

ELECTRIC UTILITIES MACT PROJECT STAKEHOLDER MEETING

Monday, March 12, 2001

12:00 p.m. to 2:00 p.m.

Ariel Rios Building, Washington, DC

Industry

ATTENDEES:

In Person:

John Seitz, EPA/OAQPS/OD

Chris Van Atten, Clean Energy Group

Bob Wayland, EPA/OAQPS/ESD/CG

Ralph Roberson, RMB Consulting

Bill Maxwell, EPA/OAQPS/ESD/CG

Carlton Greene, Hunton & Williams

Jim Kilgroe, EPA/ORD

Lee Zeugin, Hunton & Williams

Ellen Brown, EPA/OAR/OPAR

Quin Shea, Edison Electric Institute

Rick Vetter, EPA/OGC/AKLO

Michael Rossler, Edison Electric Institute

Kelly Hayes, EPA/OAQPS/ESD/CG

Rob LaCount, PG&E National Energy Group

Kathryn Petrillo, EPA/OAR/OAP/CAMD

John W. Goodrich-Mahoney, EPRI

Mary Jo Krolewski, EPA/OAR/OAP/CAMD

By Phone:

Tim Osborne, TVA

George Offen, EPRI

Paul Chu, EPRI

Leonard Levin, EPRI

Brian Baldwin, Southern Company Services

John Seitz welcomed attendees to the meeting as a follow-up on EPA's commitment made in June 2000 promising to solicit and consider the ideas/comments of the groups affected by the regulatory process.

The opening and introductions were followed by a brief presentation (see enclosed copy) which described the purpose of the meeting, general background, the process to be followed in developing the section 112 rule for electric utilities, and next steps.

Emphasis was placed on the next steps and a discussion of the two questions posed:

1. How do the stakeholders want to be involved in the regulatory process and with whom do they want to work?
2. What do the stakeholders see as the outcome of the regulatory process?

The meeting was then turned over to the attendees for discussion of these topics and their ideas. (See below.)

#### PROCESS:

Pursuing one of the involvement approaches suggested by EPA (that of establishing a work group under an existing subcommittee of the Clean Air Act Advisory Committee (CAAAC) under the provisions of the Federal Advisory Committee Act (FACA)), there was short discussion of other FACA efforts, including the new source review activity. This approach was looked upon favorably by some with others indicating that they would have to think about it. It was suggested that if the approach were to be followed, then two work groups may be needed: one technically-oriented to address the data concerns and one policy-oriented to address the broader implications of the MACT rule. The output of the technical work group would inform the policy work group. Outcomes from both groups could be used to inform both the regulatory process as well as the legislative process (i.e., various multi-pollutant bills). Membership should also be balanced among the respective stakeholders. A formal "regulatory negotiation" process is not desired.

The EPA agreed to explore the formation of two work groups under the CAAAC umbrella. The industry representatives indicated that representatives of the Environmental Council of the States (ECOS) could be a voice, along with the State Air Directors. In addition, separate meetings, both face-to-face and by teleconference, between EPA and the stakeholders would also continue. The EPA would encourage continuing direct dialog among all stakeholders. Further, continued use of the Internet, including the possible addition of a list server, for information dissemination was felt desirable by all.

#### OUTCOME:

The industry believes that it is a rebuttable presumption that there is no trading allowed under the MACT provisions and would like to see trading included in any resulting standards.

The industry representatives indicated that they currently had no preference at this time between a percent reduction vs. an emission limit format for a MACT standard but that they had not really looked that far yet.

#### OTHER:

There was also discussion on a variety of other topics as summarized below.

The industry representatives present felt that the Agency, by moving away from section 112(n)(1)(A) to section 112(d), had lost a great deal of regulatory flexibility. They would like to follow-up on the level of flexibility available for the MACT regulations.

There was also discussion about the impacts of the recent court decision on the National Lime Association vs. EPA case. One of the findings of the Court was that the Agency must consider emission limits for each hazardous air pollutant on the list applicable to a given source category. The utility industry is interested in following how the Agency is going to apply that decision to this MACT (e.g., what other pollutants beyond mercury, including dioxin, will be specifically addressed).

The issue of the topics subject to discussion (i.e., technical only vs. including health effects) was briefly addressed.

It was indicated by the industry representatives that economic and cost considerations are critical to the decision-making process.

The impact of the Agency's finding on section 112(g) was also briefly discussed along with the existence of any Agency guidance. The Agency believes that State interest in any assistance is divided with some wanting some sort of screening tool for use in case-by-case MACT determinations; others wanting just the existing data base; and yet others saying "leave us alone—it is our job and we'll do it." The Agency's preference would be to provide some sort of caveated "ballpark" guidance or tool but not all States desire this assistance. It was also indicated that the Agency needs more information on what goes into the State case-by-case permits (e.g., what pollutants) before it can provide informed assistance.

The industry representatives indicated that a time line for the regulatory development is needed that includes "drop dead" dates for inclusion of the new research results into the process.

Meeting adjourned @ 1:30 p.m.