



CIBO – Government Affairs: Update and Overview

March 7, 2023

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CIBO – Vision & Mission Statement

- **Vision:** CIBO is dedicated to ensuring that industrial, commercial & institutional energy remains reliable, sustainable, safe and cost – effective: to support a strong and globally competitive economy.
- **Mission:** Through its members, CIBO provides the best technical knowledge, Education and advocacy as members adapt to a sustainable energy Future.



CIBO Strategic Planning – Design of Activities

- To provide for the focused exchange, among organizational members, of accurate technical information, government policies, and laws and regulations that impact energy systems.
- To provide a forum for the continued education of organizational members, and the broader industrial energy community, on advances in technology and operations to improve the reliability, cost – effectiveness and environmentally safe production and use of energy.
- ***To monitor and engage on environmental and energy – related policies that affect the operations of CIBO’s membership, including laws and regulations on clean air, clean water, energy efficiency, energy plant maintenance, carbon management, alternative fuels technologies, and sustainable energy utilization.***

CIBO Government Relations Objectives-- 2023

- Identify A Few Select Legislative and Regulatory Concerns – with input and Coordination - CIBO Policy Committees.
- Selected Issues – for CIBO External Advocacy: Position Statements, Possible Capitol Lobbying, and Coordination with Other Trade Associations – Coalitions.
- Use CIBO Website.
- CIBO In-Person Conferences: Govt. Relations Panels, Possible Capitol Hill Visits.



THE 118th CONGRESS WILL DO A LOT MORE THAN YOU THINK

While the media focuses on the debt ceiling / spending drama, watch for...

WHAT THEY MUST DO

- Debt ceiling extension
- **Farm bill** (incl. SNAP)
- Surveillance Act (§702)
- **Fund government; FY24 appropriations**
- FAA reauthorization
- Health reauthorization
- Nat'l Defense Authorization Act
- Foreign Intelligence

BIG DEALS IN PLAY (HARDER)

- **Domestic energy (all-of-the-above deal)**
- **Bilateral trade deal (US-UK?)**
- Jobs 4.0 (capital formation)
- Immigration (DACA / Ag + Border)
- Antitrust legislation
- Future pandemic readiness
- Doc Fix 2.0 (Medicaid reimbursement)

BIPARTISAN POSSIBILITIES

- Support Ukraine
- Counter China
- Support regional allies vs Iran
- Crypto regulatory framework
- Cybersecurity enhancement
- Broadband deployment (5G + open RAN)
- Privacy regulatory framework
- Supply chain resilience (critical minerals)
- Telehealth enablement
- Crim. justice (Equal Act), policing reform
- Fix R&D amortization (+ other taxes, CTC)
- Outbound investment restrictions
- **Domestic energy permitting reform**
- Spectrum auction authority (FCC)
- Mental health/ substance abuse/ fentanyl
- Maternal & rural healthcare

What ways will Congress influence regulatory activity and what actions will get attention?

- It can be expected that there will continue to be consequential regulatory action in the coming years of the Biden Administration irrespective of tight margins on Capitol Hill.
- The SEC, FTC, CFPB, CFTC, and Federal Reserve Board all have full complements of their leaders with only a couple of nominations or renominations expected this year.
- All of these regulators have a full menu of agenda items continuing over from last year and are not going to speed up or slow down their activity because of Republican control of the House.
- House Republicans may choose to use the appropriations process to advance funding limitations for any agencies tied to specific rulemakings.
- Now that Republicans are in the majority in the House, ESG will remain front and center for the entirety of the Congress. ESG and “woke” corporate America are synonymous.
- It is worth noting that many of the current Biden Cabinet and agency leaders held positions during the Obama years of split power in Washington from when they lost the House in 2010 and then the Senate in 2014.
- They know how to maneuver, play defense, and anticipate potentially difficult terrain and have been planning accordingly for oversight, subpoenas, and other tactics from the GOP.
- At EPA, you could expect a shift in policy issues as Administrator Regan moves on and Janet McCabe takes over the reins.
- FERC has a new chairman – Willie Phillips who has shown a willingness to listen and work with industry.

Key Regulatory Issues

National Ambient Air Quality Standard (NAAQS) for Particulate Matter (PM) and Ozone

- 1/27/23 the Environmental Protection Agency (EPA) has proposed a range of limits from 9 to 10 ug/m³ in its reconsideration of the PM NAAQS that could significantly impact **permitting** projects that **require air quality modeling demonstrations**
 - **CIBO should** continue to work with coalition partners to draft comments by 03/28/23 highlighting the significant scientific uncertainties in the health science that support either retaining the current limit or only a modest lowering. Recommend that EPA either defer its reconsideration and wait for the normal five-year review cycle in 2025 given the state of the economy.
- 04/06/23 the EPA published a proposed FIP regulation to reduce interstate transport of nitrogen oxides (NO_x) from utilities and – for the first time – from seven industries in 23 states that EPA believes are contributing significantly to nonattainment of the 2015 ozone NAAQS in downwind states. **A final rule is expected** by March 15, 2023.
- As written, the proposed rule does not align with the expressed intent, application, description, justification or regulatory impact assessment that EPA provided in the rule preamble.
 - **CIBO should** continue to engage with EPA on this rule development to correct EPA's assumptions on flawed technical assessments, modeling discrepancies, cost effectiveness assumptions and source inventory adjustments/improvements.

Key Regulatory Issues

Boiler Maximum Achievable Control Technology (MACT)

- The final rule was published on October 5, 2022, and sets more stringent, but generally reasonable, emission limits for several types of existing and new boilers while maintaining carbon monoxide as a surrogate for organic Hazardous Air Pollutants (HAPs), thereby avoiding separate stringent limits on more pollutants.
- Unfortunately, boilers built since 2010 will be subject to the new-source limits triggering some retrofits within the next three years. Finally, the rule potentially changes how multi-fuel boilers conduct compliance testing that could impact fuel choices and controls.
- **Note that ENGO groups have filed for reconsideration challenging EPA's use of 10+ year old data when they recalculated the MACT limits and challenging the EPA's CO surrogate decision.**
- **CIBO should** take no action regarding the BMACT final rule.

PFAS - Designation of PFOA and PFOS as CERCLA Hazardous Substances

- Final rule expected out in summer
- Believe is the risk assessment will call for site cleanup close to background
- Designating PFOA and PFOS as hazardous substances will potentially bring millions of new innocent landowners around the country under CERCLA jurisdiction and prompt a reopening of potentially every Superfund site.
- Risks to the public health, welfare, and the environment would potentially increase from a stalled and disrupted federal site cleanup process, and a new wave of CERCLA litigation could be unleashed not merely between site owners and EPA but among public and private potentially responsible parties (PRPs) attempting to shift contribution costs for cleanup
- **CIBO best role is** to meet with EPA to get a better understanding of the risk assumptions made to validate cleanup levels as well as to brief congressional committees with oversight jurisdiction of EPA about validity of assumptions

Key Regulatory Issues

45Q

- Guidance still being developed at Treasury

DOE/IRA

- In addition to DOE putting out FOA for various sectors, expect an FOA in the near future for the industrial sector
- Companies will have to prove the technologies are innovative and that it will reduce GHG
- Companies will also have 60 days to get the grants done as well as also address diversity and inclusion and community support

Congress –Permitting legislation

- Expect the House to take the lead on the legislation
- Floor consideration is still up in the air
- Friction will be the Rs pushing for ng permitting vs. Ds pushing for interstate transmission line permitting for RE sources
- **CIBO can** argue to merits of much needed permit reforms but also the need to protect end-users from having to pay for excessive economic buildout without commensurate end-user benefits in reliable and cost.

Key Issues to Consider – for CIBO Advocacy & Govt. Relations

- Energy Policy – All of the Above: Manufacturing Sectoral Challenges: Hard to De-Carbonize and Promotion of Alternative Fuels – Challenges (Hydrogen.) Defend/Promote Thermal Energy. NG.
- Carbon Capture and Storage (CCS) elements. Including Sec. 45Q Tax Credit – Technical Details.
- Permitting Reform – Current Legislative and Regulatory Proposals (NEPA).
- GHG Reporting (EPA) and SEC – Climate Disclosure Rule, Scope 3 Mandate.



Key Issues to Consider – For CIBO Advocacy and Govt. Relations

- EPA Air Regulations – CSAPR FIP, PM 2.5 Ozone NAAQS.
- WOTUS – “Navigable Waters” Regulatory and Leg. Developments
- PFAS
- DOE – Clean Energy Technologies (IRA - OCED etc.) Targeted at Industrial Facilities. Key Focus Needed – New Technologies
- Infrastructure Challenges -- Grid and Natural Gas
- Social Cost of Carbon (SC – GHG)



CIBO – Moving Forward & Well Positioned

Enhanced Policy Engagement at Technical Level

CIBO, through its membership, is very well positioned to maintain a dedicated focus as a leading voice at the policy table, especially where we apply our policy expertise on industrial energy to examine technical challenges with a solutions – oriented approach, which includes energy and environmental regulations tied into energy production.

