



CIBO Climate Update

Environmental & Energy
Committee Meetings

June 9, 2009



Overview

- GHG Reporting
- Endangerment Finding
- PSD/NSR
- NSPS
- RFS2
- Regional Initiatives
- Climate Legislation



EPA GHG Reporting Rule

- Key comment issues:
 - Level of detail & accuracy
 - Timing
 - CBI
 - Compliance certifications
 - Once in, always in
 - CO2 not a “regulated pollutant”
 - Reporting threshold and de minimis



EPA's Proposed Endangerment Finding

- Comment period closes June 23
- Final finding “will not itself impose any requirements on industry”
- Directly addresses Mass v EPA, and will be paired with separate mobile source rules; EPA finds GHGs from these sources cause or contribute to endangerment
- EPA would like to finalize quickly (October), but breadth of issues makes that difficult



EPA's Proposed Endangerment Finding (cont.)

- Key issues:
 - **Human health vs. welfare finding**
 - **Precedent for boilers & other stationary sources; similar endangerment language in other CAA provisions. Can EPA phase in regulations?**
 - **Likelihood of litigation and court orders if EPA does not act quickly**
 - **Interface with reconsideration of the Johnson Deseret guidance**
 - **Will Congress “save the day”?**



PSD/NSR for GHGs

- **Johnson Deseret memo: GHGs not “regulated NSR pollutants”**
- **EPA has agreed to reconsider this memo through a notice-and-comment procedure (2/17/09)**
- **A final endangerment finding may not trigger PSD requirements (does not require actual control of emissions)**
- **Final mobile source rule likely will open the door for stationary sources**
- **What are EPA & ENGO plans?**



NSPS for GHGs

- Several NSPS open for revisions to address GHGs: refineries, cement, boilers
- EPA planning to address other NSPS as part of “integrated” rulemakings; could include GHGs
- ENGO targets: first, coal-fired electric utilities, then refineries, cement, steel, adipic acid
- What does EPA want to do?



RFS2 Rule

- Out for comment now
- Big issue is lifecycle assessment of corn-based ethanol, which could increase push for cellulosic ethanol
- Issue for CIBO members is pressure this might put on use of biomass as a fuel



Regional Initiatives

- Western Climate Initiative
 - Still very California-driven
 - Several state legislatures have voted down efforts to join WCI cap & trade program
 - Still believers in state regulatory agencies, some Governor's offices
 - Several state reporting rules moving forward; WCI protocol out for comment
 - More focus on complementary activities?

Waxman-Markey & Hill Overview



- Waxman-Markey passed House Energy & Commerce Committee on 33-25 vote May 21; pretty much party line vote, though several D's opposed
- House plan: full vote by July 4 recess
- Senate action on cap & trade unlikely in 2009, but anything can happen



Waxman-Markey Overview

- Voted-on version, with all amendments, still not available
- Cap & trade key issues:
 - Slightly less stringent 2020 reductions (17% from 2005 baseline)
 - GHG “registry must be in place within 6 months of passage
 - Program start in 2012, though most industrials not covered until 2014
 - Sources that must hold allowances are those burning coal and natural gas (non-renewable biomass?); others regulated upstream
 - Many sectors will get “free” allocations; 15% to energy-intensive industries, states 10% to invest in renewables & energy efficiency; up to 2 billion offsets available



Waxman-Markey Overview

- Industrial sector “free” allowance allocations:
 - EPA designates sectors (iron, steel, cement, paper mentioned)
 - Must meet energy or GHG intensity criteria, and trade intensity criteria
 - Output-based metrics
 - Will be administered through rebates
 - Petition process



Waxman-Markey Overview

- Renewable Electricity Standards
 - **20% standard, 1/4 of which can come from efficiency improvements; upon petition from Governor, could go to 12%/8%**
 - **No credit for nuclear, existing hydropower**
 - **Enhanced, but limited, credits for distributed generation**
 - **Alternative compliance payment of \$25/MWH**
 - **Could be stripped out and matched with Senate RES**