

Comments on EPA Definition of Solid Waste ANPR

CIBO Environment Committee
Meeting

March 3, 2009

Comments on Definition of Solid Waste

- 65 comments are found in EPA's E-Docket. They can be broken down into:
 - **Trade associations (CIBO, AFPA, ACC, API, RMA, CPA, UARG, USWAG, AISI, TFI, NMA, etc)**
 - **Material users (Alabama Scrap Tire Commission, Bluefire Ethanol, Florida Sugar, Institute of Scrap Recycling)**
 - **Sanitation Districts (sludges)**
 - **States (Minnesota, Wisconsin, Kentucky)**
- No environmental group comments are found in the docket!

Definition of Solid Waste

- **Most comments were supportive:**
 - Flexible legitimacy criteria are needed
 - Many materials are properly in the fuel category
 - The concept of “discarded” is important
 - No bright line on Btu content is needed
 - Discarded materials that are subsequently recovered and used (processed?) are not wastes
 - Comparing contaminants with those in fossil fuels is unnecessary
 - The hazardous waste program is not necessarily a good model for this program
 - States should remain the principal regulators
 - Units burning de minimis quantities of waste should not be CISWI

Definition of Solid Waste

- A few were not supportive
 - **ASTSWMO:**
 - **Wants states to be able to manage non-waste materials as wastes under some circumstances**
 - **Concerned about pressure not to go beyond federal rules in above example**
 - **Concerned about continuum of being generated as a byproduct & being defined as a legitimate material**
 - **Concerned about being able to regulate as a solid waste materials that are subsequently processed (C & D materials)**
 - **Concerned about processed material stored for speculative accumulation or for sham recycling**
 - **Concerned about volatility of secondary materials markets**

Definition of Solid Waste

- A few were not supportive
 - Kentucky:
 - **Would like tires defined as solid waste; no way for tires headed to cement kilns to be differentiated from tires going to a dump**
 - **State has definitions that do not allow “recovered materials” to be burned for energy recovery**
 - **So, some materials would require a state solid waste-to-energy permit**

Definition of Solid Waste

- A few were not supportive
 - **Wisconsin has “serious concerns which need to be addressed”:**
 - **Modified definition of solid waste causes problems for state programs “that limit environmental impacts from the storage and handling of solid wastes that become secondary materials”**
 - **Identification of solid wastes as secondary materials “should be limited to delivery at the combustion unit”**
 - **“We do not support changing the RCRA Subtitle D definition of solid waste as proposed in the ANPRM”**
 - **Waste producers incentivized to categorize wastes as fuels despite environmental impacts; sham recycling**
 - **Could undercut regulation of non-disposal solid waste facilities (tire processors)**

Definition of Solid Waste

- A few were not supportive
 - **Minnesota:**
 - EPA published notice in manner that state air permitting staff unable to “adequately respond”
 - “disheartening to learn of EPA’s proposal to draft air emissions standards for industrial boilers through an ANPR related to defining solid waste”
 - State treats many materials as solid wastes until they are used, and managed appropriately
 - State law doesn’t allow animal manure to be classified as a fuel
 - Could be good reasons to regulate materials under S. 129

Definition of Solid Waste

- A few were not supportive
 - **Environmental Technology Council**
 - EPA must be careful “not to undermine the safeguards” found in the Subtitle C DSW when developing a rule for non-hazardous solid waste
 - “no question” EPA goals best served by “continuing to consider used oil as a solid waste within the RCRA framework”
 - “EPA should also maintain the specific heating value of 5,000 Btu/lb to define alternative fuels”
 - “The presence of non-fuel contaminants in secondary materials burned as fuel should be a significant concern to EPA”