

Executive Briefing

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EPA Targets Two Utilities for Clean Air Permit Violations

Mirant and Westar Energy have violated the terms of their clean air permits at facilities in Virginia and Kansas, according to notices of violation EPA fired off last Thursday, a day after Administrator Mike Leavitt announced plans to enforce new source review requirements at utilities.

Westar Energy allegedly violated its pre-construction permits for plant upgrades at its Jeffrey Energy Center in Kansas under the new source review/prevention of significant deterioration (PSD) provisions of the Clean Air Act (CAA). Mirant, meanwhile, exceeded its NO_x emissions limit at a Washington-area power plant by more than double.

New source review (NSR) is triggered when industrial facilities undergo plant upgrades or modify activities resulting in significant emissions increases. PSD applies to areas attaining national ambient air quality standards for NO_x, SO₂, fine particles and ozone and requires facilities to submit to a pre-construction review as well as obtain a permit. The PSD permit requires installation of best-available pollution controls.

EPA alleges Westar did not apply for a PSD permit, while it experienced significant "capacity gains and corresponding emissions" from upgrading three under-performing boiler units to optimal capacity. Between 1992 and 1999, Westar replaced reheaters and superheaters at units 1, 2 and 3, and economizers at units 1 and 2 with the goal of operating the steam turbines at their maximal 720-megawatts (MW) output. The units had been operating at 660-680 MW because of problems with heat imbalances, slagging, and plugging issues.

"Based on information available to Westar prior to the physical and operational changes, and recently submitted to EPA pursuant to Section 114, the utility could have anticipated that the increase in capacity of the Jeffrey Units 1, 2 and 3 boilers would result in increased emissions and should have projected a net emissions increase from those boilers well above the 'significance levels' established in the CAA for one or more regulated pollutants," EPA states in its notice.

EPA also claims Westar violated its Title V permit by not addressing all applicable requirements, including compliance with PSD.

"We're reviewing the alleged violations," but "believe we had been in compliance," with the requirements of the Clean Air Act, said Westar spokeswoman Karla Olsen.

Mirant's Potomac River Power Plant in Alexandria, Va., allegedly violated
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AIR Daily Emission Allowance Prices

	Price	Bid	Offer	Change
SO ₂ Daily Price	263.00	263.00	270.00	0.00
NO _x Daily Price	2,425.00	2,325.00	2,475.00	-75.00

its clean air permit by exceeding its NO_x emissions cap by 1,120 tons at the end of the 2003 ozone season, which spanned May 1 to September 30.

The Virginia Department of Environmental Quality (DEQ) issued a permit in September 2000 to the Potomac River Plant limiting its NO_x emissions to no more than 1,019 tons during the ozone season. The permit came into effect during last year's ozone season, said Donna Heron, a spokesman for EPA Region 3. She said the DEQ specifically targeted the Potomac River plant for curtailing its emissions during the ozone season to bring the Washington, D.C. region into compliance with federal ozone standards.

According to sources familiar with the violation, the DEQ reportedly curbed Mirant's ability to purchase NO_x allowances to meet compliance because the plant is located in Alexandria,

which is part of metropolitan Washington, a "severe" ozone non-attainment area. The issue of trading remains unresolved.

Steve Arabia, a spokesman for Mirant, said they had not received the notice and declined to say whether the utility was allowed to buy emissions allowances to meet compliance requirements last year.

"We are in discussions with Virginia DEQ on that [trading] and other issues related to the permit and hoping to resolve them in a manner that is satisfactory to all parties," Arabia said.

The next step for both utilities is to meet with EPA to try and negotiate a settlement.

Mirant purchased the Alexandria plant from PEPCO in 2000.

EPA, Industry Praise Fuel, Car Standards

Automakers and petroleum refiners touted their environmental achievements today as EPA marked the launch of the Tier 2 fuel requirements, which are being phased in starting with the 2004 model year.

The Tier 2 vehicle and gasoline standards will lead to a 77 pct to 95 pct cut in auto emissions of volatile organic compounds and NO_x, according to EPA, by requiring cleaner-burning gasoline that contains 90-pct less sulfur and new emissions controls in vehicles to take advantage of the new fuel.

"It's a simple formula. Cleaner vehicles plus cleaner fuels equals cleaner air," EPA Administrator Mike Leavitt, told a gathering of industry representatives in Washington, DC.

Several automakers displayed the new cars, trucks and sport utility vehicles that meet the new standards, which were proposed during the Clinton administration. About 35 pct of 2004 model year vehicles meet the new standards. All new automobiles must meet the standards by the 2009 model year.

EPA and industry officials praised the Tier 2 regulations for considering

vehicles and fuels as a system, as auto emissions control technologies benefit greatly from the low sulfur gasoline. Sue Cischke, **Ford Motor Co.** vice president for environment and safety engineering, called it an "unprecedented collaboration" among EPA, automakers, and refiners that should serve as a template for future endeavors.

Despite the generally upbeat message of the day, refiners warned that there may still be hiccups between now and the 2009 deadline. "Our industry has cautioned throughout the rulemaking process that this will be an extremely difficult transformation of gasoline, and that we still face some very real challenges going forward," said Gary Heminger, president of **Marathon Ashland Petroleum.**

LCV Backs Kerry; Others Holding Off

With Democratic voters headed to the polls tomorrow in the nation's first primary, some environmentalists are throwing their support behind **Massachusetts Sen. John Kerry** in an apparent bid to avoid a repeat of the 2000 election, when some liberal voters cast votes for Ralph Nader's Green Party candidacy.

This weekend, in an unusual move, the **League of Conservation Voters** endorsed Kerry, calling him the only candidate who would provide "bold" leadership on the environment. The group cited Kerry's work in the Senate for tougher automobile fuel efficiency standards and strict power plant emissions limits as primary reasons for the endorsement.

"John Kerry understands how to protect our water, enhance our parks and remove mercury from our air. This is a man who will stand up to the corporate interests and tell them to do what is right for their country, not their wallets," LCV President Deb

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EPA posted no air items.

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