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Finding the Pulse of Today's EPA and Administrative Environmental Policy

Wood Bioenergy Conference & Expo

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Agenda

- > Introduction
- > Environmental Policy Updates (Impacting Wood Products Industries)
 - √ Reform in the Trump Era
 - √ Once In-Always In (OIAI) EPA Position for MACT Standards
 - √ NSR Reform
 - √ Appendix W Changes
- > Future Direction of Environmental Regulations
 - √ Recent PCWP MACT ICR

Introductions

Jeremiah Redman – Senior Consultant



- > Senior Consultant in Trinity's Atlanta office
- > Air quality consulting experience primarily in AL, GA, TN, and SC
 - ✓ Wood products industry is primary industry served!
- > Experienced with SIP permitting, Title V, PSD permitting, PSD/NNSR avoidance strategy, air dispersion modeling, and complex compliance tool development
- > B.S. and M.S. in Environmental Engineering from the Georgia Institute of Technology
 - ✓ Two (2) years of air quality research
- > Engineer-In-Training (EIT) in GA (sort of)

Trinity Consultants – Overview



- > Founded 1974 in Dallas, TX
- > Over 550 employees in 40+ U.S. offices plus Canada, UK, China, and Middle East
- > Ownership: 35% management, 65% private equity
- > Regulatory compliance and environmental management services for industry
- > ISO 9001 quality program
 - ✓ Certified in Dallas HQ

Trinity's Services & Products

Seven Service Areas within Trinity:

1. Environmental Consulting
 - ✓ Permitting and regulatory compliance services
 - ✓ Environmental management services
2. Professional Training
3. EH&S Information Management Solutions
4. Environmental Software
5. Industrial Hygiene and Toxicology
6. EH&S Staffing Services
7. Aquatic Sciences



EPA's Recent Environmental Policy Changes & Federal Rule Updates

Environmental Regulatory Reform in the Trump/Pruitt Era

“Back-to-Basics” Agenda

- > Intent to turn power to the states and create an environment where jobs can grow
- > Focuses on three E’s:
 - √ Environment – protecting the environment
 - √ Economy – sensible regulations that allow economic growth
 - √ Engagement – engaging with state and local partners

Notable Actions in 2017

- > January 30, 2017 – Trump issues Executive Order 13771 to reduce regulation and control regulatory cost
- > **February 17, 2017 - Scott Pruitt – Appointed as new EPA Administrator**
- > **February 24, 2017 – Trump issues Executive Order 13777 to enforce the regulatory reform agenda**
- > February 28, 2017 – Trump issues Executive Order 13778 to review “Waters of the United States” rule
- > March 15, 2017 – Reconsideration of Fuel Efficiency Standards
- > March 28, 2017 – Trump issues Executive Order 13783, which begins the process of rescinding EPA’s Clean Power Plan
- > **April 13, 2017 – Scott Pruitt announces “Back-To-Basics” agenda for EPA**
- > May 5, 2017 – EPA dismisses several members of the Board of Scientific Counselors
- > **May 23, 2017 – Trump budget proposes 31% cut in EPA budget**
- > May 26, 2017 – EPA stays Oil and Gas Standard (NSPS Subpart OOOOa) for 90 days
- > June 1, 2017 – U.S. pulls out of Paris Climate Agreement
- > June 27, 2017 – Pruitt releases proposal to rescind the “Waters of the United States” rule
- > July 3, 2017 – Federal appeals court blocked EPA’s efforts to delay NSPS Subpart OOOOa
- > August 2, 2017 – EPA drops delay of 2015 ozone standard
- > August 15, 2017 – Trump issues Executive Order 13807 to establish discipline and accountability in the environmental review and permitting process for infrastructure projects

EPA Budget Cuts

- > FY 2017 Budget - \$8.244 Billion
- > FY 2018 Budget - \$5.655 Billion
- > FY 2019 Budget (proposed) - \$6.146 Billion
- > FY 2018: Significant Cuts:
 - > State and tribal assistance - ~20% reduction
 - > GHG reporting - ~80%
 - > Air and energy research - ~67%
 - > Environmental justice – zeroed out
 - > Geographic water programs (e.g., Great Lakes, Chesapeake Bay) – zeroed out
 - > Air programs - ~45% reduction

Expected Impacts

- > Regulatory changes take significant time
 - > Statutory requirements and court decisions dictate rulemaking deadlines
 - > Laws and endangerment findings would require reversal to take regulations off the table
 - > Controversial regulatory changes will invite lawsuits
- > Trump administration will have to work within the confines of the major statutes (e.g., Clean Air Act) unless repealed or replaced
- > Future regulations may be delayed or more modest
- > Enforcement may be scaled back
- > EPA scientific advisory boards may be more industry-friendly
- > Courts will play a significant role
- > EPA budget cuts could halt regulatory development

EPA Policy Reversal on “Once In, Always In” for MACT Standards

MACT & OIAI Overview (1 of 2)

- > Section 112 of CAA contains Maximum Achievable Control Technology (MACT) Standards for new and existing sources of Hazardous Air Pollutants (HAPs)
- > Facilities may be classified as Area (minor) sources and Major sources of HAP
 - ✓ Area sources: <10 tpy of individual HAP; <25 tpy of total HAP
- > MACT requirements can differ significantly depending on source classification
 - ✓ e.g., PCWP MACT only regulates Major sources of HAP

MACT & OIAI Overview (2 of 2)

- > Historically – Once Major Source for a MACT – Always a Major Source for a MACT
 - ✓ “Potential to Emit for MACT Standards” Memo dated 1995 (John Seitz – EPA Office of Air Quality)
 - ✓ If major at first compliance date, facility will always be subject as a major source (even if facility-wide emissions decrease to minor source status)
- > January 25, 2018 – EPA issued a memorandum reversing stance on this issue
 - ✓ “Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act” (Bill Wehrum)
 - ✓ If facility-wide PTE is less than major source thresholds, can be re-classified under the existing MACT Rules

Practical Implications

- > If currently subject to a major source rule (e.g., PCWP MACT, Boiler MACT)...
 - ✓ Re-evaluate facility-wide potential-to-emit of HAP
 - ✓ If less than major source thresholds, could potentially apply for a permit revision to become an area source and reduce compliance requirements
- > State agencies will each have their own interpretation and implementation
 - ✓ Level of controls still required
 - ✓ Level of notification/recordkeeping/reporting required
 - ✓ Justification/recordkeeping for becoming minor source

What Do We Expect?

- > Variation Between State Agencies
 - ✓ Alabama (ADEM) fully on-board
 - ✓ Other states – policy revisions over next year or so
- > Existing Requirements
 - ✓ Controls will likely remain in place
 - ✓ Recordkeeping/notification/reporting requirements may be reduced
- > Future Requirements
 - ✓ Controls may be reduced
 - ✓ Recordkeeping/notification/reporting requirements may be reduced
- > Monitor State Interpretations

New Source Review (NSR) Policy Changes

NSR Overview

- > New Source Review (NSR) Program requires major sources (under NSR) to evaluate any modification to ensure that project emissions do not result in a “significant net emissions increase”
- > Pre-defined “significant emission rates” (SERs) as defined in the Rule
- > Traditionally, a two-step process
 - ✓ 1a. Evaluate actual-to-potential project increases
 - ✓ 1b. Evaluate actual-to-projected actual project increases
 - ✓ 2. Facility-wide netting over prior 5-year period

NSR Changes

- > Memo from Scott Pruitt (EPA Administrator) dated December 7, 2017 with policy revisions
 - v Updates to baseline actual emissions
 - ◆ Can include units to be shutdown in baselines
 - As long as it is “part of the project” (EPA is allowing facilities/states to define the project)
 - Traditionally, this step would have been included in Step 2 (along with all other modifications in 5-yr period)
 - v Updates to projected actual emissions
 - ◆ Facilities get to define how emissions look in the future
 - ◆ Facilities work with states to determine appropriate tracking/compliance demonstration

EPA's Final Changes to the Guideline on Air Quality Models (Appendix W)

Guideline on Air Quality Models

- > *40 CFR Part 51 Appendix W or the Guideline provides written direction to EPA, states, tribes, and industry on how to conduct air dispersion modeling*

- > Outlines requirements and recommendations for:
 - ✓ SIP revisions,
 - ✓ NSR/PSD permitting, and
 - ✓ Other regulatory modeling (e.g., NEPA)

- > Legally binding regulation
 - ✓ Not purely a memo or technical assessment
 - ✓ EPA utilizes memos and technical assessments to support Appendix W to avoid great specificity in the regulation as modification requires Congressional action

Dispersion Modeling

- > When is modeling required?
 - ✓ In most states, modeling is generally required for Prevention of Significant Deterioration (PSD) permitting
 - ✓ State agency can require some modeling of toxic air pollutants with PSD or minor permitting actions
- > What model is used?
 - ✓ AERMOD – model developed by EPA
- > What is the purpose?
 - ✓ To ensure that a project does not contribute to or cause a violation of the National Ambient Air Quality Standards (NAAQS)

Revisions to 40 CFR Part 51

Appendix W

- > Many changes to the Guideline
 - ✓ Some good, some not so good for industry
- > Major changes
 - ✓ Significant changes to NO₂ modeling and procedures
 - ✓ Modeling domain and consideration of off-site sources
 - ✓ Inventory sources – consideration of actual emissions
 - ✓ ADJ_U*
 - ✓ No regulatory approved default long range transport model
 - ✓ **Secondary PM_{2.5} and Ozone!**

Revisions to 40 CFR Part 51 Appendix W

- > Questions remain.....
 - ✓ How will States incorporate Appendix W changes?
 - ✓ More PM_{2.5}/ozone guidance forthcoming
 - ✓ Near-term potential for greater inconsistency in permitting authority interpretation of Appendix W elements
 - ✓ If planning any permit modeling project for NAAQS/PSD Increment, a clear understanding of Appendix W changes to that project important

Future Updates to Environmental Regulations for Wood Products Industry

PCWP MACT Updates for Lumber Producers

PCWP MACT Overview

- > Plywood and composite wood products (PCWP) national emission standards for hazardous air pollutants
NESHAP: Finalized in 2004
- > Affects “major sources” of hazardous air pollutants (HAP)
 - ✓ 187 HAP compounds (e.g., acetaldehyde, acrolein, methanol, formaldehyde, phenol, propionaldehyde)
 - ✓ Major sources emit ≥ 10 tons/year of any one HAP, or ≥ 25 of any combination of HAPs
 - ✓ Some lumber producers are major sources
- > Along with PCWP processes, lumber kilns located at any “major source” facility are part of the affected source covered by the PCWP NESHAP

Lumber Kilns in PCWP MACT

- > In 2003, EPA proposed inclusion of lumber kilns at any type of major source facility in PCWP NESHAP
- > In 2004, lumber kilns at major sources were included in final PCWP NESHAP:
 - ✓ Design and operation of lumber kilns is essentially same regardless of whether kilns are located at a PCWP facility, sawmill or other facility
 - ✓ Many PCWP producers also operate lumber kilns
 - ✓ Many producers of kiln-dried lumber are major sources of HAP
 - ✓ Including lumber kilns in final PCWP NESHAP allowed one MACT determination for lumber kilns nationwide
- > In 2004, NESHAP concluded MACT for lumber kilns is “no emissions reduction”
 - ✓ Only requirement for major sources with lumber kilns was to submit an initial notification

Residual Risk and Remand

- > 8 years after finalizing NESHAP, CAA Section 112 requires EPA to:
 - √ Assess residual risk remaining after implementation of NESHAP - 112(f)(2)
 - √ Review and revise emission standards, as necessary, taking into account developments in practices, processes and control technologies – 112(d)(6)
 - √ Court-ordered RTR promulgation deadline: June 30, 2020

- > As part of litigation in 2007, the D.C. Circuit Court remanded “no emission reduction” MACT to EPA to be replaced with emissions standards developed pursuant to 112(d)(2)-(3) (numeric limits) or 112(h) (work practices)

ICR Responses Received at EPA

- > ICR responses were due February 9, 2018
- > 205 ICRs sent to lumber facilities
- > EPA received:
 - √ Appendix 1A responses: 34
 - ◆ True area sources: 20
 - ◆ Not operating: 4
 - ◆ Not drying lumber: 10
 - √ Appendix 1B responses (synthetic area sources): 25
 - √ Full responses: 120
- > Follow-ups (in process): 26
 - √ Confirmed not subject to Subpart DDDD: 20
 - √ Placeholders in database: 6

EPA Next Steps (1 of 2)

- > Assemble ICR data into databases
- > Analyses for RTR:
 - ✓ Technology review for current standards (PCWP processes)
 - ✓ Residual risk modeling
- > Final RTR court-ordered by June 30, 2020
 - ✓ Propose about 1 year earlier (e.g., June 2019)
- > Consider how to address remanded standards for various processes including lumber kilns under CAA sections:
 - ✓ 112(d)(2)-(3) (numeric limits), or
 - ✓ 112(h) (work practices)

EPA Next Steps (2 of 2)

- > Site visits to view continuous dry kilns (CDKs)
 - ✓ North Carolina, South Carolina, Virginia
- > Information on technical feasibility and cost of:
 - ✓ Capturing and/or elevating the release of lumber kiln emissions (batch kilns or CDKs)
 - ✓ Tightening up lumber kilns to reduce ground-level emissions/leaks (batch kilns)
- > Technical feasibility and cost of work practices expected to reduce HAP emissions

Questions & Discussion



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