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To: Environmental Coordinators
From: Joe Ledvina
Date: November 5, 1990
Subject: Clean Air Act

Attached is a summary of some Clean Air Act provisions that will affect Vista. In particular, the list of pollutants and sources, MACT standards, residual risk, permits, and accidental releases will be areas directly impacting us. As of this moment, the bill has not been signed by the President. However, it is unlikely to differ from the attached.

Joe Ledvina
Joe Ledvina

cc: Plant Managers, THH, JAD, RDG, EJM

abandon ash management guidelines. House sources say incinerator emissions will be regulated like any other source under the air toxics title, with the exception of the duration of operating permits. The conference agreement sets a 12-year permit for incinerators, a compromise between the House's five-year offer and the Senate's original provision of 30 years. EPA will be allowed to promulgate its new source performance standards for incinerators, expected out by December, and will have one year to modify the NSPS to define MACT for the industry. Recycling mandates and ash rules offered in the Senate bill were dropped; but language barring EPA from regulating incinerator ash as hazardous under subtitle C of RCRA for two years was added. Incinerators will be subject to residual risk provisions "8 years after promulgation of standards but not before 2003."

For voluntary reductions, the deal grants a six-year extension of the MACT compliance deadline to sources that have voluntarily reduced toxic emissions 90% below 1987 levels.

Text — Agreement on Title III of the Clean Air Act Amendments of 1990

Routine Emissions from Major Sources

List of Pollutants and Source Categories:

- The Conference agreement establishes a list of 189 chemicals taken from the Administration's bill, except ammonia and hydrogen sulfide were deleted.

- EPA is to establish a list of major source categories (chemical plants, oil refineries, steel plants, etc.) for the purpose of promulgating standards. Approximately 250 source categories will be subject to regulation. The standards apply to sources in a category.

MACT Standard

- For each category of sources, EPA will promulgate a standard which requires the installation of maximum achievable control technology (MACT) by the sources in the category. MACT is generally the best available control technology, taking cost into account.

- All standards are to be promulgated within 10 years, with standards for 41 source categories required within 2 years.

- Existing sources must comply with MACT standards not later than 3 years after promulgation (with possible 1 year extension).

- When listing pollutants and setting standards, EPA would be required to consider impacts on the environment as well as human health effects.

Voluntary Reduction

- Any source making a voluntary reduction of 90% below 1987 emissions levels receives a 6-year extension on the MACT compliance date.

Residual Risk

- Under some circumstances, MACT may not provide enough public health protection.

- If, after installation of MACT, a significant risk remains, EPA must tighten the standards 8 years after initial promulgation of the MACT standard.

- Standard for protection is "an ample margin of safety to protect public health, unless a more stringent standard is necessary to protect the environment.

- EPA is required to set "residual risk" standards for pollutants which may cause cancer whenever the risk is greater than 1-in-1,000,000 to the person in the general population most exposed to emissions from a source in the category.

Permits

- Each source subject to these standards will be required to apply for a permit under title IV of the bill. The permit program will be managed by the States, so long as they meet minimum Federal requirements.

Special Provisions for Coke Ovens and Utilities

- Coke ovens which achieve a stringent level of control may qualify for an extension of the compliance date for residual risk standards to 2020.

- Utility emissions of air toxics would only be regulated after a study by EPA and only if EPA found that regulation is warranted.

Great Lakes Pollution

- The Conference agreement requires EPA to study toxic pollution of the Great Lakes which results from atmospheric deposition of metals and other toxic particulates. EPA is required to take action to protect the water quality of the Great Lakes and the Chesapeake Bay.

Routine Emissions from Area Sources

- Based on the list of pollutants mentioned above, EPA can also list an area source category (dry cleaners, gas stations, woodstoves and small combustion units, etc.) just as the agency would list a major source category and require MACT. EPA must list sufficient source categories to assure that 90% of the emissions of the 30 most serious area source pollutants are regulated.

- There is an alternative area source control program for those sources that present a substantial risk to health, but for which best available technology is too costly.

- EPA is to monitor a broad range of urban toxics in cities with populations over 250,000 to determine which area source pollutants present the greatest risk.

- Five years after enactment, EPA is to propose a national urban air toxics strategy to reduce cancer risks associated with urban air toxics by 75%. EPA is to report on reductions achieved in 8 and 10 year intervals.

Accidental Releases

- These provisions are designed to prevent chemical accidents.

-- There is a general duty of the owner or operator of each facility handling extremely hazardous substances to operate safely.

-- EPA is to publish a list of at least 100 extremely hazardous air pollutants, of which approximately 20 are listed in the Conference agreement.

-- Each owner of a facility handling extremely hazardous substances must complete an engineering analysis of the facility to identify possible hazards to public health. The assessments would be publicly available.

-- The Conference agreement establishes a Chemical

Safety Board to investigate chemical accidents, similar to the National Transportation Safety Board.

-- EPA is authorized to promulgate accident prevention regulations.

Municipal Incinerators

-- The Conference agreement includes provisions to control the air emissions from municipal, hospital and other commercial and industrial incinerators.

-- Recycling and ash management provisions from the Senate bill were deleted.

STATE REGULATORS SUFFER DEFEAT IN CAA INCINERATOR DEAL

First-time incinerator controls agreed to by clean air conferees are acceptable to both environmentalists and industry, but state and local governments argue that by dropping ash management guidelines, the conference agreement will exacerbate their waste management woes. The conferees agreed Oct. 17 to regulate incinerators like any other source of air toxics, except with a seven-year extension for operating permits. But the agreement abandons the 25% recycling goal and regulations for incinerator ash disposal offered in the original Senate bill, provisions that were vehemently opposed by environmentalists but generally acceptable to industry.

Dropping the recycling and ash requirements satisfied environmentalists' primary concerns with the incinerator package, leading several sources to proclaim partial victory. "We dodged a bullet on this one," says one environmentalist. Ash management "belongs under RCRA," an environmentalist says; these sources felt the Senate's ash provisions "include[d] insufficient requirements to protect groundwater from the toxic leachate from ash landfills." In addition, by setting recycling goals that environmentalists maintain are far too low, and by offering 30 year permits, the original Senate package "encouraged incineration over recycling." With the 12-year permit compromise and language requiring EPA to put off a decision on ash for two years, these sources say the conference package is "an acceptable compromise."

Industry sources are similarly sanguine about the conference settlement, noting particularly that EPA's new source performance standard for incinerators, which is due out this year, will likely be the final guidance incinerators will be forced to comply with. Industry officials say they were concerned they would be forced to implement a second stringent maximum achievable control technology (MACT) two years after meeting the NSPS. Under the agreement, EPA's December rule will be modified to define MACT within 12 months of its promulgation. Waste management experts say they would have preferred a bill that contained guidance on ash management, but that since states are already writing their own standards, losing federal provisions does not leave the industry without guideposts. Like environmentalists, these sources agree that "it could have been much worse."

Local waste management officials, however, say they got "the worst deal possible." These sources argue that without specific ash management provisions, "any facility that is still in planning will be put on hold." One local government source says putting off an ash classification decision means "we have to wait two years for the other regulatory shoe to drop." This source says municipalities will be forced to revamp any project they begin now when RCRA is reauthorized and state laws are preempted. Industry and environmentalists can be satisfied, another source says, "because they don't pay the bills." This source argues that industry has no problem meeting tough standards for air emissions or looking to states for guidance on ash because any costs incurred when regulations change or new technologies are required can be passed on to taxpayers. Meanwhile, this source continues, cities must battle to site facilities over citizen objections that the plants meet no federal safety guidelines. Another local official agrees: "The deal means our solid waste crisis will get worse."