



Executive Director's Report

**National Association of Clean Air Agencies
Spring Membership Meeting
Denver, Colorado**

May 7, 2012

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What I Will Cover

- ❑ FY 2013 Appropriations
- ❑ Jobs Through Growth Act
- ❑ MACT
 - ◆ Boilers
 - ◆ Portland Cement
 - ◆ Mercury and Air Toxics Standards (MATS)
- ❑ Transportation
- ❑ Gasoline Regulations Act of 2012
- ❑ Tier 3 Vehicle and Fuels Standards
- ❑ Cross State Air Pollution Rule (CSAPR)
- ❑ Coarse Particle Matter NAAQS
- ❑ OCS Permitting
- ❑ GHG NSPS for EGUs
- ❑ Clean Energy Standard
- ❑ IMPACT Act
- ❑ What's Ahead?

FY 2013 Appropriations

- ❑ President's FY 2013 budget recommended a \$65.8 million increase in grants under Sections 103 and 105 of the CAA
 - ◆ Core programs – \$24.3 million
 - ◆ GHG Permitting – \$25.0 million
 - ◆ Monitoring – \$15 million
 - ◆ GHG reporting – \$1.5 million
- ❑ NACAA testified before the House Appropriations Subcommittee on Interior, Environment, and Related Agencies – March 21, 2012
- ❑ NACAA staff met with staff of the House and Senate Appropriations Subcommittees (majority and minority) – April 16, 2012
- ❑ NACAA submitted testimony to Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies – April 17, 2012
- ❑ NACAA prepared model letter for members to use in requesting increased grant funding

FY 2013 Appropriations

	FY 2012 (enacted)	FY 2013 (President's request)	NACAA Recommendation for FY 2013
State and Local Air Grants (Sections 103/105)	\$236 M	\$301.5 M (\$65.8 M increase over FY 2012)	\$301.5 M
DERA	\$30 M	\$15 M	N/A
Shift Monitoring Funds from Section 103 to 105	Left PM monitoring funds in Section 103	1 st of 5-year phase-in of shift	Leave PM monitoring funds in Section 103

Jobs Through Growth Act (S. 1720)

- ❑ S. 1720 introduced in Senate by Rand Paul (R-KY), Rob Portman (R-OH), John McCain (R-AZ) and Mitch McConnell (R-KY) on October 13, 2011
- ❑ Incorporates many disparate bills previously introduced in the House
- ❑ Includes provisions, among many others, curtailing EPA rules:
 - ◆ REINS Act (S.299) requiring Congressional approval of federal rules of \$100 million or more
 - ◆ Regulation Moratorium and Jobs Preservation Act (S. 1438) creates a moratorium on new federal regulations unless unemployment rate is less than 7.7%
 - ◆ Farm Dust Regulation Prevention Act (S. 1528) prevents EPA from regulating farm dust unless the agency demonstrates substantial health effects
 - ◆ Jobs and Energy Permitting Act (S. 1226) exempts OCS air permits from EAB review and limits impacts only to the onshore area
 - ◆ Energy Tax Prevention Act (S. 482) prohibits EPA from regulating GHGs by repealing the endangerment finding, “Johnson Memo,” tailoring rule, GHG reporting requirements, etc.

MACT: Boilers

- ❑ H.R. 2250 – EPA Regulatory Relief Act of 2011 – Stays the issuance of the new Boiler MACT, extends compliance deadlines for at least 5 years and calls for EPA to adopt the “least burdensome” control options; House passed H.R. 2250 on October 13, 2012; Senate has not acted
- ❑ Rider to S. 1619 (international currency bill) – includes the same provisions as H.R. 2250; Senate adopted S. 1619 on October 11, 2012, but without the rider
- ❑ Rider to H.R. 3630 – Payroll Tax Cut Extension – includes the same provisions as H.R. 2250; House adopted the rider on December 13, but it was not included in the final legislation signed into law on December 23, 2011

MACT: Portland Cement

- ❑ H.R. 2681 – Cement Sector Regulatory Relief Act of 2011 – Stays the issuance of the new Portland Cement Kiln MACT, extends the compliance deadlines for at least 5 years and calls for EPA to adopt the “least burdensome” control options; House passed H.R. 2681 on October 6, 2011; Senate has not acted
- ❑ Rider to S. 1619 (international currency bill) – includes the same provisions as H.R. 2681; Senate adopted S. 1619 on October 11, 2012, but without the rider

Mercury and Air Toxics Standards (MATS)

- ❑ S. 1833 – Fair Compliance Act – delays the compliance dates for MATS by at least 2 years (until 2017), placing both MATS and CSAPR on common 5-year compliance timetables; Introduced by Senators Manchin (D-WV) and Coats (R-IN) on November 9, 2011 and referred to Senate Committee on Environment and Public Works
- ❑ S.J. Res 37 – Congressional Review Act (CRA) – Senator James Inhofe (R-OK) filed joint resolution of disapproval that seeks to overturn MATS; Under a CRA, within 60 days of a rule’s publication, Congress can take an “up or down” simple majority vote to rescind the rule; not subject to filibuster; S.J. Res 37 was introduced on February 16, 2012 and referred to the Senate Committee on Environment and Public Works

Transportation

- ❑ SAFETEA-LU expired 9/30/2009
 - ◆ 6-year, \$286-billion bill
 - ◆ Ninth extension – 90 days – runs through end of June
- ❑ Senate Action
 - ◆ Passed S. 1813, Moving Ahead for Progress in the 21st Century Act (MAP-21) 3/14/2012 (74 to 22)
 - ✓ Two-year, \$109-billion bill
 - ✓ Co-sponsored by Barbara Boxer (D-CA) and James Inhofe (R-OK)
- ❑ House Action
 - ◆ Transportation and Infrastructure Committee passed H.R. 7, American Energy and Infrastructure Act 2/2/2012 (29 to 24)
 - ✓ Five-year, \$230-billion bill
 - ✓ Sponsored by John Mica (R-FL)
 - ✓ Bill failed to gain traction once out of Committee

Transportation (cont.)

- House Action (cont.)
 - ◆ House passed H.R. 4348, Surface Transportation Extension Act of 2012, Part II 4/18/2012 (293 to 127)
 - ✓ Additional three-month extension; allows House to go to Conference
 - ✓ House T&I Committee Chair Mica may use H.R. 7 as negotiating vehicle
- CMAQ – Senate Bill
 - ◆ CMAQ goals, criteria for project eligibility, etc. remain largely unchanged
 - ◆ Significantly changes how funding levels are established and funds are apportioned and distributed to individual states
 - ✓ Under SAFETEA-LU, CMAQ apportioned by population and regional pollution levels
 - ✓ Under MAP-21, state apportionments for FYs 2012-2013 tied to 2009 CMAQ award plus 10% of apportioned STP funds; distribution based on prescriptive new limitations and suballocations

Transportation (cont.)

- CMAQ – House Bill
 - ◆ Project eligibility requirements changed
 - ✓ Funds could be used for
 - ◆ Projects or programs “likely to contribute to the mitigation of congestion” with no requirement for air quality improvement
 - ◆ Construction of new capacity for single-occupant vehicles if project is “likely to contribute to mitigation of congestion or air quality improvement” [emphasis added]
 - ✓ Eliminates language that
 - ◆ Identifies specific types of eligible projects, such as diesel retrofits
 - ◆ Gives funding priority to diesel retrofits and cost-effective congestion mitigation activities that provide air quality benefits
- House-Senate Conference Committee
 - ◆ 33 House conferees (20 Rs, 13 Ds)
 - ◆ 14 Senate conferees (8 Ds, 6 Rs)

Gasoline Regulations Act of 2012

- H.R. 4471 – introduced by Rep. Ed Whitfield (R-KY) 4/23/2012 (circulated 3/21/2012 as a discussion draft) – calls for:
 - ◆ Analysis by a committee, appointed by President, of cumulative impacts for years 2016 through 2020 of certain EPA rules and actions “that impact gasoline and diesel fuel prices, jobs, and the economy”
 - ✓ Tier 3
 - ✓ Performance or emissions standard for refineries under sec. 111 or 112
 - ✓ Rules implementing the CAA 211(o) Renewable Fuel Program
 - ✓ 2008 ozone NAAQS, reconsideration of the 2008 ozone NAAQS and any revisions to the ozone NAAQS under CAA sec. 109
 - ✓ Actions that affect producers, transporters or distributors of gas or diesel and result in applicability of PSD or Title V permitting to a GHG
 - ◆ EPA to consider feasibility and cost when revising or supplementing any primary or secondary NAAQS for ozone

Gas Regulations Act of 2012 (cont.)

□ House Action

- ◆ Energy and Commerce Subcommittee on Energy and Power held hearing 3/28/2012
- ◆ Subcommittee approved bill (15 to 8) on April 17, 2012
- ◆ Full Energy and Commerce Committee markup of bill, scheduled for 4/26/2012, was postponed until the House returns from recess this week

Tier 3 Vehicle and Fuel Standards

- Tier 3 regulation – not yet proposed by EPA – already coming under fire in Congress; at issue – 10-ppm fuel sulfur standard
 - ◆ 12/19/2011 letter from 67 House members to EPA urging “thorough analysis of potential long-term implications on all affected industries
 - ◆ Gina McCarthy responded 2/27/2012, including information on extensive refinery modeling conducted on cost impacts and number of refineries already meeting 10-ppm sulfur standard
 - ◆ Senator Inhofe (R-OK) attempted to block the Tier 3 program through an amendment to the 21st Century Postal Services Act of 2012 (S. 1789); Republican and Democratic leaders limited debate on bill and amendment was not considered

Cross State Air Pollution Rule

- ❑ S.J. Res 27 (Sen. Rand Paul [R-K]) to disapprove CSAPR under Congressional Review Act failed 11/10/2011 (41 to 56)
- ❑ Bills to Delay Compliance with CSAPR – No action taken on any
 - ◆ S. 1805 (Sen. Mike Johanns [R-NE]), 11/3/2011
 - ◆ S. 1815 (Sens. Lamar Alexander [R-TN] and Mark Pryor [D-AR]), 11/7/2011
 - ◆ S. 1833 (Sens. Joe Manchin [D-WV] and Dan Coats [R-IN]), 11/9/2011
 - ◆ S. 2300 (Sens. Jerry Moran [R-KS] and Pat Roberts [R-KS]), 4/18/2012
 - ◆ H.R. 4387 (Rep. Mike Pompeo [R-KS]), 4/18/2012

Coarse Particulate Matter NAAQS

- ❑ Farm Dust Regulation Prevention Act (H.R. 1633 and S. 1528) introduced last year (Rep. Kristi Noem [R-SD] and Sen. Mike Johanns [R-NE])
- ❑ Prohibits EPA, for one year, from proposing, finalizing, implementing or enforcing any revision to the primary or secondary NAAQS for PM greater than $2.5 \mu\text{m}^3$
 - ◆ Exempts “nuisance dust” from CAA and PM regulation, with exceptions (e.g., imposes benefit/cost test)
 - ◆ Defines “nuisance dust” as PM generated from natural sources, unpaved roads, agriculture activities, earth moving or other activities
- ❑ Passed House 12/8/2011 (268 to 150)
 - ◆ Radioactive PM from uranium mining/processing or coal combustion residuals not considered “nuisance dust”
 - ◆ “Sense of Congress” that exceptional events like dust storms should be excluded from any EPA standards for PM
 - ◆ EPA required to consider regulatory impact on agricultural jobs

Outer Continental Shelf Permitting

- The Consolidated Appropriations Act of 2012, which was signed into law on December 23, 2011:
 - ◆ Transfers permitting authority for air emissions from Outer Continental Shelf (OCS) sources “located offshore of the North Slope Borough of the State of Alaska” from EPA to the Department of the Interior
 - ◆ Clarifies that the transfer of authority does not invalidate nor stay any air quality permitting actions pending or existing as of the date of enactment
 - ◆ Directs the Comptroller General to undertake a study of OCS air quality permitting, to be reported to Congress by September 30, 2014, that compares OCS permitting conducted by EPA and the Department of the Interior

GHG New Source Performance Standards for EGUs

- ❑ H. Res. 606, introduced March 29, 2012, by Rep. Steve Austria (R-OH); 5 co-sponsors; referred to the House Energy and Commerce Committee
- ❑ Resolution expresses the “sense of the House” that EPA’s proposed GHG standards for new power plants “will likely lead to increased energy costs for consumers, small business owners, and manufacturers”
- ❑ States that EPA “should not be setting energy policy for the Nation with environmental regulations that for all practical purposes dictate fuel choices for new power plants”

Clean Energy Standard (S. 2146)

- ❑ Introduced March 1, 2012, by Senator Jeff Bingaman (D-NM), Chair of the Senate Energy and Natural Resources Committee; 9 co-sponsors
- ❑ Goal is to double the amount of clean energy used for electricity by 2035
- ❑ To be considered “clean,” a generator must either be a zero-carbon source of energy, like renewables and nuclear power, or have a lower carbon intensity than a modern efficient coal plant
- ❑ No action has been taken

IMPACT Act

- ❑ “Investing to Modernize the Production of American Clean Energy and Technology” Act – Introduced 4/27/12 by Reps. Ed Markey (D-MA), Henry Waxman (D-CA), John Larson (D-CT), Earl Blumenauer (D-OR), and Bill Pascrell, Jr. (D-NJ)
- ❑ Provides tax credits or incentives for offshore wind projects, all-electric cars, natural gas trucks, new renewable energy projects, energy efficient homes, energy efficient appliances and construction of new and modified facilities for manufacturing clean energy technologies
- ❑ Extends for 8 years the Production Tax Credit for wind, solar, geothermal, biomass, landfill gas, hydropower and marine and hydrokinetic power production
- ❑ Ends \$44.8 billion in subsidies for the largest oil companies by eliminating six tax breaks

What's Ahead?

- ❑ Congress won't act on appropriations until after the election
 - ◆ Best guess – State/local grants will be funded at last year's levels; will leave PM monitoring funds in Section 103 (avoiding the match)
- ❑ No clean air legislation will pass
 - ◆ House has the votes to pass anything
 - ◆ Senate, needing 60 votes, will likely block all House actions
- ❑ Transportation legislation could pass; expect a bill similar to the Senate bipartisan effort (Boxer/Inhofe)

For Further Information:

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