

# GHG Regulations Update

CIBO Environment Committee  
Meeting

March 10, 2010

# Final Endangerment Finding

- The finding has been challenged by 17 parties, including several states (VA, Texas, Alabama). Basis for challenge: ignored confounding studies, inadequate justification for human health finding, improper overall record
- Congress considering a resolution to overturn endangerment finding

# GHG PSD Tailoring Rule

- Proposed rule would raise major source threshold for PSD & Title V programs from 100/250 tons/yr to 25,000 tons, significance threshold to between 10,000 and 25,000 tons; regulation of smaller sources to be deferred up to 6 years
- EPA overwhelmed with comments, many raising legal issues and the need to delay implementation. States and NACAA agreed with the need for delay, and noted EPA had grossly underestimated permitting and economic impacts

# GHG PSD Tailoring Rule

- Congress has expressed concerns with EPA regulation of GHGs, and EPA has begun to respond to the criticism:
  - On 2/19, 6 coal state Democrats raised “serious economic and energy security concerns” with CAA regulation of GHGs, and asked a number of questions
  - On 2/22, Lisa Jackson responded:
    - EPA “must follow” Supreme Court decision; rule by April
    - No sources required to get PSD/Title V permit for GHGs in 2010
    - 1<sup>st</sup> half of 2011, only sources tripping PSD for criteria pollutants will have to address GHGs
    - 2<sup>nd</sup> half of 2011 to 2013, only sources with GHG emissions “substantially higher” than proposed 25,000 ton threshold will trigger PSD

# GHG PSD Tailoring Rule

- Lisa Jackson told a House Appropriations Subcommittee EPA will need more funding, beyond the \$56 million allotted in FY 2011, to address GHG emissions under the CAA
- Ms. Jackson told a Senate Appropriations Committee 3/3 that the tailoring rule threshold would be raised to at least 75,000 tons through 2012, declining to 50,000 tons and then to 25,000 tons. She expected 1700 additional permits in 2011-12, and 3000 additional permits in 2013
- Meanwhile, the Senate & House have introduced legislation to delay CAA implementation (Rockefeller, Rahall) or prohibit EPA regulation of GHGs (Barton, Peterson), and Senator Murkowski has followed up with a new set of questions

# EPA CAAAC GHG BACT Work Group

- **A CAAAC GHG BACT work group made several recommendations to EPA but was unable to reach consensus on a number of tough technical issues**
- **Consensus recommendations to EPA:**
  - **Apply BACT to new or modified unit**
  - **Expand RACT/BACT/LAER Clearinghouse**
  - **Encourage use of innovative controls**
  - **Provide energy efficiency guidance on sector-by-sector basis**
  - **1990 NSR Workshop Manual guidelines on technical feasibility, availability, & scope of analysis; “demonstrated in practice”; and technology transfer should be used for GHGs**
  - **CCS as BACT depends on both the capture and sequestration systems**
  - **Energy efficiency upgrades could be BACT, but limits may be difficult to quantify**
  - **EPA should provide guidance on “clean fuels”**
  - **GHG technologies that increase criteria pollutants may be eliminated**

# EPA CAAAC GHG BACT Work Group

- Areas on non-consensus (hence punted to EPA for decisions):
  - Whether fuel switching could be required
  - What “fundamental business purpose” and “basic design” mean
  - Whether EPA/states could consider energy efficiency improvements outside of new/modified units
  - The role of commercial guarantees
  - Whether source should consider change of location to address availability of CCS
  - Whether criteria pollutants controls that increase GHG emissions may be eliminated
  - GHG cost-effectiveness threshold
  - Need for EPA to promulgate NSPS for largest emitting sectors
  - Presumptive BACT
  - Carbon neutrality of biomass combustion