



Executive Director's Report

**National Association of Clean Air Agencies
Fall Membership Meeting
Baltimore, Maryland**

September 23, 2013

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What I Will Cover

- ❑ What's Happening in Congress and the Courts
- ❑ The Budget Picture: FY 2014 Appropriations
- ❑ NACAA's Next Steps on Climate
- ❑ NACAA Highlights

What's Happening in Congress – Regulatory Reform

- ❑ Regulations from Executive in Need of Scrutiny (REINS) Act (H.R. 367) – Passed House August 2, 2013 by vote of 232-183
 - ◆ Requires congressional approval of any rule
 - ✓ With an economic impact of \$50 million or more
 - ✓ That OMB says implements or provides for imposition or collection of a carbon tax
- ❑ Energy Consumers Relief Act (H.R. 1582) – Passed House August 1, 2013 by vote of 232-181
 - ◆ Allows DOE to veto proposed energy-related EPA rules estimated to cost > \$1 billion
 - ◆ Prohibits EPA use of Administration's "social cost of carbon" estimates for any major energy-related rule
- ❑ Both bills have been referred to Senate; no action likely to be taken
- ❑ Administration has formally expressed opposition to both bills

What's Happening in Congress – Fuels

- House Energy and Commerce Committee
 - ◆ Held RFS hearings June 26, 2013 and July 23-24, 2013
 - ◆ Bipartisan initiative throughout spring-summer to examine EPA implementation of RFS
 - ✓ Five white papers: blend wall, agriculture sector impacts, GHG emissions and other environmental impacts, energy policy and implementation issues
 - ◆ Committee Task Force now evaluating options to reform RFS; seeking to release proposal in October
- House Oversight Subcommittee hearing (June 5, 2013) to examine EPA implementation of RFS
 - ◆ Premise of hearing: 1) RFS not fulfilling its purpose of leading U.S. toward greater energy independence and security, 2) E-15 is problematic, 3) fuel prices are high and 4) result is economic harm and burden on consumers
- Among bills introduced:
 - ◆ Renewable Fuel Standard Repeal Act (S. 1195) would rescind RFS by striking §211(o) from CAA and repealing §204 of EISA 2007
 - ◆ Domestic Energy and Jobs Act (S. 1401) would freeze EPA fuel rules and require interagency task force to conduct cumulative analysis of costs and consequences of any rules and actions with impact on fuel prices

What's Happening in Congress – Energy

- Energy Savings and Industrial Competitiveness Act of 2013 (S. 1392), sponsored by Senators Shaheen (D-NH) and Portman (R-OH) – debate on Senate floor this past week
 - ◆ Bipartisan energy efficiency bill – highlights include:
 - ✓ Strengthens building energy codes through development of national model codes, energy savings targets
 - ✓ Establishes new industrial energy efficiency programs
 - ✓ Supports worker training in energy-efficient building design and operation
 - ✓ Bolsters energy conservation efforts in federal agencies
 - ◆ Administration has formally expressed support
 - ◆ More than 80 amendments submitted, including ones that would:
 - ✓ Bar EPA from finalizing Tier 3 motor vehicle emissions and gasoline sulfur standards if study by U.S. Comptroller General determines that Tier 3 would increase the price of gasoline
 - ✓ Call upon President Obama to approve Keystone XL Pipeline
 - ✓ Require EPA's carbon dioxide regulations for power plants and other industrial sources to be achievable using the “best demonstrated technology”
 - ✓ Prohibit EPA from issuing final rules estimated to cost more than \$1 billion if DOE determines they would present a significant adverse economic effect

What's Happening in the Courts

- ❑ Cross-State Air Pollution Rule (CSAPR)
 - ◆ EPA successfully petitioned for U.S. Supreme Court review of D.C. Circuit's decision in *EME Homer City Generation v. EPA* vacating rule; briefing is underway
 - ◆ Oral argument in Supreme Court scheduled for December 10, 2013
- ❑ Greenhouse Gas Rules
 - ◆ Supreme Court considering petitions to review D.C. Circuit decision in *Coalition for Responsible Regulation v. EPA* upholding Endangerment Finding, Tailpipe Rule, Timing Rule and Tailoring Rule
 - ◆ Will decide week of September 30, 2013 whether to grant review
- ❑ Biomass Deferral
 - ◆ July 12, 2013: D.C. Circuit vacated rule that temporarily exempted biogenic CO₂ sources from GHG permitting (*Center for Biological Diversity v. EPA*)
 - ◆ Mandate on hold pending Supreme Court decision on GHG petitions
- ❑ Many other EPA rules under review in cases in D.C. Circuit and other U.S. Courts of Appeals, including challenges to Mercury and Air Toxics Standards (MATS), Portland Cement MACT, PM NAAQS, Ozone NAAQS Designations and others

FY 2014 Appropriations – President's Request

- ❑ President requested \$257.2 million in federal funding for state and local air grants (Sections 103 and 105) – increase of \$33.3 million above FY 2013 amount
- ❑ Increase intended to support core programs, including developing and implementing SIPs, expanding monitoring networks and conducting GHG permitting
- ❑ The request includes a four-year phase-in of shifting PM_{2.5} monitoring funds from Section 103 (no match required) to Section 105

FY 2014 Appropriations – NACAA's Response to President's Request

- ❑ NACAA submitted testimony to House and Senate Appropriations committees:
 - ◆ supporting the Administration's funding level for air grants
 - ◆ recommending that PM_{2.5} monitoring funds remain in Section 103, where matching funds are not needed
- ❑ NACAA staff met with House and Senate minority and majority staff to discuss NACAA's recommendations
- ❑ NACAA staff prepared a model letter and other background information to assist members in contacting congressional delegations to seek grant increases

FY 2014 Appropriations – At a Glance

	FY 2013 (post sequester)	President's Request for FY 2014	House Appropriations Bill	Senate Appropriations Recommendations
EPA Budget	\$7.9 billion	\$8.15 billion	\$5.5 billion	\$8.5 billion
Section 103/105 Grants	\$223.9 million	\$257.2 million	\$190.9 million	\$240.3 million
PM_{2.5} Monitoring to Remain under Section 103	Yes	No – 4-year phase out to Section 105	Yes	Yes
DERA	\$18.9 million	\$6 million	\$18.9 million	\$15 million

FY 2014 Appropriations – House Action

- ❑ The House Appropriations Committee began marking up a bill on July 30, 2013 that would cut state and local air grants by \$33 million from FY 2013 levels (for a total of \$190.9 million)
 - ◆ Mark up was not completed and the full House has not voted
- ❑ The bill included specific provisions and riders affecting the air program, such as:
 - ◆ retaining PM_{2.5} monitoring funds under Section 103 authority, rather than shifting them to Section 105 authority
 - ◆ prohibiting EPA from finalizing, implementing or enforcing the Tier 3 Motor Vehicle Emission and Fuel Standards and
 - ◆ prohibiting funds for promulgating or implementing regulations related to Title V permits for GHGs

FY 2014 Appropriations – House Action (continued)

- The House bill included specific provisions and riders affecting the air program, such as (continued):
 - ◆ prohibiting funds for implementing mandatory GHG reporting rules
 - ◆ prohibiting funds for the development, implementation or enforcement of any Section 111 regulation applicable to GHG emissions from new or existing electric utility generating units
 - ◆ prohibiting EPA from using in rulemaking the Administration’s new “social cost of carbon” estimate, which is higher than a previous estimate of the cost to society of each ton of carbon dioxide emitted
 - ◆ requiring EPA to develop an updated air pollution cost manual and
 - ◆ requiring EPA to seek comments on revising air quality model guidance

FY 2014 Appropriations – Senate Action

- ❑ The Senate Appropriations Subcommittees on Interior, Environment and Related Agencies issued “recommendations” on August 1, 2013 calling for:
 - ◆ \$240.3 million for state and local air grants under Sections 103 and 105, which is \$16 million more than FY 2013 levels, and \$49.4 million above the House bill, but approximately \$17 million less than the President’s request
 - ◆ retaining PM_{2.5} monitoring funds under Section 103 authority, rather than shifting them to Section 105 authority
- ❑ No further action has taken place in the Senate

FY 2014 Appropriations – What's Ahead

- ❑ Congress will likely adopt a short-term (possibly to December 15, 2013) Continuing Resolution (CR) in late September to keep the government operating after October 1, 2013
- ❑ It is highly unlikely that Congress will adopt separate appropriations bills individually before the CR expires, so we can expect:
 - ◆ One omnibus bill, with funding levels that we can't predict now; or
 - ◆ A full-year CR, as Congress has adopted in recent years, which will continue funding at the previous year's level. However, another CR at FY 2013 levels will trigger an *additional* cut (“sequestration”) to the total budget, possibly as much as 7%
- ❑ For FY 2015, OMB has asked federal agencies, including EPA, to develop funding proposals based on 5% and 10% cuts from the Administration's FY 2014 budget request

NACAA's Next Steps on Climate

- ❑ Sent letter (August 21, 2013) to EPA Administrator Gina McCarthy laying out NACAA principles on Section 111(d), dealing with *existing* EGUs
- ❑ Organized 3-hour membership discussion on Section 111(d) with top-ranking EPA officials – to take place Wednesday morning (September 25, 2013)
- ❑ Initiating a process to respond to recently proposed EPA rule on Section 111(b), dealing with *new* EGUs
- ❑ Co-sponsoring a “3N” meeting (November 5, 2013) with the National Association of Regulatory Utility Commissioners (NARUC) and the National Association of State Energy Officials (NASEO)
- ❑ Planning to respond to proposed EPA guidance on Section 111(d) once it is proposed
- ❑ Anticipating developing a model SIP next year to assist state/local agencies in responding to EPA’s final Section 111(d) guidance
- ❑ Continuing Committee calls to share experiences in complying with these rules

Highlights of NACAA Activities

- ❑ Tier 3 – Cleaner vehicles and fuels
- ❑ IMO/ECAs – International treaty to reduce NO_x emissions from ships, including through the use low-sulfur fuel
- ❑ 2008 Ozone NAAQS – EPA's SIP requirements (implementation) rule
- ❑ NACAA-ECOS-EPA SIP Reform Workgroup – working on eliminating SIP backlog
- ❑ MATS Rule – Surveying compliance extension requests
- ❑ Permitting – Assisting EPA with outreach to state/local agencies as it conducts 5-year study on GHG permitting burdens
- ❑ Energy Efficiency – Air Regulator Dialogue, two additional energy efficiency efforts
- ❑ Enforcement – AFS Modernization and FRV Policy
- ❑ Monitoring – Monitoring Steering Committee advice to EPA
- ❑ NACAA responses to EPA on most major regulatory and technical proposals
- ❑ New state-of-the-art NACAA web site (Air Web) will be operational shortly

Conclusion

- ❑ Serving our members is our highest priority!!!
- ❑ If you like what you are receiving from us, please don't be shy in sharing those comments with the staff
- ❑ If you have recommendations for how we can do better, please share those comments, as well
- ❑ For further information, contact Bill Becker, Nancy Kruger, Mary Douglas, Karen Mongoven, Stephanie Steigman or Monique Faye