

CIBO COMMENTS/DOCUMENTS AND BOILER MACT ACTIONS 2008

(10/17/08)

CONFIDENTIAL

Issue	Lead	Issue Specifics	Internal Deadlines	Deadline
<p>Continuous Parameter Monitoring Systems EPA</p>	<p>A. McIver</p>	<p>"Performance Specifications and Quality Assurance Procedure for Continuous Parameter Monitoring Systems, Amendments to Procedure 1 of Appendix F of Part 60, Amendments to Subpart A of Part 63, and Amendments to Subpart SS of Part 63" 73 Fed. Reg. 59956 (October 9, 2008) – Proposed Rule</p> <p>EPA proposed Performance Specification 17, "Specifications and Test Procedures for CPMS at Stationary Sources" and Procedure 4, "Quality Assurance Requirements for CPMS at Stationary Sources," as well as minor amendments to address CEMS used for monitoring multiple pollutants and to clarify that the proposed PS-17 and Procedure 4 apply instead of requirements that pertain specifically to CPMS. The proposal also amends the current national emission standards for closed vent systems, control devices and recovery systems.</p>	<p>CIBO will circulate comment draft schedule</p>	<p>Comments due 12/08/08</p>
<p>GHG Mandatory Reporting EPA</p>		<p>Rule will implement 2008 Consolidated Appropriations Act (HR 2764) provision directing EPA to write regulations for mandatory GHG reporting "above appropriate thresholds in all sectors of the U.S. economy" (Legal authority: CAA Sections 114 and 208).</p>		<p>Proposed Rule - Expected by Sept. 2008; pending publication as of October 17th 2008</p> <p>(90/180 days after 12/27/07 HR 2764 passage)</p> <p>Final Rule - June 2009</p>
<p>Regulating GHGs under the Clean Air Act EPA</p>		<p>Advance Notice of Proposed Rulemaking</p> <p>EPA solicited comments regarding how to respond to the U.S. Supreme Court's decision in <i>Massachusetts v. EPA</i>, in which the Court ruled that the Clean Air Act authorizes regulation of greenhouse gases because they meet the definition of "air pollutant" under the Act.</p> <p>The notice reviews CAA provisions that may be applicable to GHGs, examines issues potentially raised by regulating GHGs under those provisions, provides information regarding potential regulatory approaches and technologies for reducing emissions, and raises issues relevant to possible legislation and the potential for overlap between legislation and CAA regulation. The notice also discusses petitions the Agency has received to regulate GHG emissions from ships, aircraft and nonroad vehicles and several other actions concerning stationary sources for which EPA has received comments.</p>		<p>Comments due 11/28/08</p>

<p>Comments regarding Climate Change Legislation Design U.S. House of Representatives Energy and Commerce Committee</p>		<p>CIBO letter to Lorie J. Schmidt, Counsel, House Committee on Energy and Commerce</p> <ol style="list-style-type: none"> 1. The majority of energy efficiency improvement projects result in emissions reductions, but the way emission rates are accounted for under NSR detracts from implementing those projects. 2. There are significant differences between the Acid Rain Program and its allowance price trends vs. a CO2 equivalent allowance system, based on a May 2008 White Paper which included the SO2 allowance price trend curve. 3. Differences between electric utility and industrial/institutional boiler facilities and operations influence the ability to pass through costs and effectively compete in an allowance auction. 4. Regional infrastructure limitations need to be considered. 5. Energy efficiency opportunities available to industry/universities are inherently limited due to capital constraints and external hurdles. 6. Available GHG abatement measures and their costs vary significantly depending on site-specific and other factors. 7. Allowance allocation methodologies could be used to support continued viability of industrial/institutional entities. 8. Flexibility is needed in any climate change policy framework. 9. CCS issue resolution and technology development can be accelerated through applications in the industrial sector. 10. The electric "utility unit" definition under a climate change cap and trade system should mirror that used in the successful Acid Rain Program. 		<p>CIBO sent letter 08/29/08</p>
<p>Boiler NSPS Proposed Amendments (NSPS Subpart D, Da, Db, Dc) EPA</p>	<p>Maxine Dewbury/Mark Wertham</p>	<p>Proposed Rule</p> <p>EPA proposes changes to the final boiler NSPS re: coke ovens and technical matters. The rule resolves the final NSPS reconsideration petition. Rule proposes to:</p> <ol style="list-style-type: none"> 1. give multiple options to monitor opacity for facilities subject to an opacity limit, but exempt from the COMS requirement 2. exempt facilities that burn 500 ppm or less sulfur distillate oil from COMS (Subpart D) 3. synthetic natural gas derived from coal to be considered gas instead of coal (Subpart Db) 4. diesel fuel to be included in definition of distillate oil (Subpart Db) 5. amend definition of potential sulfur dioxide emission rate, to clarify that boilers burning desulfurized gasified coal and oil may claim credit for pretreatment reductions (Subpart Db) 6. amend definition of steam generating unit to clarify that all water heaters are covered by NSPS (Subpart Db) 7. change definition of very low sulfur oil from 0.30 weight % sulfur to 0.50 weight % sulfur (Subpart Db) 8. allow fuel blending to achieve optional SO2 limit 9. coke ovens/gas fired boilers - 30-day SO2 limit maintenance exemption, same NOx monitoring options as natural gas facilities 		<p>CIBO filed comments 7/28/08</p>

Standards of Performance for Coal Preparation Plants EPA	M. Calmes	73 Fed Reg 22901 (April 28, 2008) - Proposed Rule EPA proposes to tighten and add additional PM emissions limits, clarify the procedures used to measure emissions from coal preparation plants and add new monitoring requirements for sources constructed after April 28, 2008. CIBO comments: 1. EPA should develop definitions and alternative emission control approaches for storage structures that achieve emissions control equivalent to requirements that were developed for conventional coal storage structures; 2. the proposal should provide for a more flexible definition of facilities using bituminous coal; 3. monitoring, testing and recordkeeping requirements should not require sources to conduct testing and gather data where compliance otherwise has been adequately demonstrated.		CIBO filed comments 7/14/08
Other Test Methods (OTM-27 and OTM-28) EPA	J. deRuyter	Via Email (Ron Myers, Office of Air Quality Planning & Standards, RTP) EPA solicited comments via email and web publication on condensable particulate matter test methods OTM-27 ("Determining PM10 and PM2.5 Emissions from Stationary Sources") and OTM-28 ("Dry Impinger Method for Determining Condensable Particulate Emissions from Secondary Sources"). CIBO filed comments in support of the Alliance of Automobile Manufacturers, specifically stressing concerns with the practicality of the probe design, handling requirements, and ability to maintain probe temperature relative to OTM-27. CIBO also questioned how sensitive the OTM-27 sampling results are to tipping of the probe following sampling. Relative to OTM-28, CIBO urged EPA to develop and include information regarding method precision and bias determined through testing on various types of fuels and conditions so that resulting data may be used properly.		CIBO filed comments 6/27/08.
FERC Notice of Proposed Rulemaking (NOPR) on Competition	B. Bessette	FERC Docket No. RM07-19-000 & AD07-7-000 FERC issued a Notice of Proposed Rulemaking (NOPR) on the state of wholesale competition in regions with organized electric markets. This follows their Advanced Notice of Proposed Rulemaking (ANOPR) which they published last year. ELCON submitted comments on FERC's NOPR April 21st. CIBO endorsed ELCON's comments. (In November 2007, AF&PA hosted a meeting to coordinate efforts regarding FERC's ANOPR. Parties agreed that the issues discussed in the ANOPR were too narrow to solve the problems, and a much more comprehensive investigation is needed. AF&PA circulated a motion requesting that FERC undertake that broader investigation. CIBO joined in the motion.)		CIBO filed comments endorsing ELCON comments 4/21/08
Maryland CCB Maryland Dept. of Environment	H. Beavers	MDE proposed regulations related to the disposal of coal combustion byproducts (CCBs) in dedicated solid waste disposal facilities, the storage of CCBs, and the use of CCBs in coal and non-coal mine reclamation sites. CIBO filed comments advocating continued flexibility in State-developed CCB management programs that allow States to address the different climatic, geologic, and ecologic characteristics unique to each location.		CIBO filed comments 2/26/08.

<p>CCW Data Availability EPA/DOE</p>	<p>G. Merritt</p>	<p>72 Fed. Reg. 49714 (August 27, 2007) – Notice of Data Availability</p> <p>EPA sought comments on three documents concerning the management of coal combustion wastes (CCW) in landfills and surface impoundments:</p> <ol style="list-style-type: none"> 1. A joint U.S. Department of Energy (DOE) and EPA report Coal Combustion Waste Management at Landfills and Surface Impoundments, 1994–2004 2. A draft risk assessment conducted by EPA on the management of CCW in landfills and surface impoundments 3. EPA's damage case assessment. <p>EPA solicited comments on the extent to which the damage case information, the results of the risk assessment, and new liner and ground water monitoring information from the DOE/EPA report should affect the Agency's decisions. EPA also requested direct comment on the draft risk assessment document to help inform a planned peer review.</p>		<p>CIBO filed comments 2/11/08.</p>
<p>Flexible Air Permitting Rule EPA</p>	<p>M. Dewbury</p>	<p>72 Fed. Reg. 52206 (September 12, 2007) – Proposed Rule</p> <p>EPA proposed changes to air quality permitting rules to encourage pollution prevention; provide increased flexibility, enable industrial facilities to make rapid changes to respond to market demands; save resources for state permitting authorities, and improve public information. The proposed changes would affect both EPA's operating permits and New Source Review (NSR) programs. Under the proposed changes to the operating permits program, a facility with a flexible permit would explain its operational plans and possible changes to those plans for the duration of the permit term – typically 5 years. The state, local or tribal air quality permitting authority would include permit conditions to ensure protection of public health and the environment for all of those operating conditions. These flexible permits do not provide approval for operational changes not within the scope of conditions considered at the time of the permit application, and facilities would still be required to meet their requirements under the CAA.</p>		<p>CIBO filed comments 1/14/08.</p>
<p>Fugitive Emissions Rule EPA</p>	<p>M. Dewbury</p>	<p>72 Fed. Reg. 63850 (November 13, 2007) – Proposed Rule; Notice of Reconsideration of Final Rule</p> <p>EPA is proposing to revise the provisions of its December 2002 final rules related to the treatment of fugitive emissions for purposes of determining whether a physical or operational change at an existing major source qualifies as a major modification. EPA has requested public comment on the proposed revisions.</p>		<p>CIBO filed comments 1/14/08.</p>
<p>BenMAP/MANE-VU Reports Mid-Atlantic Regional Air Management Association, Inc.</p>		<p>CIBO commented on two draft Reports – the Report on modeling for reasonable progress goals and the Benefits Mapping And Analysis (BenMAP) Program Study – prepared by NESCAUM on behalf of MANE-VU. CIBO concurred with Midwest Ozone Group (MOG) comments that NESCAUM's Modeling Report identifies potential control measures that would "yield significant visibility benefits beyond the projected visibility conditions" after the implementation of current and planned-for control measures, and supported MOG's concern that controls beyond those required to meet already stringent standards is neither justified by applicable law, nor by the significant additional burden on sources that will result.</p>		<p>CIBO filed comments 1/9/2008</p>

BOILER MACT-RELATED COMMENTS				
Reducing Hazardous Air Pollutants from Industrial Boilers: Model Permit Guidance NACAA		<p>Technical Considerations for CAA 112j Standards (CIBO document) Legal Considerations for CAA 112j Standards (CIBO document)</p> <p>Pursuant to Section 112(j) of the CAA (the "MACT hammer"), state and local agencies are required to set the limits for the affected facilities on a case-by-case basis (EPA's BMACT rule struck was down in court June, 2007). These limits must be equivalent to those that would have applied to the source had EPA promulgated a MACT standard consistent with the Act. Because of the significant workload associated with developing case-by-case MACT limits for numerous affected sources and the short deadlines imposed by the CAA, NACAA published Model Permit Guidance on June 10, 2008. NACAA has published site-specific data used to develop the guidance online (http://www.4cleanair.org/Boiler/).</p>		Pending
BMACT Survey (Approved §114 ICR) EPA		<p>73 Fed. Reg. 47153 (August 13, 2008) – OMB Approval Notice EPA ICR No. 2286.01</p> <p>http://survey.erg.com/ss/wsb.dll/s/7g8d</p> <p>Documents for the EPA Combustion Survey published online include a survey overview document (containing all survey questions, definitions of terms, and instructions for submission) and seven spreadsheets for entering responses. Certified Section 114 letters sent to Individual facilities in August.</p>		Survey responses due 10/06/08.
Revised §114 ICR EPA		<p>73 Fed. Reg. 27820 (May 14, 2008) – Notice</p> <p>EPA submitted an ICR for approval to determine the current population of affected combustion units and to develop emission standards for source categories to rewrite the boiler MACT standard. CIBO filed comments on the initial ICR on February 5, 2008. EPA addressed these and other comments and adjusted burden estimates in a revised ICR.</p>		CIBO filed comments 6/13/08
§114 ICR EPA		<p>72 Fed. Reg. 69213 (December 7, 2007) – Proposed Information Collection</p> <p>EPA proposed text for its request for approval to OMB for information collection request to rewrite the boiler MACT standard. The proposed ICR included two components. The first component would solicit information from all potentially affected units in an electronic survey under §114 of CAA. The second component would require, if deemed necessary under §114 of CAA, the owners/operators of up to 350 boilers or process heaters selected at random to conduct stack testing.</p>		CIBO filed comments 2/05/08.
Revised §112j ICR EPA		<p>73 Fed. Reg. 20920 (April 17, 2008) – Notice</p> <p>EPA submitted an ICR to OMB for approval to implement case-by-case MACT under Clean Air Act Section 112j. CIBO filed comments on this ICR on January 2, 2008. EPA addressed these and other comments and adjusted burden estimates in a revised ICR.</p>		CIBO filed comments 5/19/08.
§112j ICR EPA		<p>72 Fed. Reg. 72226 (November 2, 2007) – Notice</p> <p>EPA proposed text for its Information Collection Request (ICR) to the Office of Management and Budget (OMB) for approval to implement case-by-case MACT under Clean Air Act Section 112j. The existing ICR expired on May 31, 2005. Before submitting the ICR to OMB for review and approval, EPA solicited comments on specific aspects of the proposed information collection.</p>		CIBO filed comments 1/2/08.

<p>NACAA Graphs for Model Rule</p>	<p>J. deRuyter</p>	<p>NACAA Boiler MACT Model Rule Data Summary for Industrial Boiler CO and PM limits</p> <p>CIBO commented that emissions from fuel combustion are variable and dependent on site-specific and unit-specific factors that influence the combustion process and flue gas composition, and that looking at data points supposedly representing emission rates and applying percentile values ignores the underlying basis for those emission results and will likely lead to misleading conclusions that are not consistent with the MACT Floor determination process.</p>		<p>CIBO sent comments 4/23/08</p>
<p>NACAA Menu of Options</p>	<p>R. Ridgeway</p>	<p>Controlling Fine Particulate Matter Under the Clean Air Act: A Menu of Options (March 2006)</p> <p>The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) prepared a document entitled "Controlling Fine Particulate Matter Under the Clean Air Act: A Menu of Options" (the "NAACA Menu of Options") to assist state and local air pollution control officials in evaluating the options for reducing fine particulate matter (PM2.5) and PM2.5-precursor emissions.</p>		<p>CIBO filed comments 1/8/08.</p>