



Executive Director's Report

**National Association of Clean Air Agencies
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What I Will Cover

- ❑ The Budget Picture
- ❑ Coal Miner Employment & Domestic Energy Infrastructure Act
- ❑ House Clean Air Act Forums
- ❑ Surface Transportation
- ❑ Airline GHG Emissions
- ❑ Some Predictions

The Budget Picture

- ❑ **FY 2013 President's Request** (February 13, 2012) – Called for \$301.5 million in grants to state and local air quality agencies, an increase of \$65.8 million above FY 2012. It included a five-year phase-in of a shift from Section 103 to 105 for PM monitoring funds.
- ❑ **House Appropriations Committee** (June 28, 2012) – Voted to cut state and local air grants by \$35 million from FY 2012 levels (to \$200.7 million). PM monitoring funds to remain under Section 103.
- ❑ **Continuing Resolution** (September 22, 2012) – Extended funding until 3/27/13 at current levels with across-the-board increase of 0.6 percent. Since riders continue, funding for PM monitoring should remain under Section 103.

The Budget Picture (continued)

- ❑ **Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies** (September 25, 2012) – Recommended \$235.7 million for state and local air grants (level funding). PM monitoring funds to remain under Section 103.
- ❑ **Sequester** (January 2, 2013 – possible) – Pursuant to Budget Control Act of 2011, unless Congress acts by 1/2/13, there will be a “sequestration” resulting in across-the-board reductions of 8.2 percent in non-exempt nondefense discretionary funding, which would include EPA’s budget.
- ❑ **FY 2014 Budget** (February, 2013) – Expect FY 2014 Administration request to be no more than FY 2012 appropriated levels; this would be \$35 million less than the President’s FY 2013 request.

The Budget Picture

	FY12 Enacted	FY13 (President's request)	FY 13 House Bill	FY 13 Senate Bill	FY 13 Continuing Resolution	Sequestration
Status of House and Senate Actions			House Appropriations Committee acted, but no floor vote	Senate Appropriations Subcommittee recommended bipartisan bill	Expires 3/27/13; Across-the-board increase of 0.6% over FY 12	Across-the-board cuts of 8.2% from FY 12
State and Local Air Grants §103/105)	\$235.7 M	\$301.5 M	\$200.7 M	\$235.7 M	\$237.1 M	\$216.4 M
DERA	\$30 M	\$15 M	\$30 M	\$30 M	\$30.2M	\$27.5 M
Shift Monitoring Funds from §103 to §105	Leave under §103	1 st of 5-year phase- in of shift	Leave under §103	Leave under §103	Leave under §103	Unknown

H.R. 3409 – Coal Miner Employment & Domestic Energy Infrastructure Act

- ❑ Passed House 9/21/12 by a vote of 233 to 175
- ❑ Packages together a number of bills, including the Energy Tax Prevention Act of 2011 (H.R. 910) and the Transparency in Regulatory Analysis of Impacts on the Nation (TRAIN) Act (H.R. 2401)
- ❑ The bill strips EPA's authority under the CAA to regulate GHGs, repealing or prohibiting, among other rules:
 - ◆ “Endangerment Finding”
 - ◆ EPA's GHG permitting program (including the “Johnson Memo” and “Tailoring Rule”)
 - ◆ NSPS for GHGs
 - ◆ California's and other states' programs to adopt clean car standards for GHGs
 - ◆ EPA's program to set future fuel economy standards
 - ◆ EPA's GHG mandatory reporting rule

H.R. 3409 – Coal Miner Employment & Domestic Energy Infrastructure Act

- ❑ Directs EPA to set NAAQS considering “feasibility and cost,” overturning 40 years of CAA implementation and a decision by the U.S. Supreme Court that these standards should be based on health considerations alone
- ❑ Blocks EPA’s “Cross-State Air Pollution Rule,” and prevents the agency from issuing a new rule for at least 5 years and stops implementation for at least an additional 3 years; additionally, bars reliance on modeling
- ❑ Prevents EPA from issuing MACT standards for power plants for at least 2 years and stops implementation for at least an additional 5 years
- ❑ Removes statutory deadlines for ever issuing either of these rules
- ❑ Redefines and weakens MACT requirements under the CAA by examining the best performing facilities “in the aggregate” for all toxics

H.R. 3409 – Coal Miner Employment & Domestic Energy Infrastructure Act

- ❑ Requires Dept. of Transportation to report to Congress on potential impacts of 2017 and Later Model Year Light-Duty Vehicle GHG Emissions and CAFE standards with estimates of
 - ◆ the total number of jobs that will be lost due to decreased demand by year caused by the rule;
 - ◆ the number of additional fatalities and injuries that will be caused by the rule; and
 - ◆ the additional cost to the economy of the redundant regulation of fuel economy and GHG emissions by EPA and state agencies for model years 2011 through 2025
 - ◆ DOT prohibited from consulting with EPA or CARB in preparing report
- ❑ Gives states authority to revoke any visibility FIP. States must propose visibility SIP within 2 years. If states accept the FIP, they are given a minimum of 5 years to comply with standards
- ❑ The Obama Administration issued a statement “strongly” opposing H.R. 3409, stating that it “would block landmark Clean Air Act public health regulations”

House Clean Air Act Forums

- ❑ Sponsored by Congressman Whitfield (R-KY), Chairman of the House Energy and Commerce Subcommittee on Energy and Power, to “foster a broad, bipartisan discussion” about experiences in implementing the CAA
- ❑ Two forums have been held to date—“State, Local and Federal Cooperation in the Clean Air Act” (July 31 and August 2, 2012)
- ❑ Participants included, among others, Arkansas, Indiana, New Hampshire, South Carolina, Southeast Michigan COG, Imperial County, CA, Florida, Arizona, Texas, SCAQMD, Delaware, Dayton and several tribes
- ❑ Participants were asked to respond to six questions
 - ◆ What are your agency’s experiences with implementing the CAA?
 - ◆ Do state/local governments have sufficient autonomy and flexibility?
 - ◆ Does the current system sufficiently balance environmental protection and economic growth?
 - ◆ How can the SIP process be improved?
 - ◆ Are cross-state air pollution issues coordinated well?
 - ◆ Do you have other ideas relating to the role of federalism?

House Clean Air Act Forums

- ❑ Republican members participating included Whitfield (R-KY), Terry (R-NE), Bilbray (R-CA), Olson (R-TX), Tipton (R-CO) and Gardner (R-CO)
- ❑ No Democrats participated
- ❑ Additional CAA Forums will be scheduled in the future, including next Congress. These may include, among others:
 - ◆ A third forum on state, local and federal cooperation
 - ◆ Science
 - ◆ International issues
 - ◆ CAA Solutions
- ❑ The videos can be seen on video
 - ◆ July 31st – <http://www.youtube.com/watch?v=7RP7RNnyRil>
 - ◆ August 2nd – <http://www.youtube.com/watch?v=Tyljj-7cvvg>

Surface Transportation

- MAP-21 – “Moving Ahead for Progress in the 21st Century”
 - ◆ Signed into law July 6, 2012
 - ◆ Provides \$105 billion to fund nation’s surface transportation programs through FY 2014
 - ◆ Retains CMAQ program – \$2.21 billion in FY 2013, \$2.23 billion in FY 2014 – but with several revisions
- CMAQ Issues of Potential Interest/Concern to State and Local Air Agencies
 - ◆ Allows state DOTs to transfer up to 50% of CMAQ funds away from CMAQ projects to other transportation programs
 - ◆ Requires a state/local match of 20% for CMAQ projects (except carpool and vanpool projects)
 - ◆ Requires metro areas > 1 million population that are nonattainment or maintenance to set emission performance targets and select projects to achieve them

Emission Control Areas (ECAs)

- ❑ Program includes two-phased reduction in fuel sulfur levels for marine vessels within 200 miles of U.S. and Canada
 - ◆ Phase 1—Fuel sulfur levels were reduced from 30,000 ppm to 10,000 ppm on August 1, 2012
 - ◆ Phase 2—Fuel sulfur levels will drop to 1,000 ppm in 2015
- ❑ Cruise line industry (CLIA) opposes this program and is seeking legislative relief through a rider to the USCG reauthorization bill
 - ◆ Would require EPA to implement a pilot program for “alternative compliance mechanism” – population-weighted approach allowing cruise ships to use fuel exceeding ECA sulfur limits in some coastal areas and use cleaner fuel while at berth
 - ◆ Senate passed authorization bill without rider; House may include

S.1956 – Airline GHG Emissions

- ❑ On 9/22/12, Senate passed S.1956, which has the practical effect of prohibiting U.S. airlines from participating in the European Union's Emissions Trading System (EU ETS)
- ❑ The EU ETS requires airlines landing or departing from EU airports to cap their GHG emissions
- ❑ Bill directs Secretary of Transportation to prohibit any U.S. airline from participating in the EU ETS if he finds that such a prohibition is in the public interest
- ❑ The Secretary *may* reassess this prohibition if reassessment would be in the public interest
- ❑ The Secretary *shall* reassess the prohibition if the EU ETS is amended, the U.S. adopts a law to address aircraft emissions or if an international agreement is adopted dealing with aircraft emissions
- ❑ The House, which passed similar legislation late last year, will now consider language approved by the Senate during the lame-duck session following the November presidential election

Some Predictions—Scenario A: If President Obama is Re-elected

- ❑ House will remain under Republican control, but the gap will narrow; it would take a net 25-seat pick-up by the Democrats to gain a majority, which is unlikely to happen;
- ❑ Senate will remain under Democratic control; whichever party wins the White House will likely control the Senate (i.e., coattail effect); Republicans need to pick up four seats to gain control of the Senate;
- ❑ Beginning as early as a lame duck session, the Administration will begin pushing through regulations (e.g., Tier 3) it had purposely postponed until after the election; there is a long queue.

If President Obama is Re-elected

- ❑ In 2013, House will continue its efforts to reign in EPA with rigorous oversight;
- ❑ Differences over climate change legislation, and other proposals deemed “far-reaching” (e.g., TRAIN Act), will likely prevent meaningful CAA debate from occurring (carbon taxes could be the exception); Senate will continue to resist controversial amendments;
- ❑ Assume many Obama political appointees, including at EPA, will leave in the first year of a second term;
- ❑ Expect much of the first year to focus on the economy.

Some Predictions—Scenario B: If Governor Romney Wins

- ❑ House will remain under Republican control, with Democrats picking up fewer seats than anticipated;
- ❑ Republicans gain control of the Senate, but will not have a filibuster-proof majority (i.e., 60 votes);
- ❑ With Republicans controlling the House, Senate and the Executive branch, we can expect a coordinated strategy on CAA/regulatory changes;
- ❑ Senate Democrats, now in the minority, will play a huge role in playing defense against “far-reaching” legislative proposals;
- ❑ It will take several months to transition to a new Administration, conduct confirmation hearings, etc;
- ❑ Expect a major regulatory review of recently proposed/promulgated rules from the previous Administration;

Bottom Line

- ❑ The chances are remote that Congress, under either Administration, will be successful in enacting comprehensive amendments to the Clean Air Act—at least for the next two years;
 - ◆ Congress will remain partisan in a new Congress
 - ◆ Congress will be busy with economic and other issues
 - ◆ Changes to the CAA, including global warming, continue to be extremely controversial and divisive
 - ◆ There's little incentive for progressives, environmental and health groups and others, to push for changes

For Further Information:

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