ELECTRIC UTILITY STEAM GENERATING UNITS MACT RULEMAKING WORKING GROUP

Charge and Process

June 2001
Revision 3

Clean Air Act Advisory Committee
Permits, New Source Reviews, and Toxics Subcommittee
Federal Advisory Committee

TABLE OF CONTENTS

ELECTRIC UTILITY STEAM GENERATING UNIT MACT RULEMAKING

1.0 OVERVIEW

This document is a work plan for public involvement in the development of national emission standards for hazardous air pollutants (NESHAP) under section 112 of the Clean Air Act, as amended (CAA), for oil- and coal-fired electric utility steam generating units. The approach to rulemaking includes forming a working group under the Permits, New Source Reviews, and Toxics Subcommittee of the Clean Air Act Advisory Committee (CAAAC), which is chartered under the Federal Advisory Committee Act (FACA). The working group would be formed initially for a 1-year period with periodic reviews of the useful duration being conducted.

2.0 REGULATORY BACKGROUND

Section 112(n)(1)(A) of the CAA required that, after considering the results of the study mandated by the same section, the Administrator determine whether regulation of HAP emissions from electric utility steam generating units was appropriate and necessary. The results of the study were documented in the Utility Air Toxics Final Report to Congress (RTC), which was finalized in February 1998 and released to Congress and the public. In the RTC, the U.S. Environmental Protection Agency (EPA) stated that, for the utility industry, mercury from coal-fired electric utility steam generating units was the HAP of greatest concern for public health. However, nickel emissions from oil-fired units and other HAP emissions from coal-fired units are also of concern.

To further inform the regulatory finding, the EPA issued an information collection request (ICR) under the authority of section 114 of the CAA to all coal-fired electric utility steam generating units requesting coal data from such units for calendar year 1999. Certain units were also required to conduct stack tests to evaluate their mercury emissions. In addition, the EPA solicited data from the

public through a February 29, 2000 Federal Register notice. A public meeting was held on June 13, 2000 in Chicago, Illinois, where the public was invited to provide EPA with their views on what the regulatory finding should be.

The EPA also undertook an evaluation of the mercury control performance of various emission control technologies that are either currently in use on coal-fired units for pollutants other than mercury or that could be applied to such units for mercury control. The evaluation was conducted along with other parties, including the Department of Energy (DOE).

In addition, at the direction of Congress, the EPA funded the National Academy of Sciences (NAS) to perform an independent evaluation of the available data related to the health impacts of methylmercury and provide recommendations for EPA's reference dose (RfD--the amount of a chemical which, when ingested daily over a lifetime, is anticipated to be without adverse health effects to humans, including sensitive subpopulations). The NAS conducted an 18-month study of the available data on the health effects of methylmercury and provided EPA a report of its findings in July 2000.

On December 14, 2000 (65 FR 79825; December 20, 2000), the EPA announced that regulation of HAP emissions from oil- and coal-fired electric utility steam generating units was necessary and appropriate. Under an existing settlement agreement, such regulations must be proposed by December 15, 2003 and promulgated by December 15, 2004. At the June 2000 public meeting noted above, the EPA indicated a desire to keep the regulatory process open and to include all stakeholders involved. After discussion with the various stakeholder groups, it has been decided that the most effective means of ensuring that inclusion would be to form a working group under the existing Permits, New Source Reviews, and Toxics Subcommittee.

3.0 SCOPE OF THE RULEMAKING

The electric utility steam generating unit MACT rulemaking includes the oil- and coal-fired subset of fossil fuel-fired electric utility steam generating units defined under section 112(a)(8) of the CAA as follows:

> The term "electric utility steam generating unit" means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

These units are scheduled for regulation under section 112 (NESHAP) after being added to list of source categories for such regulation in the Federal Register notice cited above.

The pollutants to be considered for regulation as part of the electric utility steam generating unit MACT rulemaking include all those listed under section 112(b). During development of the regulations, information on the magnitude of emissions, risks, and other factors will be considered in order to focus the regulatory effort on the most significant pollutants and environmental issues.

4.0 WORKING GROUP PROCESS AND CHARGE

As noted above, the working group is to be formed under the Permits, New Source Reviews, and Toxics Subcommittee of the CAAAC. Information regarding the structure, charter, and responsibilities of the CAAAC may be found at <http://www.epa.gov/oar/caaac/index.html>. A proposed composition of the working group is presented in Table 1. It is envisioned that the core members of the working group will come from existing members of the CAAAC and the Subcommittee. Additional members will be invited to join the working group to ensure stakeholder balance. Members may invite others as needed to provide specific technical input. The working group will be co-chaired by EPA and a member of one of the stakeholder groups.

The working group will conduct analyses of the information, identify regulatory alternatives, assess the impacts of the regulatory alternatives, and make preliminary regulatory recommendations for the source category. Products of the working group will be reported to the CAAAC through the Permits, New Source Reviews, and Toxics Subcommittee. The working group will strive for consensus, defined as a position that members can accept or support, even though the position may not be their first choice. The EPA will retain its full and independent authority and responsibility for making all regulatory decisions. The EPA will make regulatory decisions, whether or not consensus is reached.

A consensus-based recommendation to EPA will, however, be given great weight and consideration in these decisions.

Starting Point

The basis for undertaking this effort is the EPA's finding that regulation, under section 112 of the CAA, of HAP emissions from oil- and coal-fired electric utility steam generating units is necessary and appropriate. Thus, revisiting of the rationale for, and background of, the finding is not a topic of discussion for the working group.

TABLE 1. PROPOSED COMPOSITION OF WORKING GROUP

Stakeholder Groups	Number of Members
Environmental, public health, pollution prevention, and environmental justice groups	6
State/local/tribal regulatory agencies	5
Affected sources, fuel producers and suppliers, labor groups	8

Charge to the Working Group

The overall goal of the working group is to provide input to the EPA regarding Federal air emissions regulations for these units that will maximize environmental and public health benefits in a flexible framework at a reasonable cost of compliance, within the constraints of the CAA. The working group effort is designed to achieve this goal by:

(1) Obtaining active participation from stakeholders, including environmental groups, regulated industries, and State/local/tribal regulatory agencies in all phases of regulatory development, and encouraging public input throughout the process;
(2) Determining the most effective ways to address the environmental issues associated with the HAP pollutants; and
(3) Considering strategies to simplify the regulations and allow flexibility in the methods of compliance while maintaining full environmental benefits.

The working group will be formed for an initial period of one year. The effectiveness of the group will be periodically reviewed to determine if extending the period is warranted. Meetings of the working group may be supplemented with individual meetings with stakeholders and/or the public on an ad hoc basis as requested and as necessary.

5.0 PROPOSED REGULATORY DEVELOPMENT ACTIVITIES AND SCHEDULE

A more specific schedule for the electric utility steam generating unit MACT rulemaking is shown in Table 2. The rulemaking requires a clear commitment on the part of the stakeholders and EPA to meet the deadline of promulgation in December 2004. To meet this deadline, EPA will take whatever actions it can to move the regulatory development process forward.

The proposed schedule outlined in Table 2 is subject to change or modification. As the need arises, the schedule may be adjusted to facilitate the collection and analysis of information and the development of recommendations. The schedule will be reviewed, and revised as necessary, on a regular basis.

TABLE 2. PROPOSED REGULATORY DEVELOPMENT SCHEDULE

General Activities	Date	Group Responsible
Working Group established; overall schedule and general activities	08/01	CAAAC; EPA
Brief CAAAC on results of data analyses	11/01	Working Group; CAAAC
Preliminary floor determinations; preliminary regulatory alternatives	12/01	Working Group
Brief CAAAC on preliminary floor and regulatory alternatives	12/01	Working Group; CAAAC
Revise MACT floor calculation and recommendations	03/02	Working Group; CAAAC
Analyze impacts of regulatory alternatives (e.g. HAP emission reductions, capital and annualized costs for each alternative)	12/01 - 06/02	Working Group
Brief CAAAC on cost/emissions analyses/recommendations	06/02	Working Group; CAAAC
Regulatory alternatives/cross-category trade-offs identified	06/02	Working Group; CAAAC
Overall economic impacts and benefits analysis	06/02 - 08/02	EPA
Present results of economics and benefits analyses to CAAAC	08/02	EPA
Brief CAAAC on regulatory alternative selection options	09/02	Working Group; CAAAC
CAAAC presents regulatory recommendations to EPA	02/03	CAAAC; Working Group
Decision on regulatory alternative(s)	03/03	EPA Management
Draft proposal package	04/03 - 06/03	EPA
Management review of EPA package	06/03 - 08/03	EPA Management
OMB review of EPA package	08/03 - 11/03	OMB
Signature and proposal	12/03	EPA Management
Public comment period	12/03 - 02/04	Public
Summarize public comments	01/04 - 02/04	EPA
Decision on changes to the regulations	02/04	EPA Management
Draft package (preamble, regulation, background document)	02/04 - 07/04	EPA
EPA Management review	07/04	EPA Management
OMB Review of EPA promulgation package	07/04 - 10/04	OMB
Signature and Promulgation	12/04	EPA

[a] The schedule does not show all meetings of the CAAAC or the Working Group. It is expected that the Working Group will meet periodically throughout the project.