



Southern Air Mail

A Publication of the Southern Section of the Air & Waste Management Association

February 2004

Message from the Chair

Pleas McNeel

I welcome this opportunity to serve you as the Section Chair this year. Your confidence in me as a relative new member of your Section is gratifying. I moved to Jackson, Mississippi July 2000 from Oakland, California, and have been an active member of the Air & Waste Management Association since 1991. I served on the Golden West Section board of directors as Scholarship Chair, Board Member, Section Vice Chair and Section Chair between 1993 and when I left California in July 2000. While a member of the Golden West Section, I benefited greatly from my membership, which provided both a means of keeping up with regulatory, community and scientific development in the field of environmental engineering and science, as well as an opportunity to meet socially with regulatory, academic and industry professionals. High on my list of professional priorities upon moving to Mississippi, therefore, was becoming active in the Southern Section.

The Mississippi Chapter will host this year's Southern Section Air & Waste Management Association Annual Meeting & Technical Conference. Our chapter, in consultation with the Southern Section Board and several vendors, has decided to hold the meeting at the Beau Rivage Hotel & Casino in Biloxi, Mississippi (www.beaurivage.com). The dates are August 4-6. **Please mark your calendars now!** A call for papers (**See attachment**) and invitation to exhibitors are being distributed, and we are working hard to develop a valuable and stimulating program. If you have any topics of particular interest, please contact Dallas Baker (Mississippi Chair - DBaker@deq.state.ms.us), or me (mcneel@earthlink.net). Registration and other details will be released as they are developed.

In addition to our Annual Conference, the Southern Section has been given the special opportunity to co-

host, together with the South Atlantic States Section, the A&WMA's next Visibility Conference. This is a 5-day technical conference held every four years. The next Visibility Conference will be Oct. 25-29, 2004 at the Holiday Inn SunSpree in Asheville, NC. Our own Doug Neeley has been named General Conference Chair. If you are interested in visibility issues, you may contact Doug (neeley.doug@epa.gov) and volunteer your services. A Call for Papers is posted on the website (www.awma.org) as well as in the last issues of Environmental Management and the Journal. The deadline for submitting abstracts is April 2, 2004.

Finally, please join me in welcoming **Dr. Vince Adams**, the new **Vice Chair of our Section**. In case you didn't see the ballot, here is a brief sketch from his resume. Dr. Adams holds a Ph.D degree in Environmental Engineering from the University of Tennessee, Knoxville; MS in Geological Engineering from the University of Missouri, Rolla; MS in Geohydrology from Ohio University, Athens; and a BS in Civil Engineering from the University of Guyana. Dr. Adams has the unique distinction of having advanced degrees and extensive experience with contaminant behavior and transport in all three media (air, water, soil).

A great deal of work, at both the Section and Chapter level, goes into providing valuable opportunities for professional development to our members at the local level. I encourage any of you to contact the Southern Section or your local Chapter with ideas about topics you would like to see addressed, suggestions for plant tours, or if you would like to get more involved in the success of the Southern Section. Because we are working for you, we are most gratified to receive feedback from you!

Pleas

A Chronological Summary of Recent New Source Review Regulatory Developments

Jim Little, U.S. EPA, Region IV

(Editor's Note: *Thanks to Jim Little who wrote the editor in November 2003 volunteering to prepare this article. At the time, I think that he was hoping for a different emphasis, but you know the issue has been litigious from the beginning. We thank Jim for this chronological time line of developments. If you have something of interest that you would like to share with your colleagues, please contact me, or one of the Board members. Thanks.)*

To say the least, the last year has been an interesting time for the new source review (NSR) regulatory program: two sets of final rule changes complete with legal challenges, the continuation of NSR enforcement cases, and even a U.S. Supreme Court case. The following is a chronology of some of the more important NSR events. Additional information is available on the U.S. Environmental Protection Agency (EPA) NSR Internet site: <http://www.epa.gov/nsr>.

- 12/31/02 - EPA promulgated final NSR rule revisions (67 FR 80186) with five actions: new definition of baseline actual emissions, new applicability test (past baseline actual emissions compared to projected actual emissions), new clean unit provision, new plantwide applicability limitation (PAL) provision, and revised provision for pollution control project exclusions. The rules became effective on 3/3/03 for reviewing authorities with "delegated" NSR permitting programs. Reviewing authorities with "SIP-approved" NSR permitting programs have until 1/2/06, to implement the rules. (All of the reviewing authorities in the eight southeastern states comprising EPA Region 4 have SIP-approved NSR programs with the exception of one limited part of the Florida program.) — Lawsuits were filed immediately with the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit Court) to overturn the final NSR rule revisions promulgated on 12/31/02. The lawsuits were consolidated by the DC Circuit Court into one case.
- 12/31/02 - EPA proposed NSR rule changes to better explain what is meant by the routine maintenance, repair, and replacement (RMRR) exemption. (RMRR changes are exempt from consideration as a physical change or change in the method of operation.)
- 2/05/03 - Petition to stay the final NSR rule revisions was made to the DC Circuit Court.
- 2/24/03 - The U.S. Supreme Court agreed to hear an appeal of a lower federal court decision from the Alaska Department of Environmental Conservation. The case (*Alaska Department of Environmental Conservation v. EPA et al.*) involves whether EPA acted properly in overruling the best available control technology (BACT) determination for a prevention of significant deterioration permitting action made by a state reviewing authority with its own SIP-approved NSR permitting program.
- 3/6/03 - DC Circuit Court denied the petition to stay the final rules promulgated on 12/31/02. Effective dates of rules remain as promulgated.
- 7/30/03 - EPA issued a notice of reconsideration (68 FR 44620) announcing that the agency would reconsider six specific parts of the 12/31/02 final rulemaking to assess whether changes were warranted.
- 11/7/03 - EPA issued a final decision on reconsideration (68 FR 63021) stating that the agency will not undertake any substantive revisions of the 12/31/02 final rulemaking. At the same time, EPA amended the NSR rules to include a definition of "replacement unit" and to clarify the PAL baseline calculation procedures for newly constructed units.
- 10/27/03 - EPA promulgated final NSR rule changes (68 FR 61248) related to the RMRR exemption. The revised rule, known as the equipment replacement provision (ERP) rule, more fully explains what is meant by routine replacement. EPA deferred rulemaking to explain routine maintenance and repair. The ERP rule includes a cost threshold for assessing whether a replacement should be considered routine. The rule was to become effective on 12/26/03 for reviewing authorities with delegated NSR programs. Reviewing authorities with SIP-approved NSR programs were to have until 10/26/06 to implement the ERP rule.
- 10/27/03 - Lawsuits were filed with the DC Circuit Court to overturn the ERP rule.
- 10/27/03 - Petition to stay the ERP rule was made to the DC Circuit Court.

- 12/24/03 - DC Circuit Court issued a stay of the ERP rule. The ERP rule is therefore on hold until the lawsuits to overturn the rule are decided. The NSR final rule revisions issued on 12/31/02 are not affected by the stay of the ERP rule.
- 1/21/04 - The U.S. Supreme Court issued its decision in *Alaska Department of Environmental*

Conservation v. EPA et al. (see above). In a 5-to-4 split decision, the majority held that "EPA has supervisory authority over the reasonableness of state permitting authorities' BACT determinations and may issue a stop construction order." The majority opinion hinged in part on an apparent lack of "evidentiary support" in the public record to justify the state's BACT determination.

If you would like additional information on NSR and don't want to visit a web site (listed above), Jim's contact information is: Telephone: (404) 562-9118; little.james@epa.gov

Notes from the Editor

Justice Manning

Shelley Forbes was reelected as **Treasurer**. Shelley has provided a Treasurer's report for the last two years. Recently, I found out that our Treasury will be much better than in recent years as pass through fees from headquarters, a portion of your annual membership dues for the years 2000 – 2002, will be caught up this year. Pass through for 2003 dues will be sent after the Annual Report for 2003 is filed by April 1, 2004. Of course, Della Ridley is dependent on the Chapters forwarding their reports to her by March 1, 2004 so that the Section report can be timely. Last year's Chapter Chair, or designee, is responsible for preparing the report. When the pass-through fees are received by the Section Treasurer, she will send the Chapter's portion of the fee (\$10 per regular member) as soon as possible. The balance in the Treasury is about \$22,200. If you are interested in a

copy of the Treasurer's report, please contact Shelley or me (see attached roster).

Attached to this newsletter is a **roster** of the Southern **Section Board members** and their contact information so your ability to contact your representative will be easier.

The **GA Chapter** next brown bag lunch is scheduled for Friday, March 19, 2004 at 12 noon in the GA Environmental Protection Division offices, 4244 International Parkway, Suite 120, Atlanta. Guests are welcome. If you happen to be in the Atlanta area and want to attend, contact any one of the GA representatives on the Board roster attached for details. Ron Methier will be speaking on the topic, "Interstate Air Quality Rules and Legal Challenges."

Meetings

(**Note:** You may obtain more information on some of these meetings by clicking on the links.)

[Symposium on Air Quality Measurement Methods and Technology—2004](#)

April 19 to 22, 2004 • Research Triangle Park, NC

[WEF / A&WMA Odors and Air Emissions 2004](#)

April 18-21, 2004 • Bellevue, WA, USA

[Managing Hazardous Wastes in the 21st Century: Planning for the Changing Context](#)

April 25-27, 2004 • Dorval/Montreal, Quebec, Canada

[Hazardous Waste Combustors](#)

May 11-12, 2004 • San Antonio, TX

[Exhibitor Prospectus Now Available!](#)

[A&WMA's 97th Annual Conference and Exhibition Conference: June 22-25, 2004, Indianapolis, Indiana, USA](#)

[EPRI -U.S. EPA -U.S. DOE - A&WMA Power Plant Air Pollutant Control "MEGA" Symposium](#)

August 30 - September 2, 2004 • Washington, DC

[Bookmark the MEGA web site at \[www.megasymposium.org\]\(http://www.megasymposium.org\)](#)

[EPRI -U.S. EPA -U.S. DOE - A&WMA Power Plant Air Pollutant Control "MEGA" Symposium](#)

August 30 - September 2, 2004 • Washington, DC

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[Regional and Global Perspectives on Haze: Causes, Consequences and Controversies - Visibility Specialty Conference](#) October 25-29, 2004 • Asheville, NC

NOTICE

If you receive this newsletter via regular mail and have an email address, please notify me at jman-ning@mobis.com. Thanks.

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