

ELECTRIC UTILITIES MACT PROJECT STAKEHOLDER MEETING

Monday, March 12, 2001

3:00 p.m. to 5:00 p.m.

Ariel Rios Building, Washington, DC

Environmental

ATTENDEES:

In Person:

John Seitz, EPA/OAQPS/OD

Mary Jo Krolewski, EPA/OAR/OAP/CAMD

Bob Wayland, EPA/OAQPS/ESD/CG

Felice Stadler, National Wildlife Federation

Bill Maxwell, EPA/OAQPS/ESD/CG

Eric Uram, Sierra Club

Jim Kilgroe, EPA/ORD

Martha Keating, Clean Air Task Force

Ellen Brown, EPA/OAR/OPAR

Mark Wenzler, National Environmental Trust

Rick Vetter, EPA/OGC/AKLO

David Foerter, ICAC

Kelly Hayes, EPA/OAQPS/ESD/CG

Patricio Silva, NRDC

Kathryn Petrillo, EPA/OAR/OAP/CAMD

By Phone:

Issac Elecavey, Michigan Environmental Council

Keith Reopelle, Wisconsin Environmental Decade

Sarah Welch, Izaak Walton League

Michael Bender, Mercury Policy Project

DISCUSSION:

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 urban strategy and MTBE Blue Ribbon Panel activities. This approach was generally looked upon favorably, with the acknowledgment that the process was resource intensive with the key to success being in the membership. Membership should be balanced among the respective stakeholders. Use of the FACA would allow for a fair decision, based on the best science, and everyone would be a part of the process. 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 (e.g., agreement on the data and what it means; agreed to be no small task) and one policy-oriented to address the broader implications of the MACT rule. A formal “regulatory negotiation” process is not desired.

The EPA agreed to explore the formation of two work groups under the CAAAC umbrella. In addition, separate meetings, both face-to-face and by teleconference, between the EPA and the stakeholders would also continue. The EPA would encourage continuing direct dialog among all stakeholders. To keep the process manageable, the schedule would have to be firm; the objectives and goals would need to be well defined; the size of the groups would need to be kept small; and the frequency of face-to-face meetings vs. teleconferences would need to be maximally balanced with regard to cost, productivity, etc. In addition, ground rules would need to be established regarding what was, and was not, “on the table” (e.g., do not revisit the health issues or why the finding was made; move forward with setting the MACT standard). These issues could be addressed in a work plan for the two groups. Further, continued use of the Internet, including the possible addition of a list server, for information dissemination was felt desirable by all. It would then be up to the representatives of each stakeholder group to ensure adequate and complete dissemination of the information, review materials, etc. among their respective constituencies. The stakeholder representatives present felt that this could be done with properly established and charged work groups.

OUTCOME:

To the extent that section 112 allows for flexibility, the environmental representatives endorsed the concept.

The various environmental groups take differing opinions on the issues of trading and subcategorization with some groups seeing trading as a necessary compliance tool. That said, they would like to see every plant perform some level of control before any “flexibility” is discussed.

OTHER:

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

There was some 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 environmental representatives indicated that other pollutants of concern (e.g., nickel, cadmium, etc.) should be addressed in the work plan(s) for the two Subcommittee work groups.

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.

The environmental 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

The environmental representatives indicated a concern with dissemination of technical data at forums such as A&WMA meetings. The costs now charged by A&WMA for attendance at their meetings, conferences, etc. are becoming beyond the reach of many environmental groups. The EPA expressed a willingness to speak to A&WMA regarding fees and other issues that hinder members of each group to attend.

Meeting adjourned @ 4:45 p.m.