



Happy Thanksgiving to You and Your Families!

The STAPPA/ALAPCO offices will be closed Thursday and Friday, November 24-25.

This Week in Review – November 21-23, 2005

(1) EPA to Reconsider Four Aspects of CAIR; Public Hearing Scheduled for December (November 22, 2005) – In response to eleven petitions for reconsideration, EPA is granting reconsideration and seeking comment on four aspects of the Clean Air Interstate Rule (CAIR): 1) claims that inequities result from applying the sulfur dioxide (SO₂) allocation methodology that states choosing to participate in the CAIR SO₂ trading program would use to allocate SO₂ emission allowances to sources; 2) EPA's use of fuel adjustment factors (1.0 for coal, 0.6 for oil and 0.4 for gas) in establishing state nitrogen oxide budgets; 3) certain inputs to the fine particle (PM_{2.5}) modeling used to determine Minnesota's inclusion in the CAIR region for PM_{2.5}; and 4) EPA's determination that Florida should be included in the CAIR region. EPA will hold a public hearing on December 14, 2005 in Washington, DC and will accept public comments on the reconsideration until January 13, 2006. The agency expects to take final action on reconsideration of these issues by March 15, 2006. [For further information: Air Web – In the News and Criteria Pollutants Committee pages]

(2) EPA Extends Comment Period, Schedules Hearing on Proposed Rule Changing to Hourly Emissions Test for EGUs – EPA announced a public hearing, to be held December 9, 2005 in Research Triangle Park, North Carolina, on its proposed change to the New Source Review (NSR) applicability test for electric generating units (EGUs) in Prevention of Significant Deterioration and nonattainment NSR areas (see related article in October 10-14, 2005 *Washington Update*). ALAPCO President John Paul (Dayton, OH) will present testimony at the public hearing on behalf of the associations. In addition, EPA is extending the comment period on the proposal from December 19, 2005 to February 17, 2006. EPA developed the new applicability test in response to the June decision of the U.S. Court of Appeals for the Fourth Circuit in the *Duke Energy* case and published its proposal on October 20, 2005. [For further information: www.epa.gov/fedrgstr/EPA-AIR/2005/November/Day-22/a23087.pdf]

(3) STAPPA and ALAPCO Submit Comments on Lagoon Monitoring Plan for AFO Safe Harbor Agreement (November 22, 2005) – STAPPA and ALAPCO

submitted comments on the quality assurance plan prepared for monitoring emissions from lagoons as part of EPA's Animal Feeding Operations (AFO) Safe Harbor Agreement. In their comments the associations note several concerns with the "Quality Assurance Project Plan for the National Air Emissions Monitoring Study: Micrometeorological Component" (Lagoon QAPP), including 1) the Lagoon QAPP does not provide any opportunity for involvement by state and local air agencies in whose jurisdiction monitored farms are located; 2) EPA involvement in the monitoring process appears to be minimal; 3) the plan does not provide for enough monitoring of farms or collection of data; and 4) data collected in the project should be distributed more widely and maintained for review by EPA and others. Under the AFO Safe Harbor Agreement, participating AFOs receive amnesty from EPA for most Clean Air Act violations in exchange for an agreement to participate in a program for monitoring the air emissions from a select number of AFOs. [For further information: Air Web – Agriculture Committee page]

(4) EPA Solicits Comments on CARB's Scope-of-the-Waiver Request for On-Highway Motorcycle Standards (November 21, 2005) – EPA requested comments on the California Air Resources Board's (CARB's) June 18, 2003 request that EPA confirm that the state's 1999 amendments to its on-highway motorcycle and motorcycle engine rules are within the scope of previous waivers issued by EPA under Clean Air Act Section 209(b). California's amendments include 1) two tiers of combined HC+NO_x standards for 2004 and subsequent model years (MYS): Tier 1 (MYS 2004 through 2007) – 1.4 g/km, and Tier 2 (MY 2008 and beyond) – 0.08 g/km; 2) retention of corporate averaging for Class III engine families, with the addition of a not-to-exceed cap for each emission level for each engine family; and 3) a new definition of "small volume manufacturer," applicable in MY 2008 and beyond, and clarification of the definition of "motorcycle engine." If a hearing is requested by December 12, 2005, EPA will hold a hearing on December 27, 2005. Written comments must be submitted to EPA by January 30, 2005. [For further information: 70 *Federal Register* 70073]

(5) Conferees Agree to Compromise on FY 2006 Transportation Budget (November 17, 2005) – Congressional conferees negotiating the Fiscal Year 2006 appropriations for the U.S. Department of Transportation (DOT), the U.S. Treasury and the U.S. Department of Housing and Urban Development, as well as the Federal Judiciary and Supreme Court, Amtrak, the Federal Election Commission and the District of Columbia, reached agreement on a budget bill. Among the provisions included in the conference report are 1) a rescission of \$1.99 billion from core highway programs, including the Congestion Mitigation and Air Quality Improvement Program, 2) \$8.47 billion for transit programs, which is lower than the \$8.62 billion authorized in SAFETEA-LU, 3) a directive that the Federal Transit Administration develop a program of incentives to encourage greater adoption of hybrid bus technology among transit systems and 4) \$1.31 billion for Amtrak, although DOT Secretary Norman Mineta has indicated that the President is likely to veto a budget bill that includes funding for Amtrak unless there are provisions for significant reforms. The House has already approved the conference report, by a vote of 392 to 30. The Senate is expected to vote when it reconvenes after

Thanksgiving. [For further information: appropriations.senate.gov and appropriations.house.gov]

(6) EPA Publishes Rule Delaying Compliance Date for ULSD by 45 Days to Provide Additional Time for Transition (November 22, 2005) – EPA published a Direct Final Rulemaking (DFR), and concurrent Proposed Rulemaking, for a 45-day extension for fuel terminals and retail outlets to comply with the 15-ppm diesel sulfur standard (see related article in November 7-11, 2005 *Washington Update*). Under the rule, terminals will have until September 1, 2006 (versus July 15) and retailers until October 15, 2006 (versus September 1) to complete their respective transitions to 15-ppm ultra-low sulfur diesel fuel. The DFR will take effect on January 6, 2006 without further notice unless EPA receives adverse comments by December 22, 2005 or a request for a public hearing by December 7, 2005. [For further information: 70 *Federal Register* 70500 and 70 *Federal Register* 70566]

The Week Ahead

- First Meeting of the Parties to the Kyoto Protocol and Eleventh Session of the Conference of the Parties to the U.N. Framework Convention on Climate Change, in Montreal, Canada – November 28-December 9, 2005
- STAPPA/ALAPCO and EPA Workshop on PM_{2.5}, in Washington, DC – November 29, 2005
- EPA Public Hearing on Proposed PM_{2.5} Implementation Rule, in Washington, DC – November 30, 2005

STAPPA/ALAPCO
444 North Capitol Street, NW, Suite 307
Washington, DC 20001
Tel: (202) 624-7864/Fax: (202) 624-7863
4cleanair@4cleanair.org