide consumers with more information about the costs and benefits of purchasing such vehicles. Under the revised rule, the FTC is requiring that vehicle labels include information on emissions data and links to EPA's *Green Vehicle Guide* database. The *Green Vehicle Guide* provides comparative, vehicle-specific emissions data for alternative-fueled and conventionally fueled vehicles. No comparative emissions data is currently required on vehicle labels. [For further information: [www.epa.gov/greenvehicle](http://www.epa.gov/greenvehicle)]

**(11) TRAC Report Finds Drop in Criminal Prosecutions of Environmental Laws (September 13, 2004)** – A report by the Transactional Records Access Clearinghouse (TRAC) concludes that there has been a 23-percent drop in the number of defendants charged with any kind of environmental crime during the time period 2002-2004, as compared to the time period 1997-2000. The TRAC report "is based on an analysis of a new environmental database being developed by TRAC from Justice Department internal files obtained through requests under the Freedom of Information Act." Over a 12-year period, a total of 15,156 defendants were actually found guilty of environmental crimes. That number dropped by 18 percent however, during the last four years. [For further information: [trac.syr.edu/tracreports/environ/65/](http://trac.syr.edu/tracreports/environ/65/)]

**(12) Ethanol Increases Evaporative Emissions, According to New CARB Study (September 9, 2004)** – The California Air Resources Board (CARB) has issued a new study showing that evaporative emissions from automobile fuel systems increase when ethanol is used to replace methyl tertiary butyl ether (MTBE) in gasoline, or when ethanol-blended gasoline is used instead of gasoline with no added oxygenates.

The study, entitled *Fuel Permeation from Automotive Systems*, includes the finding that the increased emissions ranged from 0.34 grams to 2.71 grams a day. The average increase in evaporative emissions was 1.40 grams a day. In conducting the study, CARB tested 10 vehicle fuel systems that contained either ethanol or MTBE, the two most commonly used oxygenates. [For further information: [www.arb.ca.gov/fuels/gasoline/permeation/090204finalrpt.pdf](http://www.arb.ca.gov/fuels/gasoline/permeation/090204finalrpt.pdf)]

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

- Environmental and Energy Study Institute Briefing on *Climate Change Post-2100: What are the Implications of Continued GHG Buildup?*, in Washington, DC – September 21, 2004

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