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Environmental, Energy & Technical Committee Meetings

December 3-4, 2013
Radisson Hotel, Reagan National Airport
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(703) 920-8600

M I N U T E S

TUES-WED December 3-4, 2013

TECHNICAL FOCUS GROUP SESSION

BMACT Risks and Quantification/Mitigation
Jason Philpott, Eastman Chemical Company

Jason Philpott of Eastman Chemical Company pointed out that the allocation involves choices. While one can perform economic analyses of these choices, often the key factor is the assessment of the risks involved with the choices. The topic for the focus group presentations is the evaluation of these risks.

Dale Overcash of Trinity Consultants, Inc. provided a case study on two small biomass boilers (<50 MMBTU/hr) at a major source site in North Carolina. When the project was started the Industrial Boiler MACT rules were still in the vacature state, i.e. there were no rules in place. In March 2011, EPA issued the "final" rule and then issued a stay of the rule in May 2011. The state wanted to apply NSPS Section 112(j). The unit was under construction at the time. With the stay of the rules, the state decided that Industrial Boiler MACT did not apply.

In December 2011, the "final" rule was issued and in Jan. 2012, the courts lifted the stay. As a result, even though the unit was in operation, stack testing was done for compliance, but it was still unclear which rules would apply. For CO, the oxygen analyzer used for the oxygen trim system was used for the CEM system. For boiler load, steam flow was measured. For chlorides and mercury, stack testing was used for compliance. The compliance testing was based on one fuel (primarily wood). A second fuel that was produced at the plant was to be used. However, there were problems with this second fuel. At different times, the units met mercury, but not HCl and at other times, met HCl and not mercury. Due to the amount of effort required for fuel sampling and testing, this approach was not desirable. Consequently, annual source testing was selected for PM, CO, HCl, and Hg.

Operating limits compliance will be the key issue going forward. Minimum oxygen limits need to be established (set at the lowest hourly average from the most recent performance test). Maximum operating load is set at 110% of the average load during testing. The data required to analyze compliance is 15 minute data collection oxygen and steam load. This amounts to 17,500 data points per operating parameter per boiler. Any missing 15 minute data block constitutes a deviation. In the latest version of the rule, 12 hour block averages were allowed for a 30 day rolling average. A bag lead detection system was selected for the baghouse. Corrective action should be taken within one hour of an alert. If no problem was found, the alert is not counted. Semi-annual reports are required. These reports are massive.

There are large amounts of data to review. However, deviations for missing data are likely. Work needs to start on the data review at least a month before the report is due. Boiler fluctuations have negative effects on meeting operating limits. Missing data may not result in a violation as the boiler may have been in compliance. Tracking down the missing data takes time. There is also an annual report. This report was done separately by this plant. As a result of stack testing, the state agency can put new operating limits in the permit. The mass of each fuel burned in each boiler is required along with fuel analysis information, types of fuel burned, and performance testing data. Any deviations, malfunctions, tune up information emissions averaging, and CEMS data are required. Deviations from emission limits or operating limits must be reported along with corrective actions. In many cases, this data is reported on twice.

There are also requirements for data to be submitted to EPA's WebFIRE database including performance test results, fuel analyses, and compliance reports. CEMs data must be reported to the EPA's Central Data Exchange. If the electronic system is not available, the reports and data must be submitted to the EPA administrator by mail. It is important to understand and learn how to operate the boiler so as to set the operating limits with the lowest oxygen level and the highest steam flow. The boilers and the control systems must be operating efficiently. Engineering tests should be run to evaluate performance. Data collection systems need QA/QC. Large files will need to be manipulated. It is important to establish how deviations in data are going to be handled. Acceptable levels of operating limit deviations and missing data should be established.

Robert (Bob) Fraser of Environmental Resource Management reported on a natural gas conversion project. While converting to natural gas seems like the path of least resistance, it is not a "no brainer". Emissions are lower and operating costs are currently lower. There are no ash disposal costs and substantially reduced operating staff. There is less parasitic load and minimal stack testing. If shale gas will continue to hold down the cost of natural gas (in spite of all the potential demand from switching to natural gas), gas firing would seem to be a logical choice. There is less capital required and no CEMS requirements. However, there are some pitfalls.

The first is the availability of gas at the site in question. The price of gas delivered to the plant is the key price (rather than Henry Hub). The existence of a pipeline and the ability to tap into that pipeline is critical to the availability of gas and its price. There are winters vs summer considerations. The availability of firm price contracts for any length of time needs to be evaluated. The pressure of the gas at the delivery point is important. Low NOx burner systems need a higher pressure gas. This may not be compatible with the existing distribution system. If a new pipe is needed, permits and rights of way need to be negotiated and set up.

An existing boiler can be converted to fire natural gas. However, in some cases the original OEM is no longer in business. Questions such as the number and size of burners, pressure part modifications, and space for low NOx burners, derating, heat transfer, circulation, any co-firing, and the existing grate in the case of a stoker need to be addressed. In many cases, the steam load is no longer what it used to be. There are many units in existence that are more than 60 years old that are no longer run at their MCR conditions. New controls will be needed, along with new gas burners, improved feedwater treatment, and component repair and replacement (i.e. boiler tubes, headers, shell, etc.). There could be an asbestos issue for the maintenance work.

Permitting will become an issue. New Source Review will likely be triggered with the change to natural gas. Major modifications will be required. The plant will have run at low load, setting a low baseline for comparison. CO and VOC on gas may trigger PSD, which will in turn trigger lower thresholds for everything else. Even PM2.5 could be triggered due to the 10 ton/yr increase in annual emissions. There is a small amount of sulfur in natural gas and the guarantee level in the pipeline gas is essentially non-existent. Since the PM2.5 level is so small, very small changes (dust in the pipeline or duct work) will likely trigger an increase. Permit times will increase. If there are existing pollution control devices on the plant, a permit is required to remove such equipment. There will be changes in flue gas flow rate, velocity, and temperature. These could lead to air shed modeling requirements as the plume for gas firing is less buoyant than for coal firing (lower temperature and higher moisture). Minor sources can often avoid BACT in most states, but modeling may be requested as a result. Another consideration is back up fuel. If oil or biomass is the backup fuel, their emissions are higher than for gas and will set the worst case 1 hour standard.

Air dispersion modeling will likely trigger the 1 hour NO2 ambient air standard. This will cause the site to model everything on the site as well as any sources around the site. Stack height modifications may be required to satisfy the one hour standard. With all of these costs, the alternative is to replace the existing unit with one or two new units. Of course, this requires additional studies. There are an infinite number of options including cogeneration, combined cycle plants, burner options, etc. These studies take time. Each has its own air permitting requirements and capital cost requirements.

Delivery times and schedules now need to be addressed. The compliance clock is already ticking with the compliance date of Jan. 13, 2016. With a new combined cycle plant, the GHG threshold may be triggered (75,000 ton/yr). There are now proposed rules for new gas fired plants for GHG emissions. Don't forget that methane is a greenhouse gas and is evaluated at 21 times the effect of CO2. If the new boiler or pipeline is late, a temporary boiler can be used, but the limit is 6 months. There is the potential for an alternative permit scenario that would allow a rental boiler in place for up to 2 years. Of course the rental boiler will need to be permitted and air modeled. Back up fuels will require storage, delivery, loading/unloading, BACT, and modeling.

Now the project has exploded into a myriad of studies to the point where the definition of the project is lost. If the switch to gas requires a new pipeline to the site, there may be a problem with on time delivery of the pipeline. That is out of the control of the plant. Another strategy would be to have the state issue a consent order that will require the plant to convert to gas when the pipeline is available. This may satisfy the state, but may not satisfy the EPA or the eNGOs or other "interested" stakeholders.

Robert (Bob) McIlvaine of The McIlvaine Company reported on some of the types of data available for air quality decisions, including a GPS type approach. The service would be called CIBO Air Quality Decisions. The goal of the service is to organize the world's information on air pollution control and monitoring capabilities for industrial boiler operators. The service would provide an operator with complete information on system and component options in order to select the optimal system to suit the site needs through the 4 knowledge needs, alerts, answers, analysis, and advancements.

The idea behind the global decisions positioning system (GdPS) is essentially a map which provides the user the potential to navigate through the various "stops" for the different types of classifications in the system (ie SO2, NOx, Mercury, Chlorides, Particulates, etc.). For each type of system, the

capital, operating, and maintenance costs are reviewed. There is also an integrated intelligence function that has links to various webinar recordings on various control systems. The major conferences, workshops, webinars, and presentations are covered. McIlvaine also runs "hot topic" hours, which feature 1 hour discussion groups on specific topics. McIlvaine plans to offer this system free of charge to CIBO and its owner members.

Monthly newsletters are included as well as alerts and directories. There are specific newsletters on a number of subjects including fabric filters, scrubbers, etc. One example showed the new Gore system for mercury capture downstream of a WFGD system (demo plant at Sherburne County). The system also has a database on industry suppliers and their contact information. McIlvaine is looking to identify specific "experts" in the various areas that might be willing to have their names listed. These people might be tapped for the hot topic discussions.

The remaining discussion centered around how CIBO members would best use the service. The intention would be that the owners would have free access. The associate members would likely get a reduced rate This remains to be worked out. There was a question about gas turbine combined cycle plants for industrials and the level of interest for industrial plants. It was deemed there was enough interest to warrant inclusion. Also efficiency topics would be considered as well.

ENERGY SESSION
Frederick (Fred) P. Fendt, The Dow Chemical Company, Energy Committee Chairman
Robin Mills Ridgway, Purdue University, Energy Committee Vice-Chairman

Bob Corbin, CIBO Member Consultant noted that we have 9 guests with us today as potential new members and made the appropriate introductions. The usual around the room introductions were done. **Ann McIver** , Citizens Thermal, gave the anti-trust admonition.

Douglas Duncan of the USGS reported on their studies and methodologies on the amount of natural gas in terms of gas in place, potential reserves, and proven reserves. Shale gas and tight gas have become a significant share of the gas production in the US. The USGS Energy Resource Program conducts scientifically robust assessments of the resources of various energy sources. Traditional oil and gas deposits resulted from a generation zone fairly deep in the earth that migrated to cap rock where it accumulated. If the gas cannot, or does not, migrate, the oil and gas stays in the generation zone and is either tight sandstone or shale. Directional drilling technology has allowed the application of advanced fracturing to open up these unconventional sources.

Currently, some 39% of US gas production comes from shale gas and more comes from tight gas. The Bakken Field now produces 10% of US oil. Impact concerns include water supply and availability, aquifer contamination, GHG emissions, and seismic activity. The terminology includes undiscovered but technically recoverable resources. Estimates for these sources are added to the proven reserves to give some idea of the total amount of resource available. Estimates include statistical analysis of existing wells in addition to analysis of the geological deposit itself. Each basin takes about 3 years of data analysis to arrive at a reasonably consistent figure.

Conventional resources are modest with about 412 TCF of gas available. Shale gas, at the moment, comes to 738 TCF of gas, giving a total of 1,150 TFC of gas. There may be an additional 400 TCF on the outer continental shelf, bringing the total to over 1,500 TCF in the US. The Arctic appears to also have rich gas resources totaling another 1,600 TCF of gas. This gas is conventional gas.

Assessments can change over time. Originally, the Marcellus was ignored. In 2002, the field was assessed, but without the benefit of horizontal drilling and fracking, the amount was thought to be 2 TCF. More recently, the assessment went to 84 TCF.

World estimates of conventional gas are at 5,600 TCF. Unconventional gas needs to be further assessed. Reserves are a resource that has been identified. In the US, reserves are at over 300 TCF. USGS estimates of undiscovered, technically recoverable resources do not consider economics. Gas hydrates also need to be assessed. The technology to recover natural gas from these hydrates economically is still being developed.

Philip Budzik of the EIA reported on the Natural Gas Short Term Forecast. The EIA looks at these resources on an annual basis and updates their short term forecast to produce an annual energy outlook. The EIA looks at current production and trends and then projects them into the future. This is different that a true forecast. There are a lot of unknowns that will affect the economics of production which are unknowable going forward (Congressional makeup, tax rates, environmental regulations, interest rates, etc.).

Current production of unconventional gas is now at 43% of total gas production. Production rates are dependent upon the initial production rate and the average decline curve. These two factors lead to the estimate ultimate recovery per well. Other parameters include well drilling, number of active rigs, well spacing, remaining undrilled acreage, completion costs, and operating costs. Using these estimates and the total area with the remaining area to be drilled gives the estimated recoverable reserves.

Proved reserves are an economic asset with nearly all of the infrastructure in place (i.e. wells, gathering, pipelines, etc.). Despite the consumption of 250 TCF in the last 13 years, the amounts of reserves have been increasing. Horizontal drilling has also improved the production of existing fields. In the latest projection, the US will become a net exporter of natural gas in 2020. While there is a difference between economically recoverable reserves and technically recoverable reserves, however, both the prices and the costs are changing in real time.

Demand is influenced by GDP growth and relative prices. Exports will primarily go to Mexico and Canada. LNG exports to the rest of the world will be about 25% of the gross exports. The forecast of natural gas prices to coal prices indicates that the parity ratio to be about 1.8. That is when the ratio of the delivered price of gas over the delivered price of coal in $/MMBTU is 1.8 or less, it is favorable to build gas plants. The current estimates are that the price of gas will increase at a faster rate than the price coal. The oil and gas industry reinvents itself about every 10 years (deep water, shale gas, tight oil, enhanced oil and gas recovery, methane hydrates, etc.). Even the LNG exports have a lot of uncertainty, depending upon world oil prices, consumption rates, competitive responses, and world supply growth.

Carl Bozzuto of ALSTOM Power, Inc. reported on the status of the recent MIT request for CIBO members to fill out a survey for energy efficiency information. An internal CIBO discussion group determined that the survey was quite long and time consuming. It was proposed back to MIT that perhaps CIBO could get URS to fill out some of the boiler data from our existing information and then have MIT use the MECS (Manufacturing Energy Consumption Survey) data for overall product type information. This could allow MIT to shorten the actual survey to only that information that correlated with the product categories in MECS. No confidential business information would be given. MIT

thought they might be able to work with that on an initial basis, but wanted to come back to CIBO members in March or April with further requests, particularly for those that might be doing energy projects.

The concept would be to create at least 2 groups, one doing projects and one not. In this way, there would be a point of comparison to learn about the financial impacts of such projects (savings, efficiency improvements, etc.) on an actual basis. They were concerned that members would be even more reluctant to provide information at that time. Robert (**Bob) Bessette** of CIBO suggested that we bring this concept to the National Association of Manufacturers to see if there might be senior management support for such a concept.

ENVIRONMENTAL COMMITTEE SESSION
Maxine D. Dewbury, The Procter & Gamble Company, Environmental Committee Chairman
Robert (Rob) Kaufmann, Koch Companies Public Sector, LLC, Environmental Committee, Vice-Chairman

Lisa Jaeger of Bracewell & Giuliani, L.L.P. gave the expanded anti-trust admonition. The FTC recently went after the Music Teachers Association because of a clause in their bylaws that stated that teachers would not "poach" other students from other teachers. The FTC felt that this was an anti-trust violation. The Association removed the offending sentence, but the FTC continued their "investigation" and ended with a consent degree requiring continued submission of data over the next 20 years. Consequently, the more formal anti-trust reading will be done at all future meetings. The minutes from the last meeting were approved as written.

Johh C. deRuyter of E.I. DuPont de Nemours & Company reported on CIBO comments on MATS due to its applicability to some member facilities and the impact on the Industrial Boiler MACT rule reconsideration. There were comments on the startup times in particular. While there was a lot of data on EGUs, there was not very much representation of waste coal fired CFB units which are EGUs.

Amy Marshall of URS and **Robert (Rob) Kaufmann**, Koch Companies Public Sector, LLC had a meeting with EPA OAQPW via AF&PA in an attempt to get a feel for the direction that is going. The reconsideration schedule is up in the air, partly due to the shutdown and partly due to the activity on the proposed GHG regulations (now top focus). Rule packages are being prepared, but have yet to be discussed at the higher levels of EPA. These packages will indicate any proposed changes and will ask for comments. There was not a lot on startup and shut down. The issues to be reconsidered included the CO standard, the definition of startup and shut down, performance testing, and one or two other items. The packages do not propose substantive changes to startup/shutdown.

EPA would like to take a similar approach on MATS. They would like a bright line threshold like 25% load for 4 hours. CIBO suggested an off ramp to account for the wide variety of units in the industrial boiler world. On shutdown, EPA has stated that if the shutdown is not completed, then there is no shutdown (and thus no start up). This situation would be treated as a malfunction. The example was a temporary loss of fuel. Some additional flexibility is needed. The 130 ppm CO will be put out for comment. EPA would like to get more data supporting that level.

OMB has decided the rule packages are "not significant". Therefore, no OMB review will be required. In the past few years, the EPA has been using the 99% upper limit to account for variability. There has been concern expressed that this approach may not be valid for small data sets. The office of general council has asked all MACT project leaders to characterize their data sets accordingly. This has been delaying EPA work on several rules. This issue is not addressed in the current draft rule package. There was a ruling by the courts on the sewage sludge incinerators and EPA was directed to show how the 99% UPL really represents the appropriate average. This issue is not addressed in the current draft rule packages. One additional start up and shut down issue has to do with the control system being in manual during parts of startup (such as the oxygen trim system). Another question would involve distinguishing for hot, warm, and cold starts for industrial units.

Lisa Jaeger of Bracewell & Giuliani, L.L.P. reported on the Boiler MACT Litigation Update. There are the 4 cases for each of the 4 rules. These include Boiler MACT, Area Source MACT, CISWI, and NHSW cases. The BAMCT issues that have been severed include start up and shutdown. The environmentalist issues include subcategories, no standards for certain HAP, surrogates for organics, CO surrogate, floor methodology, work practice standards, standards not really maximum achievable, and affirmative defense. Industry issues include energy assessments, health based standards, and beyond the floor MACT limits. Additional issues could include work practice standards for CO, malfunction limits must reflect malfunction data, operating limits that do not correlate with emission limits, rolling averages, 10% discount factor for emissions averaging, 6 month wait to switch between MACT and CISWI, no authority to include low emitting small and gas 1 boilers, PM CEMS or CPMS unreliable, no allowance for back up fuel on Gas 2 units, and liquid fuel in gas 1 units only during curtailment. There were other issues that were either fixed in the revised rule or no longer a serious issue. The affirmative defense for malfunctions might be used to support the need for work practice standards.

Area Source issues from the environmentalists are essentially the same as for Boiler MACT. Industry issues include the requirement for an energy assessment and possibly the malfunction arguments. Originally industry sought a 5 year testing interval while the final rule was 3 years (which was still better than annual emission testing).

The CISWI environmentalist issues were the same as the other two. Industry issues include SO2 limits for biomass energy recovery units, inconsistency with municipal waste combustion standard, emissions averaging, subcategories, no provision for inadvertent waste burning, and no fuel records automatically implies that the unit is a CISWI unit.

On the NHSM standards, the environmentalist issues include the exclusion of certain materials from the definition of solid waste, general exclusions, exclusion of "traditional fuels", and the petition process for "non-waste" determination. Industry issues include transfer to a 3rd party being determined to be a waste and sewage sludge and discarded tires being defined as wastes. One comment is that there is a presumption on the part of EPA that anything other than a defined fuel is as a waste. Also, the 6 month rule should come up under CISWI.

In the MATS/NSPS case industry argued that there should be a separate category for CFBs and that some of the floors were based on inappropriate units. There are also issues about Texas affirmative action. This case is being brought by the White Stallion project, which was to be located in Texas. The briefing schedule starts for the BMACT on Jan. 13, 2014. The others follow in 2 week intervals.

Hopefully, oral arguments for these cases would take place next fall. Word counts for the briefs have been submitted to the courts for approval. Once the court replies, drafts will start to circulate.

Maxine D. Dewbury of The Procter & Gamble Company presented some issues on Area Source Compliance Planning. Tune ups are required every 2 years. An energy assessment is required. There are CO, Hg, and PM limits for coal fired units. Final compliance is due March 21, 2014. The final rule that was issued in February was a much better rule, but the compliance date was not changed. Current policy allows a unit that has capability to burn other fuels before June, 2010 to use that fuel without changing the classification of the boiler. Gas curtailment or supply interruption is defined as a time when the supply of gas to an affected boiler is restricted or halted for reasons beyond the control of the facility.

One coal boiler with good controls, two small coal units in the northeast that don't have gas, and one unit in Puerto Rico that does not have gas will be in the solid fuel Area Source rule. The rest of the units will opt out. Units with emission limits must meet the limits at all times including start up and shut down. For those units that require stack testing, the operating limits for the unit will be determined by the stack test.

Gary Merritt of Inter-Power/AhlCon Partners, L.P. reported on the regulatory status of the coal combustion byproducts/residuals (coal ash regulations). There has been a recent court ruling in a case that attempted to push EPA to speed up the process of putting out a revised regulation. Plaintiffs requested that EPA review the risk analysis, review the TCLP process, and move up the review. The court found that EPA did not complete their review in the required time frame. The court dismissed the TCLP review as coal ash is not a hazardous material. Further, the court stated that EPA should complete its review under subtitle D of RCRA. The court required EPA to submit a schedule in 60 days.

On the legislative side, the ash bill putting coal ash in sub title D (again) was passed by the House. In the Senate, a bill is under discussion. There are some issues under consideration including dust suppression, corrective action time frame, public participation, clarification of large scale fills, clarification of RCRA obligations, 3rd part certification, corrective action for unused sites, and a new report by EPA. A Senate vote is not expected before next spring. EPA has indicated that they have put the ash regulations on their "long term" schedule.

John (Jay) Hofmann of Trinity Consultants, Inc. reported on the recent GHG issues. The DC Court upheld the "Tailoring Rule", which allowed EPA to limit applicability of CO2 regulations to the 75,000 - 100,000 ton/yr. Last July, the DC Court killed the biomass deferral position of EPA. Also in July, the US Supreme Court granted certeriori (i.e. allowed) to a UARG petition that challenges EPA's position that setting regulations concerning GHGs for motor vehicles triggered the need for regulations on stationary sources. The Supreme Court will likely hear that case during 2014.

This case put the biomass deferral case in limbo. The AF&PA has been talking to EPA about making the biomass rule permanent. There is also a question on the latest EPA proposal for GHG NSPS on new utility units. In the meantime, projects that use biomass are uncertain about the need for PSD permits, any carbon credits, and financing.

In September, EPA proposed a GHG standard under NSPS for new utility plants. The proposed limits for coal and IGCC plants is 1100 lb CO2/Mwhr(gross). A 7 year averaging option would require

a 1000 - 1050 lb/CO2/Mwhr(gross). The limit for gas plants would be 1000 lb CO2/Mwhr for larger units and 1100 lb CO2/Mwhr for smaller units. The EPA has been charged to issue guidelines on existing units by next year. Legal challenges include the definition of "requiring a particular technology" and the degree to which CCS has been "adequately demonstrated".

Texas has their own "Tailoring Rule". In the last meeting of the Texas Legislature, the state was tasked with taking over the federal position on issuing GHG permits. The targeted time frame is to have everything in place by May 2014. The pathway is for Texas to submit a SIP and the EPA to "take back" the FIP that they issued to require federal permits for GHGs. The fed permit program has been slow and there is a backlog of permit requests. There is some concern that the process will slow down further while this issue is being resolved.

Efficiency is BACT for GHGs on existing units. Things like furnace design, gas firing, and work practices are being considered. Environmental groups have been commenting/questioning any requests for GHG permits. EPA must complete a 5 year review of the Tailoring Rule by 2015 in preparation for Phase IV. This could result in a reduction in the threshold levels.

Robert (Rob) Kaufmann, Koch Companies Public Sector, LLC reported on the status of NAAQS activities. Obtaining a new PSD permit for a plant has become extremely difficult, particularly due to the modeling requirements. There has been some slippage in the dates for revised standards. Revised primary standards are now planned for 2016 and 2017 for NO2 and SO2. The secondary standards were also planned for 2017.

There has been a decision in the court case against EPA on the secondary standard. EPA had proposed to leave the secondary standard. The court disagreed and remanded that part of the rule back to EPA for a proposal. The 2008 ozone standard (75 ppb) is still in effect. Designations were effective in 2012, but many of these have been litigated. The revised ozone proposal schedule continues to slip. Environmental groups claim that EPA has missed its 5 year review schedule and want a tighter schedule.

The 2010 SO2 standard (75 ppb) had their non-attainment designations issued in August. There will be 2 more rounds of designations in 2017 and 2020. There have been multiple law suits over these designations. The PM2.5 standard was reduced to 12 micrograms/m3 at the end of last year. A court decision vacated the SILs (significant increment levels) and SMCs (significant monitoring concentrations) that were proposed.

Modeling issues include precursors which are vaporous emissions that turn into particulates. There are many implementation problems with these NAAQS. EPA released a matrix to address "fixes" to some of these issues. Short term fixes will be issued in March including new SILs, measurement impacts, and treatment of precursors. Longer term, Appendix W will be revised. Modeling updates include a draft guidance in early 2014, improved low wind speed options, NO2 tier 2 ambient ratio method, dispersion under stable conditions, and directionally varying monitored background concentrations.

There are some locations where background concentrations are above the ambient standard. These might be treated as non-attainment areas. There are also a number of areas where the background level is close to the standard. A number of issues associated with test methods and emission factors have been raised. Method 201A over states PM2.5 emissions due to lack of train blank corrections.

Method 202 has an inadequate train correction. Method 202 also suffers from artifact condensable particulate matter (CPM) formation. Accurate emission factors are lacking. This leads to high estimates that go into the models.

The SSM SIP rule continues to be delayed due to the volume of comments. EPA is working on a replacement for the CSAPR rule (which was vacated). EPA continues to work on responding to the Regional Haze consent decree. Exceptional events (earthquakes, volcanoes, forest fires, etc.) rule making is due out in 2014.

Lisa Jaeger of Bracewell & Giuliani, L.L.P. reported on a number of cases that are still in the courts including the ozone NAAQS, the ozone deadline, the MATS reconsideration, the PC MACT, the PM NAAQS, and the MATS White Stallion case. There are also the Nuisance NAAQS, the Boiler NSPS, the Clean Water Act EPA Veto, and the CSAPR case. The big GHG case is the UARG v EPA case challenging EPA's position that regulating motor vehicles for GHGs requires regulations for stationary sources.

The proposed NSPS GHG rule for new utility plants has not been published in the federal register yet. Comments will be due in 60 days from publication. Regarding "adequate demonstration", a provision in the 2007 EPACT law forbids EPA from using DOE funded demonstration projects as the basis for adequate demonstration. Presuming EPA issues guidelines for existing units by June of 2014, such rules would go final in 2015. Then the states would have to submit SIPs to implement the rule. Usually that would be one year, but this rule would likely have a lot of issues, so delays could be expected. Then there would be compliance periods.

The CSAPR case is going to the Supreme Court. The rule was vacated by the Circuit Court. EPA is trying to revive the rule. The issues "contribute significantly" and EPA's quantification of significant contribution and a state's SIP. The ozone NAAQS deadline case is going forward. On the NSR front, EPA has challenged emissions projections as an "unenforceable" plan to avoid the NSR threshold.

In another case, a permit revocation occurred 4 years after the plant was in operation. The revocation was challenged in District Court and thrown out. On appeal, the Circuit Court reversed the decision. The case is being appealed to the Supreme Court. There were two issues. The first was the EPA authority. The second was the arbitrary and capricious nature of the decision. The first decision was based on authority. The arbitrary and capricious nature was not determined. A number of these cases will have activity in the 2cd quarter of 2014. Comments are due on water quality standards shortly.

Richard (Rich) Anderson, Consultant, Council of Mayors reported on local government water mandates. The Conference of Mayors has a Mayors Water Council. There are 16,000 publicly owned water treatment plants. Since 2009, EPA has been on a campaign about overflows from treatment plants. This could cause backups in basements as well as run off contamination. Some 800 subsystems have been targeted.

The EPA approach was to sue cities and charge fines. The aim was to force cities to reduce the number of overflows to less than 4/yr. Fines were targeted at 2% of average household income. Several major cities are facing $2 -4 billion programs via consent decrees. Revenues have been leveling and long term debt has been climbing.

This debt accumulation is a major concern. With budget problems at the federal level, the amount of funds that would be available from the federal level will continue to decline. The application of such spending solely for overflows increases costs by a factor of 3 or more. In effect, the poor would end up subsidizing this implementation plan. This is a very regressive approach. This affordability issue has been brought to EPA's attention. A memorandum to regions has encouraged green infrastructure. Integrated planning is another approach. The mayors are going to Congress. The EPA approach is excessively regressive.

Government Affairs - Anthony Reed, Archer Daniels Midland Company

CIBO has engaged Bracewell & Giuliani, L.L.P. to update and prepare out issues and policy tools. **Frank Macchiarola** and **Jason Herbert** both have prior experience as staff members in Congress. Their policy resolution group at Bracewell & Giuliani, L.L.P. works with a wide variety of associations on legislative affairs, regulatory, affairs, coalition building/support, strategic communications, and media relations. Legislative action often takes a long time. The Energy Policy Act of 2005 had its origins in the late 90s and early 2000s. Much of the ground work was done by 2003. Getting to the debate in 2005 would have been quite late. Increasing our effectiveness and maintaining relationships will be key goals. Geographical location of members and jobs will be key information.

Issues include Clean Air Act, Clean Water Act, coal ash, national energy policy, biogenic carbon, energy efficiency, and combined heat and power. CIBO can also be a technical resource for staff. We will also need to prioritize what is important. The process to develop this type of information needs to be more formalized so that we are prepared for the March meetings. The committees of jurisdiction actually write most bills. They might be a good place to start. The coal ash legislation in the Senate may be ripe for contact in March. Climate issues and permitting are big issues for CIBO members. Getting permits is now a major stumbling block to getting anything done. Working with other trade associations with similar issues will take on more importance. We also need to consider what positive actions can be supported (as opposed to what we don't like about proposed regulations).

Next Technical Focus Group/Environmental & Energy Committee Meetings
TUESDAY & WEDNESDAY, March 4-5, 2014

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