

## **EPA/FAA Stakeholder Process on Voluntary NO<sub>x</sub> Emission Reduction Program for the Aviation Sector**

### **Background and Process**

- aviation is a growing source of air pollution
- aircraft emit about 80 % of sector total and ground service equipment (GSE) about 20%
- NASA has projected a 430% increase in global aircraft NO<sub>x</sub> emissions by 2050 assuming no new controls
- little growth has actually occurred since 9/11/01, but is expected to resume
- FAA and EPA initiated a Stakeholder process in 1999 to evaluate “voluntary” options for controlling NO<sub>x</sub> and other emissions from aircraft engines
- state environmental agencies have actively participated (CA, GA, MD, MA & NESCAUM)
- negotiations moved slowly
- airline industry and FAA exerted significant pressure to include other airport-related sources such as GSE
- the states and enviros agreed to broaden the scope beyond aircraft, but argued that GSE reductions alone would not be acceptable
- nevertheless, in the aftermath of 9/11, it became clear that the airline industry and FAA were not going to negotiate a meaningful strategy to reduce aircraft emissions
- states and EPA felt that we should still pursue GSE reductions and spent the last two years focused on that goal
- there are about 60,000 pieces of GSE operating at U.S. airports (not all are covered by this agreement)
- the proposed National GSE MOU would result in the largest in-use engine retrofit initiative in the U.S.
- the key to this decision from the state perspective was to ensure that agreeing on a GSE program would in no way reduce state authority to pursue aircraft emission reductions through other mechanisms

### **Regulatory Authority for Aviation Sector**

- aircraft engine emissions are certified internationally through ICAO
- EPA has authority to set U.S. standards, but historically has just adopted ICAO standards
- the courts have determined that Section 209(e)(2) preempts states (other than CA) and EPA from setting emission standards for in-use nonroad engines, including GSE (*EMA v. EPA, DC Court of Appeals, 1996, No. 94-1558*)
- states do have the authority under Section 209 to impose in-use regulations such as fuel quality specifications, operational mode limitations and measures that limit the use of nonroad engines or equipment.
- CA can establish such standards and other states could adopt these standards and implement them 2 years after promulgation [section 209(e)(2)(B) authority]
- CA has chosen to negotiate its own GSE MOU with the airlines (only applies in South Coast) rather than adopt regulations to reduce emissions from in-use GSE

## **Future Control Options**

- states can continue to participate (as they have been for the last several years through NESCAUM) in ICAO to promote more stringent international standards
- states can push EPA to adopt appropriate national aircraft engine emission standards that are more stringent than ICAO standards
- emission-based landing fees may be an option (although air carriers and FAA have made it clear they will litigate any such programs), but not all states are convinced that emission-based landing fees represent the best approach for a national program since they just move problem around (e.g., the dirty planes have to land somewhere)
- the use of airport emission budgets/bubbles offer a potentially viable option for reducing the growth in aviation-related emissions
- in order for airport budget programs to work effectively in the near to mid-term, states will probably need to have an emissions banking and trading program through which the airlines could purchase credits for off-airport reduction to offset growth at airports
- the proposed GSE MOU does not limit the existing authority of non-participating states to pursue GSE reductions through whatever legal means they chose