

# Definition of Solid Waste ANPR Update

CIBO Environment Committee  
Meeting

December 9, 2008

## Matt Hale, Director, EPA Office of Solid Waste, on “Definition of Solid Waste” ANPR

- Proposal on same schedule as Boiler MACT/CISWI/area source rule (7/15/09), so only 30-day comment period on ANPR, little likelihood of extension
- OSWER has traditionally focused on hazardous waste issues and left traditional solid waste issues to states, so covering new ground
- Rulemaking complicated by hazardous/non-hazardous distinctions, recycling vs. combustion issues, OSWER vs. OAQPS battles, and dueling air/waste lawyers

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- Counting on expedited OMB review, expect ANPR in December
- Has seen “stark contrasts” in how various EPA staff view key issues
- Key consideration: is material “discarded”; use in continuous industrial process OK
- Management of material also important, so materials that never leave plant site better off than those that do

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- EPA is concerned about “legitimacy” criteria, such as sham recycling or sham processing
- EPA is also concerned about “toxics along for the ride”, specific mention of PVC, lead paint, treated wood
- EPA is not planning to superimpose a RCRA Subtitle C framework on industrial solid wastes

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- Looking at materials combusted as a fuel and materials used in a combustion process (cement kilns)
- EPA will seek comment on a minimum Btu content (probably 5000), but doesn't want to go there
- Discarded materials can be processed to become a usable product, and product itself may not be a “waste”; smaller amount of processing makes staff more uncomfortable

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- Whole tires and coal waste/refuse: haven’t been processed, so EPA is leaning in direction of declaring these “wastes”
- EPA aware of many state “beneficial use” programs where “wastes” become fuels, but EPA does not view them favorably
- EPA would like comments on the implications of coverage under S. 129
- EPA unlikely to propose waste/fuel lists; broad criteria instead. Where distinctions are unclear, “come talk to us”—case-by-case applicability determinations?

# Takeaways from Matt Hale Meeting

- ANPR will not settle many issues, a problem for EPA Phase 2 testing program
- EPA is still apparently unclear about how to treat low Btu materials, materials with toxics, discarded materials with minimal processing
- EPA turf battles continue; unclear where new Administration will come out

# Potential Comment Areas for CIBO

- S. 129 implications
- Materials of particular interest to CIBO members—waste coal, resinated wood residuals, low Btu materials like sludges
- Push view that otherwise discarded materials that have value and undergo processing are not wastes (?)
- State beneficial use determinations: would we like EPA to consider them?



# MACT Hammer Meeting with Wisconsin DNR

# WDNR MACT Hammer Meeting: Key Takeaways

- WDNR “strongly recommending” sources file MACT hammer/112(j) applications by January 27, 2009
- Were considering asking for a joint Part 1/Part 2 application, but will now sever the two, so Part 1’s on 1/27/09, Part 2’s 60 days later
- Goal: stretch out process a “reasonable” amount of time, allow EPA to get rules in place before DNR “does anything”

# WDNR MACT Hammer Meeting: Key Takeaways

- DNR will provide completeness determinations
- On Part 2's, OK to propose vacated rule limits
- NACAA limits now off the table!
- DNR will use EPA proposal as indication of where things are going, and will be loathe to put anything in a permit until EPA intent is clear
- Potential CISWI sources should assume they are boilers
- Forms will be available this month (December)

Hospital/Medical/Infectious Waste  
Incinerator NSPS & S. 129  
Standards—Floor Methodologies

# HMIWI Standard Setting

- Methodology developed by RTI for EPA
- Floor “re-determined” based on recent Court decisions, 9 S. 129 pollutants plus opacity
- Data are from initial and annual performance tests for 57 facilities
- Data from each source were averaged for each pollutant to develop a single emission value
- Values were then ranked, MACT floor averages calculated, and variability analyses conducted where possible

# HMIWI Standard Setting

- Percent reduction requirements for HCl, Hg, others from 1997 rule are gone (illegal?)
- Two options then considered: pollutant-by-pollutant floor with subcategorization, and without; fortunately chose former
- 3 variability options:
  - Average of the highest test run for each pollutant in best performing 12% of sources
  - Same except used best 6% of sources
  - 99.9% upper confidence level of test runs for sources in best-performing 12%

# HMIWI Standard Setting

- **New Sources:** ID source with lowest average test result, each pollutant. Take all test runs for that source/pollutant combination and calculate standard deviation (SD). Limit is average plus 3.09 SD's (99.9% UCL).
- **Existing sources:** Calculate average emission rate for each unit/pollutant combination, array lowest to highest, take best 12%. Take all test runs for these units and calculate SD. Limit is average for lowest 12% plus 3.09 SD's
- **Opacity limit:** Could have been zero, but used COM data from unit in top 12% to develop 2% opacity limit for both new and existing sources

# HMIWI Standard Setting: Issues & Questions

- Is this the methodology EPA will use for CISWI units? For boiler MACT?
- If so, how will EPA deal with a paucity of data to address variability, particularly for CISWI units?
- We would expect extremely low limits for biomass and other fuel subcategories