

ELECTRIC UTILITIES MACT PROJECT STAKEHOLDER MEETING

Monday, March 12, 2001

9:00 a.m. to 11:00 a.m.

Ariel Rios Building, Washington, DC

State/Local/Tribal Organizations

ATTENDEES:

In Person:

John Seitz, EPA/OAQPS/OD

Mary Jo Krolewski, EPA/OAR

Bob Wayland, EPA/OAQPS/ESD/CG

Darrell Harmon, EPA/IO

Bill Maxwell, EPA/OAQPS/ESD/CG

Rick Vetter, EPA/OGC/AKLO

Jim Kilgroe, EPA/ORD

Kelly Hayes, EPA/OAQPS/ESD/CG

Ellen Brown, EPA/OAR/OPAR

Bill Becker, STAPPA/ALAPCO

Kathryn Petrillo, EPA/OAR

Mary Sullivan Douglas, STAPPA/ALAPCO

By Phone:

Bliss Higgins, Louisiana DEQ

Jeff Hayward, North Carolina

Chris Robesy, Louisiana DEQ

John Sliwinski, New York

Don Caffery, Louisiana DEQ

Tom Gentile, New York

Howard Rhodes, Florida DEP

Bill Grantham, NTEC

Tom Atkeson, Florida DEP

Bill O'Sullivan, New Jersey

John Glunn, Florida DEP

Andy Bodnarik, New Hampshire DES

Kevin MacDonald, Maine

Praveen Amar, NESCAUM

John Wachtler, Minnesota

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 generally looked upon favorably, with the acknowledgment that the utility effort would be more technical in nature than most previous FACA activities. 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. Membership should also be balanced among the respective stakeholders.

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, would also continue between EPA and the stakeholders. The EPA would encourage continuing direct dialog among all stakeholders. Also, a mechanism would be sought for including State/local/tribal representation on the mercury (and other HAPs) control research coordination efforts being headed-up by ORD with the Department of Energy, EPRI, and other (primarily) industry groups. This could involve participation in teleconferences, meetings, and workshops. Further, continued use of the Internet, including the possible addition of a list server, for information dissemination was felt desirable by all.

The impact of any multi-pollutant legislation on the MACT-development process was also discussed. As that legislation is not yet final, the MACT process will proceed with the intent that any outcome would also be applicable should multi-pollutant legislation become a reality.

OUTCOME:

The State/local/tribal representatives indicated that their preferred outcome would be a rule that provided for:

- minimal subcategorization of the industry

- the most stringent levels of mercury control possible
- a multi-pollutant approach
- limited flexibility by the sources so as to enhance the States ability to implement the standards
- early compliance encouraged through the use of incentives
- no trading of toxics

The use of market-based approaches, including trading, should still be considered to the extent they can be effective (perhaps as a part of a beyond-the-floor program).

OTHER:

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

The section 112 program does not allow for trading, at least in the floor analyses, although depending on how the “affected facility” is defined, a facility could trade among units at a given site. Trading might possibly be considered in beyond-the-floor analyses.

Several of the State agencies represented indicated that their legislatures are, or soon will be, considering bills that would mandate reductions in mercury, and possibly other pollutants (either through an emission limit or a specified percent reduction), from electric utility units. For this reason, they are very interested in following the data analyses and the mercury control research and in seeing (or reviewing) any Agency data analysis reports.

STAPPA/ALAPCO offered to attempt to collect information from the States related to:

- identify any additional emission test data
- States that are proceeding with either multi-pollutant or mercury-specific control legislation

There was brief discussion of the two petitions before the U.S. Court of Appeals for the District of Columbia Circuit and the petition for reconsideration filed with the Agency related to the finding.

The impact of the Agency’s finding on sections 112(g) and (j) was also briefly discussed. The Agency intends to develop a screening tool for use by States as they see fit in making their case-by-case determinations. Although the current data base is significantly expanded over any available previously, caution was still urged in the use of any tool provided. This issue will require continued examination.

Meeting adjourned @ 11:00 a.m.