

AGRICULTURE AIR QUALITY TASK FORCE – UPDATE AIR ISSUES

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EPA UPDATES

- Definition of waste: CISWI, Boilers
- Fire Policy
- Diesel PM Petition
- Exceptional Events
- Title V and NSR
- Greenhouse Gases Rulemaking



CISWI Definitions/Boilers MACT

- Court vacated both the CISWI Definitions rule and the Boiler MACT rule in their entirety.
 - CAA language in section 129(g)(1) was unambiguous; solid waste incineration unit = any facility which combusts any solid waste
 - EPA may not depart from definition based on the purpose for which waste is burned
 - In light of the Court's ruling on the CISWI Definitions Rule, the Court vacated and remanded the Boiler MACT rule. Mandate issued 7/30/07Mandate issued 7/30/07
 - **Impact of this ruling on the OSWI rule is under review**



Interim Air Quality Policy on Wildland and Prescribed Fire

- Revision to be completed by July 2008, will include ag burning
- The guidance will be developed with input and review by the public, various stakeholder groups and by other Federal agencies.
- EPA has begun outreach efforts
 - A conference call has been held with State, local and Tribal air quality and forestry officials.
- EPA is planning a stakeholder meeting (date has not been set)
 - Early feedback - meeting should include all stakeholders for interactive discussion
 - More than one day meeting
- In the meantime, EPA will continue it's outreach efforts to the various stakeholder group
- Need input on most effective approach for engaging Ag community



Diesel PM

- In August, EPA and Environmental Defense jointly agreed to new deadlines in late fall 2007 for EPA to act on their petition to list diesel exhaust as a section 112 HAP.
- The deadline was requested so that the two parties can expeditiously complete negotiations on an alternative resolution to the petition.
- If the parties reach a settlement, it will be made public in the early fall.



Exceptional Events

- Published March 22, 2007 (72 FR 13560); error correction 72 FR 28612, May 22, 2007)
- Effective date of rule May 21, 2007
- Rule has been challenged. EPA is reviewing options for response.
 - Emissions from mining and ag activities are not exceptional events
 - Waiver of mitigation requirements is unlawful
 - There can be no human activity in a “natural event”



Title V and NSR

- Recent Actions
 - Flexible Permit Rule (proposal)
 - Operational flexibility
 - PM 2.5 Increments/SILs (proposal)
 - Comment period closes 11/20/07
- Upcoming Regulatory Actions
 - Reconsideration of fugitive emissions and Modifications (proposal)



Title V and NSR (con't)

- PM2.5 Implementation rule, NSR portion (final)
- Potential-to-Emit, response to Court decision (proposal)
- Debottlenecking, Aggregation and Project Netting (final)
- PSD Increment Modeling procedures (final)
- Title V Task Force rule (proposal)



GHG Rulemaking

- 2007 National Renewable Fuels Program Finalized and Implemented
- Impetus for Greenhouse Gas Rulemaking
 - 2007 Presidential State of the Union
 - Draft Alternative Fuels Standard
 - Supreme Court Decision
 - May Presidential Executive Order
- Overview of GHG Rulemaking Process
 - Vehicles
 - Fuels



2007 Presidential State of the Union

- In his 2007 State of the Union Address, the President called for a reduction in petroleum-based gasoline consumption by 20% in 10 years (Twenty-in-Ten plan)
 - 15% through renewable plus alternative fuels; equivalent of ~35B gallons
 - 5% through vehicle efficiency improvements; equivalent of ~4% per year



The Supreme Court Decision

- On April 2, 2007, the Supreme Court ruled that the EPA must take action under the Clean Air Act regarding greenhouse gas emissions from motor vehicles.
- The decision had three elements:
 - States had standing to bring suit
 - CO₂ is a pollutant under the CAA
 - EPA must use different criteria to base decision on whether or not to regulate

Executive Order



- On May 14, the President signed an Executive Order directing EPA:
 - To develop regulations to respond to the Supreme Court's decision
 - To use our existing authority under the CAA
 - To utilize the Twenty-in-Ten proposal as a framework
 - To work together with other Agencies (DOE, USDA, NHTSA) in doing so
- Timeline:
 - Proposal: Fall '07
 - Final Rule: Fall '08

Overall Approach to GHG Rule

- Given the short timeframe, we want to follow the successful RFS rule process
 - Substantial dialogue & coordination with other Agencies (DOE, USDA, DOT, NHTSA, OMB)
 - Extensive early outreach with all key affected stakeholders
 - “Front loaded” outreach process to get early input on program design
- Within this process, we are looking at three major areas of work:
 - Endangerment finding
 - Vehicle regulations
 - Fuel regulations



Vehicle CAA Authority

- Primary authority to regulate motor vehicle emissions falls under Section 202(a)(1):
 - “The Administrator shall by regulation prescribe ...standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or motor vehicle engines which in his judgment cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare.”
- First EPA rule to regulate GHG emissions from cars and trucks
- EPA and NHTSA technical teams jointly evaluating potential vehicle technologies to improve fuel economy
 - Carefully assessing feasibility, lead time and costs



Key Analyses

- Scope
 - While CAAA section 202 allows us regulate other mobile sources such as heavy-duty or nonroad, current focus is on light-duty cars & trucks (incl. MDPVs)
 - Program structure
 - Basis/form of standard
 - Credit trading & implementation mechanisms
 - Technological feasibility assessment
 - Stringency
 - Safety
 - Lead-time
 - Cost analysis
 - Benefits analysis
 - GHGs & air quality analysis
 - Economic impact assessment
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Fuels CAA Authority

- 211(c) allows EPA to set controls on fuels as a means for reducing emissions of an air pollutant that endangers public health or welfare
- CAA 211(o) added by EPA Act (2005) would allow us to require greater volumes of renewable fuels, but by itself is limited in scope
 - Alternative fuels cannot be included
 - Higher volumes could not be specified prior to 2013
 - Several restrictions (e.g., 48 state, gasoline only)



Fuels Rulemaking

- Rigorous analyses is warranted
- 35 billion gallon feasibility
 - What are the potential fuel pathways for achieving 35 billion gallons?
 - What are the relative costs of these fuels?
 - What vehicle-fuel combinations may be needed?
 - How can these increased volumes be distributed? Will there be enough truck and rail capacity? How many E85 stations will be needed?
- Addressing issues identified in RFS, e.g.
 - Lifecycle GHG model and assumptions
 - International impacts
 - Energy security assessment
- Air & water quality, and other factors relating to sustainability



Key Analyses

- Basis/form of standard
- Trading & implementation mechanisms
- Lifecycle GHG and energy analysis
- Emissions inventories for criteria pollutants & GHGs
- Air quality analysis
- Benefits analysis
- Economic impacts
- Feasibility & costs
- Energy impacts, energy security
- Agricultural impacts
- Impacts on water quality, soil, pesticides, etc

