

FEBRUARY 5, 2019

## **CIBO'S Energy and Environmental Issues Policy Statement**

**It takes Energy to make or do anything.**

**Anything that impacts the cost, availability or applicability of Energy will impact anything we make or do with that energy**

### **ABOUT CIBO**

CIBO is a trade association comprised of industrial boiler owners, architect-engineers, related equipment manufacturers, and university affiliates representing 20 major industrial sectors. CIBO's members are industrial, commercial, and institutional energy producers manufacturing products in a competitive marketplace. CIBO members have facilities in every region of the country and a representative distribution of almost every type of boiler and fuel combination currently in operation.

CIBO was formed in 1978 to promote the exchange of information about issues affecting owners of industrial boilers, including energy and environmental equipment, technology, operations, policies, laws, and regulations. CIBO brings that unique perspective to encourage federal energy and environmental policies that ensure that our members can continue to provide safe, cost-effective, and reliable energy to sustain a strong economy within the local communities in which CIBO members operate and to the global community where many CIBO members compete.

CIBO's key areas of interest include:

- Engaging with Congress, the Department of Energy (DOE), and the Environmental Protection Agency (EPA) on energy and environmental legislation, regulations, and policy impacting the industrial energy sector;
- Maintaining our Nation's fuel and energy supply to support the U.S. economy, domestic manufacturing, public health, and national security; and,
- Promoting superior industrial energy efficiency and increased use of Combined Heat and Power (CHP) to achieve efficiencies of cost and reliability when meeting energy obligations.

## ENERGY POLICY MATTERS

For CIBO's members, *energy* means more than just electricity. *Thermal energy*, combusting fuel to generate useful heat, in the form of steam or hot water, plays a large role in the modern economy and, from a policy perspective, involves a different set of legislative and regulatory considerations than electricity supply and distribution. Thermal energy from boilers, in the form of steam or hot water, is used to heat and cool buildings and provide process steam used for heat and mechanical energy in a variety of industrial applications that are absolutely vital to today's needs. For example, the manufacturing of chemicals, paper products, food products, and agricultural products all require large quantities of readily available thermal energy. Boilers provide a reliable, efficient, sustainable mechanism for producing that useful thermal energy.

There is no multi-city or multi-state interconnected 'grid' for the distribution of thermal energy between the users and producers like there is for the national electricity market, so boiler owners generally have no choice but to use the most economical fuels available in their region to produce the thermal energy needed at their facilities.

The drivers behind the choice to use a particular resource or combination of resources at a location depends on factors such as cost, sustainability, safety, availability, and technical feasibility of the options, as well as other organizational goals to promote energy efficiency and greenhouse gas reduction goals. Projects focused on energy efficiency or those that result in a direct reduction in energy consumption translate directly to a reduction in the cost of operations.

CIBO supports energy and environmental policies that encourage a diverse portfolio of energy resources to meet our members' needs. A one-size-fits-all strategy that eliminates or favors one or more energy resources, or treats useful fuels as waste, creates disadvantages that can add cost and other obstacles to members' continued operations and reduce our global competitiveness. Unlike regulated electric utility companies, CIBO members often cannot practically pass higher fuel and capital costs onto their customers in the way that a regulated utility might.

CIBO endorses a domestic energy policy that:

- (1) Values the contributions of thermal energy;
- (2) Promotes energy diversity through a true “all of the above” energy strategy; and,
- (3) Avoids unnecessary regulations that increase energy costs and harm domestic manufacturing and other institutions.

### **COOPERATIVE FEDERALISM**

CIBO supports the spirit of cooperative federalism in which federal, state, local governments, and tribes interact cooperatively and collectively to solve common problems, rather than each government unit working on their own. EPA is more efficient and effective in its protection of human health and the environment when it works together with states and tribes and engages local communities from a foundation of trust, transparency, and collaboration.

### **CLEAN AIR ACT**

***Clean Air Act Reform*** -- Like those in other sectors, CIBO members have made substantial reductions in the emissions of criteria pollutants and hazardous air pollutants over the past 30 years as a result of Clean Air Act regulation at the federal, state, and local levels. These emissions reductions were achieved through significant capital investments at facilities. The value of these investments should be considered during future regulatory review, and companies should not be penalized as a result of investments made should the regulations be significantly changed as a result of judicial review subsequent to promulgation.

CIBO supports legislative efforts to reform the Clean Air Act to support regulatory certainty, including provisions that would address the frequency with which the National Ambient Air Quality Standards would be reviewed by the Environmental Protection Agency and impediments to energy efficiency improvements under the New Source Review permitting program. Regulatory certainty and a clear understanding of the drivers behind regulation are critical for CIBO members.

**Permitting** – Existing permitting regulations create an unnecessary administrative burden on CIBO members for support equipment such as emergency generators, comfort space heating and water heating. Many administrative buildings, warehouses, or employee locker-rooms use equipment similar to that in a residential facility for comfort space heating and water heating. This equipment can fail without notice; replacement of this equipment should not trigger permit modifications, nor should an owner/operator be held liable in an enforcement context if a water heater or space heating equipment was added. A *de minimus* threshold for permitting of this equipment should be established at the federal level.

**Prevention of Significant Deterioration (PSD)/ New Source Review (NSR) Reform** – NSR’s complex and legally opaque project-by-project applicability criteria unnecessarily introduces compliance risks such that projects are either delayed or simply not done. A common result is that older, often higher emitting and less efficient, operations are maintained simply to avoid NSR. CIBO continues its support for reforming New Source Review via effective policy changes, amended regulations, or new legislation to remove barriers that prevent industrial operations from investing in efficiency upgrades and installing modern pollution control equipment at their facilities. Areas where significant progress could be made with effective reform include but are not limited to: Plant-wide Applicability Limits (PALs), Routine Maintenance Repair and Replacement (RMRR), BACT Clearing House, definition of Ambient Air, aggregation, and emission control/energy efficiency project treatment. Facility modernization is frequently achieved through the implementation of a series of related projects that each incrementally achieve more efficient and inherently less polluting operations.

**Measurement Techniques and Emission Limits** – As measurement techniques and analytical technology evolve to detect lower concentrations of constituents in the air, there is a drive to translate these low-level detections into emission limits. CIBO supports regulatory programs that are necessary to protect public health and the environment, but believes that emission limits should be established above the quantified reporting limits for the measurement methodology and at levels that reflect the use of demonstrated control technology.

**Ambient Air Quality Modeling** – The Clean Air Act directs the use of ambient air quality modeling as an indicator of potential impacts in regional planning activities and individual source permitting. The modeling of background concentrations – an effort to separate emissions and impacts of stationary

**FEBRUARY 5, 2019**

domestic sources from those sources outside the modeling domain and naturally occurring sources (such as forest fires) – is a relative science. CIBO observes that over time, ambient air quality modeling has become the rule and not a relative tool from which to make decisions. There are many factors that can influence the output of an ambient air quality model, including complex terrain, land/water interfaces, and the assumptions included. CIBO believes that modeling should be taken into consideration with other lines of evidence, including monitoring data, to ensure decisions are made with the best science available. In addition, EPA should continue to review and revise modeling guidelines and policies to promote common sense approaches and appropriate modeling techniques.

### **CLEAN WATER ACT**

CIBO members rely upon our nation’s network of water resources not only to support trade and commerce, but as a valuable input in energy production.

***Waters of the U.S.*** – CIBO understands the need to clarify the definition of jurisdictional waters as directed by the United States Supreme Court and for regulatory certainty. Like others, we are concerned about the potential overreach of the 2015 final rule, as well as the uncertainty imposed by further litigation and additional court judgments. CIBO supports efforts by the U.S. Environmental Protection Agency and the Army Corps of Engineers to protect our water resources without expanding jurisdictional waters definitions beyond reasonable nexus conditions.

***Direct Hydrogeological Connection*** –CIBO supports an interpretation of the Clean Water Act that does not require permitting under the National Pollutant Discharge Elimination System (NPDES) program for indirect discharges.

***Thermal Effluent Discharges and Cooling Water Intake Structures*** – Sections 316(a) and 316(b) of the Clean Water Act regulate the discharge of thermal effluent and provide protections from impingement and entrainment in cooling water intake structures for aquatic life. The facilities that are commonly affected by these regulations often are subject to both regulatory programs as a result of energy production activities. The underlying regulations that implement these two provisions require similar physical and biological assessments. While CIBO supports the implementation of these regulations, that support does not imply that a “one-size-fits-all” approach is the correct one for the particular

implementation at each facility. Each facility and its watershed present a unique combination of site-specific factors that warrant consideration before a strategy is selected.

***Application of Best Professional Judgement in NPDES Permitting*** – CIBO believes that the steam electric power effluent limitation guideline promulgated by the Environmental Protection Agency should not be interpreted to reflect best professional judgement for wastewater generated by institutional, commercial, or industrial boilers. Making broad assumptions on the availability and effectiveness of the technologies assessed in the electric power ELG is not appropriate. The complex factors that went into the development of the Effluent Limitations Guidelines (ELG) did not include an assessment of the unique factors that exist among the diversity of CIBO members.

#### **RESOURCE CONSERVATION AND RECOVERY**

CIBO members, by the very nature of their operations, produce process byproducts that must be managed. Many of these process byproducts, including coal combustion residuals, have potential value as a fuel, or as a substitute for raw material in manufacturing, or as a material that is valuable in reclamation. CIBO supports regulatory programs that are protective of public health and the environment while removing administrative obstacles to beneficial reuse of process byproducts.

#### **COMMUNITY-BASED COMPLIANCE AND ENFORCEMENT**

The evolution of low-cost monitoring technology and hand-held sensors that are widely available in the commercial market to the general public has the potential to generate misleading and inaccurate data linked to CIBO member sources. These hand-held sensors are often not calibrated or maintained in the same way that a “reference method” sensor used for compliance would be calibrated or maintained. Also, the data are sometimes adjusted within a proprietary algorithm, making the results suspect. CIBO supports the development of policies that appropriately frame the use of data generated by these community-based sensors