



This Week in Review – November 22-26, 2004

THE STAPPA/ALAPCO STAFF WISHES EVERYONE A HAPPY THANKSGIVING!

(1) Congress Passes FY 2005 Appropriations/Removes Report Language on Association Funding (November 20, 2004) – House and Senate conferees adopted omnibus appropriations legislation that includes the FY 2005 budget for EPA as well as many other federal departments, agencies and programs. The adopted legislation eliminated language that had been included in the report accompanying the Senate appropriations bill that was troubling to STAPPA and ALAPCO (see related articles in September 27-October 1, 2004 and November 8-12, 2004 *Washington Updates*). The language would have called for associations receiving grant funds from EPA to first obtain written approval from member states before receiving those funds. Additionally, the language described how EPA should calculate how much grant money should be withheld from the associations and, instead, provided to states not wishing to participate in state associations. In the manager's explanatory language accompanying the final bill the conferees stated, "The conferees have not included language that directed EPA to deduct from grants to state associations for a state that does not wish to participate in the association, as proposed by the Senate. The conferees believe that current recipients of such grants have administratively addressed this issue." With respect to FY 2005 funding levels, the adopted legislation includes \$225 million for state and local air grants, which is \$3.5 million less than the President's request. Most grant programs under the State and Tribal Assistance Grants portion of the EPA budget, for various environmental media, were reduced from the amount the Administration had requested. The budget also includes \$7.5 million for the Clean School Bus program – the President's request for the program was \$65 million. [For further information: Air Web – Program Funding Committee page – and thomas.loc.gov/home/approp/app05.html]

(2) STAPPA and ALAPCO Notify EPA and FAA of Withdrawal from Aviation Stakeholder Process (November 22, 2004) – Nancy Seidman (MA) and Dennis McLerran (Seattle, WA), Presidents of STAPPA and ALAPCO, respectively, transmitted a letter to EPA Assistant Administrator Jeff Holmstead and Federal Aviation Administration (FAA) Assistant Administrator Sharon Pinkerton, formally notifying them of the associations' decision to withdraw from the EPA/FAA stakeholder process to develop a voluntary emission reduction program for the aviation sector. In the letter, the associations express their disappointment that the five-year-long process had not resulted in any progress concerning the primary

objective – reducing aircraft emissions. Instead, the sole product of this effort was a proposed memorandum of understanding – presented this summer – focusing only on NO_x emissions from airport ground service equipment (GSE). In withdrawing from the stakeholder process, STAPPA and ALAPCO also formally rejected the proposed GSE agreement, which they found was not only inadequate in scope and stringency, but also placed unacceptable constraints on state and local air agencies' abilities to protect the public from the adverse health impacts associated with aviation-related pollution. A year ago, when the state/local representatives to the GSE negotiations briefed the members of STAPPA and ALAPCO on the status of the negotiations at the associations' 2003 Fall Membership Meeting, members identified many overarching concerns that would need to be addressed in order for the associations to support a GSE MOU. In the following months, the state/local negotiators continued to articulate these concerns during the stakeholder discussions. However, the final proposal offered this summer still fell far short of providing the emission reductions the associations believe are reasonable and necessary from this source sector. Accordingly, at their Summer Meeting, the STAPPA and ALAPCO Boards of Directors and Committee Chairs unanimously agreed that the proposal was inadequate and voted to reject it. [For further information: Air Web – Mobile Sources and Fuels Committee and In the News pages – and Clean Air World]

(3) STAPPA, ALAPCO and EPA to Co-Host Communications Conference (November 24, 2004) – Next week, STAPPA, ALAPCO and EPA will host the 2004 *Communicating Air Quality and Communities in Motion* conference in Albuquerque, New Mexico. Planned sessions for the December 1-3, 2004 event include the Health Effects of Air Pollution, Successful Environmental Justice Programs, FIRE!, It's Not Just About Ozone Anymore and two panels highlighting innovative federal, state and local outreach and communications programs. Attendees will also participate in a one-half-day training session on social marketing techniques. A special feature of the conference will be a resource room, in which attendees will share their public education and outreach materials. [For further information: www.4cleanair.org/newmexico/home.asp]

(4) EPA Seeks Dismissal of Lawsuit on Mercury MACT for EGUs (November 22, 2004) – EPA filed a brief with the U.S. District Court for the District of Columbia seeking dismissal of a suit filed by several environmental groups that asks the court to compel EPA to set standards for mercury emissions from electric generating units (EGUs). EPA argues that the environmental groups are not just asking EPA to issue a rule by a date certain, but rather are asking the court to order EPA to promulgate only section 112(d) standards and to preclude EPA from choosing any other regulatory approach in the final rule. EPA argues that this is beyond the authority of the court – plaintiffs must wait until EPA issues a final rule, and then can file suit in the U.S. Court of Appeals for the District of Columbia to challenge the rule. The Utility Air Regulatory Group filed a brief making similar arguments in favor of the court dismissing the case. Three environmental groups -- the Izaak Walton League of America, National Wildlife Federation and the Natural Resources Council of Maine -- filed their suit last April, challenging EPA for not meeting its Clean Air Act obligation to issue a mercury rule for EGUs by the end of 2002. Additionally, the environmentalists claimed the cap-and-trade approach that EPA favors for mercury reductions is an

illegal interpretation of federal law. [For further information: *Izaak Walton League of America v. Michael O. Leavitt, EPA Administrator*, D.D.C. Civil Action No. 04-694 (RWR)]

(5) North Carolina Notifies EPA of Intent to Sue to Force Action on Section 126 Petition (November 19, 2004) – North Carolina's Attorney General informed EPA that it intends to file suit to compel EPA to take action on the petition that North Carolina filed under Clean Air Act section 126(b). In March, North Carolina filed a petition with EPA seeking reductions in emissions of NO_x and/or SO₂ from large electric generating units in 13 states. On May 26, 2004, EPA published a notice in the *Federal Register* stating that it would take more than 60 days (the time period provided by the Clean Air Act) for EPA to respond and that EPA would therefore not act on North Carolina's petition until November 18, 2004. Subsequently, EPA sent a letter to North Carolina on November 18 stating that it would take additional time to respond to North Carolina's petition because the agency is currently focused on finalizing the Clean Air Interstate Rule. [For further information: Air Web – Criteria Pollutants Committee page]

(6) Pennsylvania Legislature Adopts Alternative Energy Portfolio Standard (November 20, 2004) – The Pennsylvania legislature passed a bill (S.B. 1030) requiring, by 2020, that 18 percent of the electricity sold to retail customers in the state come from renewable and advanced energy sources. It is expected that such electricity will come from a combination of "Tier I" sources, including wind turbines, solar power, coal mine methane and fuel cells, and "Tier II" sources, including garbage incinerators, waste coal and increased energy efficiency. In a study released earlier this month, the Community Foundation for the Alleghenies concluded that a clean energy portfolio standard could create as many as 3,500 jobs, generate an additional \$7 billion in economic activity in Pennsylvania and save consumers at least \$140 million in annual fuel costs over the next 20 years, compared to developing conventional resources over the same time period. The bill now awaits the signature of Pennsylvania Governor Ed Rendell.

(7) California Develops List of Measures to Reduce PM (November 22, 2004) – The California Air Resources Board (CARB) has developed a list of readily available, feasible, and cost-effective control measures to reduce coarse and fine particulate matter (PM₁₀ and PM_{2.5}). It was developed pursuant to S.B. 656, which required CARB to develop by January 2005 a list of control measures that that could be employed by CARB and local air districts in California. The list includes cost-effectiveness information, covers PM sources such as smoke from wood-burning fireplaces and heaters, smoke from non-agricultural burning, dust and direct PM from combustion and includes measures to address nitrogen oxides and volatile organic compounds, which are PM precursors. [For further information: Air Web – Criteria Pollutants Committee page]

(8) EPA Appointees Confirmed by Senate (November 23, 2004) – Four presidential appointees were confirmed by the Senate to senior positions at EPA. Stephen Johnson, Deputy Administrator, was formerly Assistant Administrator of EPA's Office of Prevention, Pesticides and Toxic Substances. Ann Klee, who previously served as

Counselor to the Secretary of the Department of the Interior, is now the EPA General Counsel. Ms. Klee has also served as Chief Counsel to the Senate Environment and Public Works Committee. The Chief Financial Officer, Charles Johnson, assumes responsibility for EPA's operating budget, and will also develop, manage and support a goals-based management system within the agency. Finally, Benjamin Grumbles was confirmed as Assistant Administrator for the Office of Water. Mr. Grumbles served as Deputy Assistant Administrator of the Office of Water and Acting Associate Administrator of the Office of Congressional and Intergovernmental Relations.

(9) EPA Issues Electronic Release of Facility-level TRI Data (November 23, 2004)

– EPA announced the first annual electronic release of facility-level data that has been submitted to the agency's Toxic Release Inventory (TRI) program. In the past, EPA has made an annual TRI report after quality-assuring and analyzing the data that facilities submit. Since EPA has been asked to share the data the agency receives sooner and in the same form as it is received, EPA has launched the Electronic-Facility Data Release (e-FDR). The e-FDR is presented by facility, with one form for each chemical for 2003. The usual public release of the data, including trend information and analysis, will be available in spring 2005. [For further information: www.epa.gov/tri-efdr].

(10) NARUC to Hold Conference on Solutions to Natural Gas Crisis – On January 24-26, 2005, the National Association of Regulatory Utility Commissioners will sponsor "The Natural Gas Crisis: Finding Clean Solutions." The conference, which will take place at Carnegie Mellon University in Pittsburgh, Pennsylvania, is designed to examine the relationship of rising natural gas prices to increased emissions of carbon and criteria pollutants by the electricity industry. Conference sessions will explore opportunities for increased energy efficiency, renewable resources and clean distributed energy in response to high natural gas prices. [For further information: Air Web – Energy Committee, Global Warming Committee and Calendar pages – and www.naruc.org]

The Week Ahead

- Air Quality Management Work Group Meeting, in Research Triangle Park, North Carolina – November 30, 2004
- POWER-GEN International 2004, in Orlando, Florida – November 30-December 2, 2004
- STAPPA, ALAPCO and EPA *Communicating Air Quality and Communities in Motion* Conference, in Albuquerque, New Mexico – December 1-3, 2004

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