



### ***This Week in Review – December 6-10, 2004***

(1) **STAPPA/ALAPCO, State Commissioners Meet with EPA Administrator Mike Leavitt (December 8, 2004)** – Governor Mike Leavitt met with selected state and tribal environmental representatives, including STAPPA/ALAPCO, to discuss critical air pollution issues. Chief among these were EPA's proposals on the Clean Air Interstate Rule (CAIR) and mercury and the upcoming PM<sub>2.5</sub> designations. Governor Leavitt informed the group that he was "committed to finalizing" the CAIR rule, but "legislation is preferable." When asked when CAIR might be published, he responded that there is "not much to add to [his] previous public comments," but the rule will be "finalized in time for inclusion in state plans." He stressed several times during the hour-long meeting that the public, including Congress and others, does not understand the relationship between the CAIR rule and the states' attainment demonstrations. Leavitt continuously underscored that states must articulate the urgent need they have to achieve the region-wide emissions reductions expected from the CAIR rule. There was general agreement among the state representatives that the proposal should be published quickly. With regard to mercury, Bill Becker summarized the importance of strong mercury controls and shared STAPPA and ALAPCO's recommendations with the Administrator. A discussion ensued on EPA's five principles concerning mercury (i.e., health protection, technological advancements, leveraging multi-pollutant strategies, avoiding unintended consequences and the necessity of global mercury control efforts). Leavitt indicated that he will be inviting environmental journalists to Washington, DC in early January to meet with the agency's chief scientists for "mercury orientation"; he offered to provide a similar opportunity for the states. On PM designations, Leavitt indicated that the agency is expecting to complete its work in a "relatively narrow time frame." The group invited to meet with Leavitt included Bill Ross (NC), Bob King (SC), Chris Jones (OH), Doug Benevento (CO), Ralph Marquez (TX), Karen Stachowski (TN), Bob Gruenig (Tribes), Chris Recchia (OTC), Steve Brown (ECOS) and Bill Becker (STAPPA/ALAPCO).

(2) **Bipartisan Commission Releases Long-Term Energy Policy Recommendations; Mandatory GHG Reductions Included (December 8, 2004)** – The National Commission on Energy Policy released a consensus strategy for addressing long-term energy challenges, including a mandatory cap-and-trade system for greenhouse gas (GHG) emissions. According to the Commission, the key recommendations included in *Ending the Energy Stalemate: A Bipartisan*

*Strategy to Meet America's Energy Challenges* are intended to enhance oil security; reduce risks from climate change; increase energy efficiency; ensure affordable, reliable energy supplies; strengthen essential energy systems; and develop energy technologies for the future. Under the Commission's proposal related to global warming, the U.S. government in 2010 would begin issuing permits for GHG emissions based on an annual emissions target that reflects a 2.4-percent-per-year reduction in the average GHG intensity of the economy (where intensity is measured in tons of emissions per dollar of GDP). The Commission's proposal also includes a "safety valve" or cost-capping mechanism to limit the total cost of the program to the U.S. economy. The cost cap allows additional permits to be purchased from the government at an initial price of \$7 per metric ton of carbon dioxide-equivalent. The 16-member, bipartisan Commission includes representatives of industry, government, labor, academic, environmental and consumer groups. [For further information: Air Web – In the News and Energy and Global Warming Committee pages]

**(3) Automakers Challenge California GHG Emission Limits for Vehicles (December 7, 2004)** – The Alliance of Automobile Manufacturers (AAM) and several California automobile dealerships filed a legal challenge in federal court to California's promulgation of greenhouse gas (GHG) emission limits for vehicles. California passed a law in 2002 directing the Air Resources Board (CARB) to adopt regulations to achieve the maximum feasible and cost-effective reduction of GHG emissions from motor vehicles. CARB approved regulations in September that will go into effect in 2006 for 2009 model year vehicles. In its lawsuit, AAM – which represents BMW, DaimlerChrysler, Ford, General Motors, Mazda, Mitsubishi, Porsche, Toyota, and Volkswagen – claims that the CARB regulations regulate fuel economy, and only the federal government has the authority to set fuel economy standards for vehicles. [For further information: [autoalliance.org/archives/000163.html](http://autoalliance.org/archives/000163.html)]

**(4) President Signs FY 2005 Appropriations Legislation (December 8, 2004)** – President Bush signed final appropriations legislation providing federal funds for FY 2005 for various federal agencies and programs, including EPA. The omnibus appropriations bill was passed by both houses of Congress on November 20, 2004, but a controversial Internal Revenue Service provision, unrelated to EPA's budget, held up the signature process. That issue was resolved, Congress adopted a corrected version of the bill and President Bush signed it. As previously reported, the bill calls for \$225 million for state and local air grants. [For further information: [thomas.loc.gov/home/approp/app05.html](http://thomas.loc.gov/home/approp/app05.html)]

**(5) EPA Grants Reconsideration of Plywood MACT Rule (December 6, 2004)** – In a letter to petitioners, Natural Resources Defense Council (NRDC) and the Environmental Integrity Project (EIP), EPA granted reconsideration of the final national emission standard for hazardous air pollutants promulgated July 30, 2004, regulating sources in the plywood and composite wood products industry (69 *Federal Register* 45944). EPA, however, "declines to take action to stay the effectiveness of any of the final rule's provisions at this time." In his letter, Jeff

Holmstead, Assistant Administrator of EPA's Office of Air and Radiation, states that EPA plans to publish a notice in the *Federal Register* to respond to the petition filed by NRDC and EIP "within the next several months." On November 29, 2004, STAPPA and ALAPCO filed an uncontested motion for leave to file an *amicus curiae* brief in the case filed by NRDC and the Sierra Club that raised the same MACT issues in the D.C. Court of Appeals. The Court has not yet responded to the associations' motion. [For further information: Air Web – In the News and Air Toxics Committee pages]

**(6) CARB Mandates Engine "Reflash" for Defeat-Device-Equipped Engines (December 9, 2004)** – After concluding that a voluntary program to retrofit, or "reflash," diesel engines equipped with illegal defeat devices was not providing results, the California Air Resources Board (CARB) voted to mandate the engine retrofits. The voluntary approach was part of the settlement agreements reached in 1998 by California and a number of the largest diesel engine makers for the protracted use of defeat devices; similar federal consent decrees were reached by EPA and the engine makers. In California, only about 18 percent of the nearly 60,000 affected trucks have been brought into compliance. Under the mandatory program now approved by CARB, all heavy-duty trucks must be reflashed by the end of 2005 and all medium-duty trucks by the end of 2006. CARB estimates that reflashing these engines will eliminate nearly 30 tons of emissions per day – the equivalent of removing 1 million cars from the state's roads. Meanwhile, engine reflashing remains a voluntary action at the federal level, where compliance is even lower than in California – about 7 percent. [For further information: [www.arb.ca.gov/msprog/hdssoftware/hdssoftware.htm](http://www.arb.ca.gov/msprog/hdssoftware/hdssoftware.htm)]

**(7) Senate EPW Committee Sets Priorities for 109<sup>th</sup> Congress, Democrats Determine Committee Membership (December 9, 2004)** – When the 109<sup>th</sup> Congress returns to Washington in January, the Senate Environment and Public Works Committee plans to get to work on the highway bill and Clear Skies legislation. Markup of the Senate highway bill is expected in February 2005, with legislation expected to reach the Senate floor in March. In addition, the Committee plans to hold two hearings in January on S. 1844 – the Administration's Clear Skies program, as proposed by Committee Chair James Inhofe (R-OK) – in January and mark up legislation in February. Meanwhile, the Democrats have determined who will fill the eight minority seats on the EPW Committee. (Since the new party make-up of the Senate has a greater proportion of Republicans to Democrats, the Democrats lost one seat on the EPW Committee; the Committee will now consist of 10 Republicans and 8 Democrats). Senator Frank Lautenberg (NJ) and Senator-elect Barack Obama (IL) will assume the seats vacated by Ron Wyden (OR), who will join the Senate Energy and Natural Resources Committee, and Bob Graham (FL), who is retiring. In addition, Harry Reid (NV) has removed himself from the EPW Committee as he assumes the position of Senate Minority Leader. Max Baucus (MT) will replace Reid as Ranking Member of the Transportation and Infrastructure Subcommittee. Joe Lieberman (CT) will replace Tom Carper (DE) as Ranking Member of the Clean Air, Climate Change and Nuclear Safety

Subcommittee. Jim Jeffords (VT) will continue as Ranking Member of the full Committee.

**(8) EPA Releases Supplemental Proposal for Transportation Conformity to Address PM Hot Spot Analyses (December 7, 2004)** – EPA Administrator Leavitt signed a supplemental proposed rule identifying further options (in addition to those initially proposed by the agency on November 5, 2003) for determining localized PM concentrations that could result from transportation projects in PM<sub>2.5</sub> and PM<sub>10</sub> nonattainment and maintenance areas. These additional options for transportation conformity hot-spot analyses could apply both before and after SIPs for PM<sub>2.5</sub> and PM<sub>10</sub> are established. Comments on these and the initially proposed options will be due to EPA 30 days after the supplemental proposal is published in the *Federal Register*. [For further information: Air Web – Mobile Sources and Fuels and Criteria Pollutants Committee pages]

**(9) Washington Governor Announces Suite of GHG Reduction Actions (December 8, 2004)** – Washington Governor Gary Locke is recommending a variety of measures to reduce greenhouse gas (GHG) emissions in the state, including adoption of California's tailpipe GHG emission standards, adoption of renewable and energy-efficiency portfolio requirements for utilities, adoption of GHG emission reduction goals for the state, establishment of a GHG emission registry and establishment of state energy efficiency standards for 13 products. These actions all will require legislation. In addition, the Governor said he will issue an executive order directing state agencies to increase the use of fuel-efficient and low-emission vehicles, including hybrid gas and electric vehicles, and freeze the purchase of four-wheel drive sport utility vehicles by state agencies unless they are low-emission vehicles or for law enforcement or emergency response use. Dennis McLerran (Puget Sound, WA), ALAPCO President, spoke at the Governor's press conference. [For further information: [www.governor.wa.gov/press/press-view.asp?pressRelease=1740&newsType=1](http://www.governor.wa.gov/press/press-view.asp?pressRelease=1740&newsType=1)]

**(10) Maine Releases Climate Action Plan (December 6, 2004)** – In response to legislation requiring it to develop an action plan to reduce greenhouse gas (GHG) emissions, Maine released a report with recommendations on actions the state can take to reach its GHG reduction goal. The goal of the action plan is to reduce GHG emissions to 1990 levels by 2010, to 10 percent below those levels in 2020, and by a sufficient amount to avert the threat of global warming over the longer term. The plan recommends 54 actions, almost half of which will save money or cost very little. Among the recommendations are adopting California's tailpipe GHG emission standards; participating in a regional cap-and-trade system, where electric utility emissions are capped; providing incentives for combined heat and power; requiring electric utilities to offset a certain percentage of carbon dioxide emissions through projects that reduce emissions indirectly (such as forestry projects); and improving the energy efficiency of buildings and appliances. The plan is a result of a year-long stakeholder process. [For further information: Air Web – Global Warming Committee page]

**(11) Environmental Groups Urge that EPA Designate 406 Counties as PM<sub>2.5</sub> Nonattainment Areas (December 9, 2004)** – Several environmental groups, through a public education campaign called “Clear the Air,” are urging EPA to include 406 counties when it designates PM<sub>2.5</sub> nonattainment areas later this year. The groups argue that this is necessary in order to include complete metropolitan areas (C/MSAs) and to properly control emissions from power plants located in these counties. EPA earlier recommended including 244 counties in the PM<sub>2.5</sub> nonattainment designations, whereas states had recommended 142 counties. If nothing else, the groups argue, EPA should at least stick to its recommendation of 244 counties in order to include counties that house 55 power plants. “Clear the Air” is a joint project of the Clean Air Task Force, the National Environmental Trust, and the U.S. PIRG Education Fund. [For further information: [cta.policy.net/proactive/newsroom/release.vtml?id=25860](http://cta.policy.net/proactive/newsroom/release.vtml?id=25860)]

**(12) Asthma Rates Higher for Children Who Live on Hog Farms (December 9, 2004)** – The University of Iowa completed a study of children who live on hog farms and found that these children are more likely to have asthma than children who live on farms without any hogs. In addition, children living on swine farms where antibiotics are added to feed have a significantly higher prevalence of the respiratory disease. Approximately 26 percent of children who live on farms without any hogs have asthma; for children who live on swine farms, the asthma rate ranges from 43 to 56 percent, with the highest prevalence occurring on swine farms where antibiotics are added to the feed. Farms that added antibiotics to feed tended to have larger numbers of livestock than farms that did not add antibiotics to feed. [For further information: [ehp.niehs.nih.gov/members/2004/7240/7240.pdf](http://ehp.niehs.nih.gov/members/2004/7240/7240.pdf)]

**(13) UCS Rates Environmental Performance of Automakers (December 7, 2004)** – The Union of Concerned Scientists (UCS) issued a comprehensive ranking of the environmental performances of the six largest automakers in the U.S. market – General Motors, Ford, DaimlerChrysler, Toyota, Honda and Nissan – which, together, account for nine out of every ten vehicles sold in the nation. After evaluating 2003 fleet data for ozone precursor and greenhouse gas emissions, UCS named Honda the “2004 Greenest Automaker” and General Motors “Public Polluter #1.” In issuing *Automaker Rankings 2004: The Environmental Performance of Car Companies*, UCS appealed to consumers to purchase the cleanest most fuel-efficient car or truck that meets their needs. [For further information: [www.ucsusa.org](http://www.ucsusa.org)]

**(14) AK Steel Agrees to Pay \$1.2 Million in Fines, Innovations in Settlement (December 2, 2004)** – EPA Region 3 has reached a settlement with AK Steel of violations of Clean Air Act requirements for prevention of leaks of refrigerants containing chlorofluorocarbons (CFCs). The company will pay a \$300,000 penalty and will initiate supplemental environmental projects valued at \$900,000 by replacing the CFCs with less harmful substances and by giving up trading credits of 159 tons of NO<sub>x</sub>. A complaint and consent decree have been filed in the U.S. District Court for the Western District of Pennsylvania, initiating a 30-day comment period. Earlier this year Ohio EPA announced a \$66-million settlement with AK Steel in

which the company agreed to control fugitive dust emissions at a facility located near Cincinnati.

**(15) EPA Publishes Other Solid Waste Incinerator Proposal (December 9, 2004)**

– EPA published in the *Federal Register* the proposed New Source Performance Standards and Emission Guidelines for Other Solid Waste Incinerators. As announced in last week's *Washington Update*, the rule will apply to institutional waste incinerators and very small municipal waste incinerators. The comment deadline for the proposal is February 7, 2005. [For further information: 69 *Federal Register* 71471 or [www.epa.gov/airlinks/airlinks1.html](http://www.epa.gov/airlinks/airlinks1.html)]

***The Week Ahead***

- Clean Air Act Advisory Committee Meeting, in Washington, DC – December 15-16, 2004

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