



## **Executive Director's Report**

**National Association of Clean Air Agencies  
Spring Membership Meeting  
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# What I Will Cover

- ❑ Appropriations
- ❑ General Regulatory Reform Proposals
- ❑ Trump Executive Orders to Watch
- ❑ Clean Air Programs in Potential Jeopardy
- ❑ Other Legislative Proposals
- ❑ Upcoming NACAA Activities

# Appropriations – FY 2017

- ❑ Congress was not able to enact a specific appropriations bill last year to fund EPA and other federal agencies in FY 2017; however, both Chambers (full House and Senate Appropriations Committee) had called for identical funding for state and local air grants under Sections 103 and 105 of the CAA – \$228.2 million, which is level funding from FY 2016
- ❑ The federal government was forced to operate under a Continuing Resolution (CR) in FY 2017; adopted in December 2016, the CR expires on April 28, 2017 and funds the government at FY 2016 levels (no air-related riders in the CR)
- ❑ This past week, Congress was expected to take action to avoid a shut-down of the federal government; it is negotiating a comprehensive “omnibus bill” to fund the federal government for the remainder of the fiscal year; if that negotiation fails, it could adopt a short-term extension of the CR
- ❑ In the meantime, the Trump Administration has recommended a 10.7-percent decrease in state and local environmental grants for FY 2017 (no specific information on air grants)

# Appropriations – FY 2017 Revised Allocation Formula

- ❑ EPA has been working on revising the formula for allocating Section 105 grants among the states and localities
- ❑ The agency developed several proposals for reallocating FY 2017 grants and requested comments – the latest proposal was in November 2016
- ❑ EPA has no further information about the status of the revised formula; it is dependent on Congressional action on FY 2017 appropriations

# Appropriations – FY 2018

- ❑ The Trump Administration proposed a “Budget Blueprint,” so-called “skinny budget,” on March 16th containing general outlines of the overall federal budget
- ❑ EPA developed an internal memorandum on March 21<sup>st</sup> containing details about its proposed FY 2018 budget
- ❑ The President’s official budget proposal is expected in May; it is unclear the extent to which it will be identical to earlier versions (i.e., Blueprint or EPA memo)
- ❑ While Appropriations legislation is ultimately decided by Congress, the President will play an important role, including agreeing to the ultimate funding package

# Appropriations – Highlights of EPA FY 2018 Budget Cuts

- ❑ Proposed Funding Cuts to EPA
  - ◆ 31-percent cut in EPA's overall budget
  - ◆ 25-percent reduction in agency staffing levels
  - ◆ 25-percent decrease in the Enforcement Office
  - ◆ 48-percent cut in the Office of Research and Development
- ❑ Proposed Elimination of EPA Programs
  - ◆ Discontinuation of funding for the Clean Power Plan, international climate change programs, climate change research and partnership programs and related efforts
  - ◆ Elimination of over 50 other EPA programs, including Energy Star, specific regional programs – such as the Great Lakes Restoration Initiative, the Chesapeake Bay and other geographic programs – radon, etc.
  - ◆ Elimination of two EPA regions
- ❑ Proposed Cuts to State/Local Programs
  - ◆ 31-percent reduction in state and local air grants (Sections 103/105) from FY 2016 levels
  - ◆ 70-percent cut to DERA
  - ◆ Elimination of Targeted Airshed and Multipurpose Grants

## FY 2018 Appropriations (cont.)

	<b>FY 2016 (similar to FY 2017 CR)</b>	<b>FY 2018 Administration Proposal</b>	<b>Percent reduction</b>
<b>EPA Budget</b>	\$8.3 billion	\$5.7 billion	-31%
<b>EPA Staffing Level</b>	15,376 FTE	11,548 FTE	-25%
<b>Section 103/105 Air Grants</b>	\$228.2 million	\$159.5 million	-31%
<b>DERA</b>	\$50 million	\$15 million	-70%
<b>Targeted Airshed Grants</b>	\$20 million	0	-100%
<b>Multipurpose Grants</b>	\$21 million	0	-100%

# General Regulatory Reform Proposals

- *Congressional Review Act* – Legislation passed in 1996 authorizing Congress, by a simple majority, to revoke a major agency rule
  - ◆ Congress has 60 legislative days to use the CRA on eligible Obama rules; that period is expected to close the week of 5/8/17
  - ◆ Of the 13 disapproval resolutions signed into law by President Trump, none has applied to EPA rules (Interior’s stream protection rule was revoked, while BLM’s methane waste protection rule is awaiting Senate action)
- *Regulatory Accountability Act (H.R. 5)* – Composed of six bills passed by House in last Congress (each bill has also been introduced as a stand-alone bill in this Congress)
  - ◆ Introduced 1/3/17, approved 1/11/17 (238-183)
  - ◆ Among other provisions:
    - ✓ Requires adoption of least costly version of a rule
    - ✓ Repeals *Chevron* and *Auer* doctrines, which provide judicial deference to federal agencies’ statutory and regulatory interpretations
    - ✓ Requires analysis of indirect economic effects of proposed rules on small businesses
    - ✓ Prohibits “high-impact” rule from taking effect until final disposition of all judicial challenges



# General Regulatory Reform Proposals (cont.)

- ❑ *SCRUB Act (H.R. 998)* – Establishes a 9-person Retrospective Regulatory Review Commission to identify rules that should be repealed to lower the cost of regulation, with the overall goal of reducing cumulative costs of federal regulations by at least 15%
  - ◆ Proposed 2/9/17, approved 3/1/17 (240-185)
  
- ❑ *REINS Act (H.R. 26, S. 21)* – Requires Congressional approval of major rules
  - ◆ H.R. 26 proposed 1/3/17, approved 1/5/17 (237-187)
  - ◆ S. 21 proposed 1/4/17
  
- ❑ *Regulatory Integrity Act (H.R. 1004)* – Requires federal agencies to list, in a prominent location, all of their pending regulatory actions and all public communications about those actions and prohibits agencies from soliciting public support for their proposed rules
  - ◆ Proposed 2/13/17, approved 3/2/17 (241-184)

# Trump Executive Orders to Watch

- *“Promoting Energy Independence and Economic Growth” (Executive Order 13783)*
  - ◆ Establishes a policy promoting clean and safe development of our nation’s energy resources while avoiding “regulatory burdens that unnecessarily encumber energy production, constrain economic growth and prevent job creation”
  - ◆ Creates a general process to identify and review federal agency policies inconsistent with the goals of the EO; EPA draft report due 7/2017, final report due 9/2017
  - ◆ Immediately revokes targeted Obama Administration policies (e.g., President Obama’s “Climate Action Plan”) and orders a review process to “suspend, rescind or revise” targeted Obama policies, such as the CPP and NSPS for oil and gas facilities

# Trump Executive Orders to Watch (cont.)

- *“Enforcing the Regulatory Reform Agenda” (Executive Order 13777)*
  - ◆ Supports restoration of the nation’s economy through “extensive reviews of the misaligned regulatory actions from the past Administration. The previous Administration abused the regulatory process to advance an ideological agenda that expanded the reach of the federal government”
  - ◆ Directs federal agencies to establish a Regulatory Reform Task Force to evaluate existing rules and make recommendations regarding their repeal, replacement or modification; progress report due by mid-May
  - ◆ EPA’s Office of Air and Radiation held a conference call earlier this week seeking input

# Trump Executive Orders to Watch (cont.)

- *“Reducing Regulation and Controlling Regulatory Costs”  
(Executive Order 13771)*
  - ◆ Directs federal agencies to repeal two existing regulations for each one promulgated in FY 2017 and beyond
  - ◆ Stipulates that in FY 2017 the “total incremental costs of all regulations should be no greater than zero”
  - ◆ Provides that in FY 2018 and thereafter the Office of Management and Budget will determine the total amount of incremental costs that will be allowed

# Clean Air Programs in Potential Jeopardy

- EPA Greenhouse Gas Standards for Power Plants
  - ◆ Pursuant to Executive Order 13783 (Energy EO), EPA announced in the 4/4/17 *Federal Register* reviews to “suspend, revise or rescind” the Clean Power Plan and CO<sub>2</sub> NSPS rules for power plants
  - ◆ EPA asked the D.C. Circuit to hold legal challenges to the rules in abeyance while it conducts the reviews
  
- EPA and BLM Methane Emission Limits for the Oil and Gas Sector
  - ◆ EPA halted efforts to develop methane limits for existing sources
  - ◆ Pursuant to the Energy EO, EPA announced in the 4/4/17 *Federal Register* a review of its methane NSPS for oil and natural gas sector sources, and BLM announced a review of its methane waste prevention rule for oil and gas extraction activities on public lands in a 3/29/17 Secretarial Order
  - ◆ EPA announced on 4/18/17 that it will reconsider the oil and gas NSPS and administratively stay the rule for 90 days

# Clean Air Programs in Potential Jeopardy (cont.)

- Phase 2 GHG and Fuel Economy Standards
  - ◆ *Truck Trailer Manufacturers Ass'n v. EPA* – On 4/20/17, EPA asked the D.C. Circuit to hold case in abeyance for 90 days while EPA reviews 4/3/17 petition by TTMA to stay and reconsider truck trailer standards established in the rule
  
- 2015 Ozone NAAQS
  - ◆ *Murray Energy Corp. v. EPA* – On 4/11/17, the D.C. Circuit granted EPA's motion to postpone oral argument (previously scheduled for 4/19/17) and hold case in abeyance while EPA reviews whether it will reconsider the rule; status reports due every 90 days

# Clean Air Programs in Potential Jeopardy (cont.)

## □ MATS Supplemental Finding

- ◆ *Murray Energy Corp. v. EPA* – On 4/18/17, EPA asked the D.C. Circuit to postpone oral argument (scheduled for 5/18/17) while it reviews its 4/2016 finding that it was “appropriate and necessary” to regulate hazardous air pollutants from power plants

## □ SSM SIP Call

- ◆ *Walter Coke, Inc. v. EPA* – On 4/24/17, the D.C. Circuit granted EPA’s motion to postpone oral argument (previously scheduled for 5/8/17) while the agency reviews its 2015 rule requiring states to eliminate exemptions for violations during periods of startup, shutdown and malfunction; status reports due every 90 days

# Clean Air Programs in Potential Jeopardy (cont.)

## □ Appendix W

- ◆ Final rule revising Appendix W, the *Guideline on Air Quality Models*, was signed in December 2016, published in January, and originally scheduled to take effect 2/16/17
- ◆ EPA has twice postponed the rule's effective date to give new staff the "opportunity to learn more" about the rule and decide whether to conduct a substantive review
- ◆ Currently scheduled to take effect 5/22/17
- ◆ Administrative reconsideration petition filed by NAAQS Implementation Coalition on 3/20/17
  - Opposes single-source photochemical grid modeling requirement for O<sub>3</sub> and PM<sub>2.5</sub> precursors
  - Argues AERMOD over-predicts short-term pollution levels at low wind speeds



# Clean Air Programs in Potential Jeopardy (cont.)

- Light-Duty Vehicle GHG and CAFE Standards
  - ◆ President Trump announced on 3/15/17 his intention to reconsider the 1/12/17 Final Determination of the Midterm Evaluation of GHG emission standards for MY 2022-2025 LDVs
  - ◆ The Final Determination was made by former EPA Administrator McCarthy, who concluded, based on a comprehensive assessment conducted in coordination with NHTSA and CARB, that the emission standards set in 2012 “remain feasible, practical and appropriate...and do not need to be revised”
  - ◆ In a 3/22/17 FR notice, EPA says it will reopen the MTE and coordinate its reconsideration with NHTSA’s establishment of final fuel efficiency standards for MYs 2022-2025
  - ◆ EPA will make a new Final Determination by 4/1/18

# Legislative Proposals: NAAQS

- ❑ *Ozone Standards Implementation Act (H.R. 806, S. 263)* – Allows consideration of technological feasibility when EPA sets any new NAAQS; also delays final designations under the 2015 ozone NAAQS until 2025
  - ◆ Introduced 1/3/17
  - ◆ House Energy and Commerce Subcommittee on the Environment hearing held 3/22/17
  - ◆ Among other provisions:
    - ✓ Requires that until 2025 permits for new/modified sources be processed under the 2008 ozone NAAQS
    - ✓ Extends the NAAQS review cycle from 5 years to 10 years
    - ✓ Amends some exclusions from the term “exceptional event”
    - ✓ Eliminates the requirement for contingency measures in Extreme ozone nonattainment areas
    - ✓ Requires an EPA report to Congress on the impact on compliance of foreign sources of pollution

# Legislative Proposals: Residential Wood Heating Devices

- ❑ *Relief from NSPS Act (H.R. 453)* – Delays by three years, to 5/15/23, “Step 2” of the federal emission standards for new residential wood heating devices, established by EPA in 3/2015
  - ◆ Introduced 1/11/17
  - ◆ Supported by the Hearth, Patio & Barbeque Association
  
- ❑ *Stop EPA Overregulation of Rural Americans Act (H.R. 694)* – Repeals EPA’s 3/2015 final rule establishing NSPS for residential wood heating devices
  - ◆ Introduced 1/11/17

# Legislative Proposals: Science

- ❑ *HONEST Act (H.R. 1430)* – Prohibits EPA from proposing, promulgating or disseminating a covered action unless all scientific and technical data used to support the action are the best available science, specifically identified and publicly available in a manner sufficient for independent analysis and reproduction of research results
  - ◆ Proposed 3/8/17, approved 3/29/17 (228-194)
  - ◆ Applies to risk, exposure, and hazard assessments, criteria documents, standards, limitations regulations, regulatory impact analyses and guidance documents
  
- ❑ *SAB Reform Act (H.R. 1431)* – Revises the way in which EPA's Science Advisory Board members are selected
  - ◆ Proposed 3/8/17, approved 3/30/17 (229-193)

# Upcoming NACAA Activities

- ❑ Tracking important legislative and regulatory initiatives and providing NACAA's perspectives and recommendations
- ❑ Monitoring the FY 2017 and FY 2018 Congressional appropriations process and advocating to decision-makers the potential impacts of any cuts
- ❑ Analyzing results of membership survey on the impacts of proposed budget cuts
- ❑ Maintaining NACAA repository of state and local programs related to the VW settlement mitigation trust program
- ❑ Working with state and local agencies as EPA implements streamlined National Air Toxics Assessment review process
- ❑ Working with EPA on addressing major sources of hazardous air pollutants without listed source categories, including methyl bromide fumigation

## Upcoming NACAA Activities (cont.)

- ❑ Monitoring EPA's reconsideration of the MTE of MY 2022-2025 LDV GHG emission standards and advocating for reaffirmation of the standards and establishment of additional phases of standards for post-2025
- ❑ Advocating for EPA to undertake a rulemaking to establish a national ultra-low (0.02 g/bhp-hr) NOx standard for onroad heavy-duty vehicles and engines
- ❑ Assisting members with implementation of the NAAQS, Regional Haze and Exceptional Events programs
- ❑ Coordinating and conducting, with ECOS and EPA, the next annual review of progress on addressing the SIP backlog

## Upcoming NACAA Activities (cont.)

- ❑ Releasing a Training Resources Hub to help NACAA members identify training resources
- ❑ Maintaining relationships with the National Association of State Energy Officials and the National Association of Regulatory Utility Commissioners to identify “3-N” collaboration opportunities
- ❑ Supporting voluntary state and local efforts to mitigate greenhouse gas emissions and/or to adapt to the impacts of climate change
- ❑ Tracking and analyzing significant developments in litigation affecting EPA air rules