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## ***This Week in Review***

**(1) President Releases FY 2021 Budget Proposal, Senate Declines Hearings on It (February 12, 2020)** – President Trump released his proposed fiscal year (FY) 2021 budget for the federal government, seeking reduced funding levels for most civilian agencies while increasing spending for the Department of Defense, NASA and Veterans Affairs. Under the proposed plan, EPA's overall budget would be cut 27 percent from \$9.1 billion to \$6.7 billion in FY 2021 and agency staff would be reduced from the current level of 14,200 to 12,610. Categorical clean air grants to state and local agencies provided through the State & Local Air Quality Management program under Sections 103 and 105 of the Clean Air Act

would be cut 33 percent from \$228.2 million to \$151.9 million. Funding for the Diesel Emissions Reduction Act (DERA) would be cut from \$87 million to \$10 million and the Targeted Airshed Grant Program, which received \$56.3 million this year, would be zeroed out in 2021. Other proposed spending reductions include a 44-percent cut to the Office of Research and Development's budget (from \$500 million to \$281 million); a 4-percent cut to the Office of Inspector General's budget; and the elimination of a number of climate-related programs, including the transition of funding for the Energy Star program to a manufacturers' fee-based approach. The Trump Administration has sought cuts to the categorical state and local air grants program, DERA and Targeted Airshed Grants in each of its previous three budget proposals as well. The President's proposal now goes to Congress for consideration, where the programs for which the President has proposed cuts have received bipartisan congressional backing for level, or even increased, appropriations in recent years. Senator Mike Enzi (R-WY), Chairman of the Senate Appropriations Committee, has declined to hold hearings on the President's proposed budget, saying "Presidents' budgets are a reflection of Administration priorities, but in the end, they are just a list of suggestions, as the power of the purse rests with Congress." On February 6, 2020, NACAA testified before the U.S. House of Representatives' Appropriations Subcommittee on Interior, Environment, and Related Agencies regarding the FY 2021 budget for EPA, urging Congress to increase federal grants to state and local air agencies by \$87 million above FY 2020 levels, for a total of \$315 million, among other requests (see related article in the February 7, 2020 *Washington Update*). For further information: <https://www.epa.gov/sites/production/files/2020-02/documents/fy-2021-epa-bib.pdf> and <https://www.enzi.senate.gov/public/index.cfm/news-releases?ID=5560DD4F-92E6-4CFD-AB73-3026BBD95811>

**(2) Majority of CASAC Members Endorse EPA Staff Recommendation to Retain Existing Ozone Standards (February 12, 2020)** – The Clean Air Scientific Advisory Committee (CASAC) agreed to send a final report to EPA Administrator Andrew Wheeler supporting the recommendation of EPA staff that the existing 70-parts-per-billion (ppb) National Ambient Air Quality Standards for ozone, established in 2015, be retained without revision. Although the overall vote to send the report was unanimous – 7 to 0 – there was one dissenting opinion related to the primary ozone standard. CASAC member Dr. Mark Frampton unsuccessfully sought to add language to the final report stating that a range of 60 to 65 ppb for the primary standard would provide a more adequate margin of safety than a 70-ppb standard. The report will, however, reflect Frampton's dissent by noting that some CASAC members question whether the current 70-ppb primary standard is adequate to protect public health with an adequate margin of safety. CASAC is expected to publish its final report within the next few weeks. For further information: <https://yosemite.epa.gov/sab/sabproduct.nsf/MeetingCalCASAC/CDB2E140F088220F852584E6006CDB44?OpenDocument>

**(3) Environmental Groups Sue to Compel EPA to Adopt and Publish Good Neighbor FIPs for 20 States (February 7, 2020)**

– Five environmental groups filed a complaint in the U.S. District Court for the District of Columbia seeking to compel EPA to adopt and publish good neighbor Federal Implementation Plans (FIPs) for 20 states under the 2008 ozone NAAQS. States are required to submit good neighbor State Implementation Plans (SIP) that prohibit any source from emitting any air pollutant in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, any other state. If a state fails to submit the SIP, or if EPA disapproves it, EPA must prepare and publish in the *Federal Register* a FIP within two years. Upwind states were to have adopted SIPs implementing their good neighbor obligations under the 2008 ozone standard by March 12, 2011. Between 2013 and 2016, EPA determined that a number of states failed to submit adequate good neighbor SIPs. In 2016 and 2018, EPA promulgated two rules – the CSAPR Update and the CSAPR Close-Out. In the CSAPR Update, EPA established “pollution budgets for power plants in upwind states based on a narrow set of pollution controls that EPA determined (1) were deployable in the very short term – by the start of the 2017 ozone season – and (2) ‘maximize[]’ cost-effectiveness, and “purportedly” sought to address its remaining good neighbor obligations under the 2008 ozone standards for 20 eastern states. The CSAPR Close-Out required no further emission reductions. In fall 2019, the D.C. Circuit rejected both of these EPA rules, remanding the CSAPR Update to EPA for further action consistent with the court’s opinion and vacating the CSAPR Close-Out. The plaintiffs in this case argue that EPA has missed the deadline for preparing good neighbor FIPs for the 20 states and request that the court find that EPA has failed to timely adopt and publish the FIPs and establish a date certain for the agency to do so. The 20 states are Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, West Virginia and Wisconsin. The plaintiffs in this case are Downwinders at Risk, Appalachian Mountain Club, Sierra Club, Texas Environmental Justice Advocacy Services and Clean Wisconsin. For further information:

[http://www.4cleanair.org/sites/default/files/Documents/Litigation-GN\\_SIPs-Sierra\\_Club\\_Complaint-020720.pdf](http://www.4cleanair.org/sites/default/files/Documents/Litigation-GN_SIPs-Sierra_Club_Complaint-020720.pdf)

**(4) Trailer Manufacturers File Opening Brief in Litigation Challenging Regulatory Requirements for Heavy-Duty Truck Trailers (February 10, 2020)**

– The Truck Trailer Manufacturers Association (TTMA) filed its opening brief in the U.S. Court of Appeals for the District of Columbia Circuit in litigation in which the group is challenging EPA’s and the National Highway Traffic Safety Administration’s (NHTSA) October 2016 joint “Phase 2 Rule” (setting greenhouse gas and fuel efficiency standards for heavy-duty trucks) which, for the first time, makes heavy-duty truck emission and fuel economy standards applicable to trailers. In its brief, TTMA argues that 1) EPA lacks statutory authority to regulate emissions from trailers, 2) NHTSA lacks statutory authority to regulate the fuel economy of trailers and 3) the trailer standards in the final rule are not severable. TTMA filed its case against EPA and NHTSA in December 2016. After President

Trump took office in January 2017, the Phase 2 Rule was among those the Administration said it would reconsider and for which related litigation was held in abeyance as the Administration conducted its review. On December 3, 2019, “after an indefinite abeyance for three years,” TTMA requested that the D.C. Circuit lift the abeyance and set a briefing schedule, which the court did on December 26, 2019. The petitioner’s opening brief was due on February 10, 2020, with briefing to continue through June 2, 2020. For further information: [http://www.4cleanair.org/sites/default/files/Documents/Litigation-Trailers-TTMAvEPA-Pet\\_Brief-021020.pdf](http://www.4cleanair.org/sites/default/files/Documents/Litigation-Trailers-TTMAvEPA-Pet_Brief-021020.pdf)

**(5) EPA Announces 2020 Community-Scale Air Toxics Monitoring Grants Competition (February 13, 2020)** – EPA is accepting proposals for the 2020 Community-Scale Air Toxics Monitoring grants competition. The agency expects to award 10 to 20 grants to state, local and tribal monitoring agencies that want to conduct monitoring and analysis to identify or better understand the impacts of air toxics in their communities. Grants will be awarded to projects that fall into one of four categories: 1) characterizing the impacts of air toxics in a community (community-scale monitoring); 2) assessing impacts of toxics emissions from specific sources (near-source monitoring); 3) evaluating new and emerging testing methods for air toxics; and 4) analyzing existing air toxics data and developing or enhancing analytical, modeling and/or implementation tools. EPA anticipates awarding a total of up to \$5 million in grants during the 2020 calendar year; the maximum individual grant amount is \$750,000. Grant applications may address any individual or group of air toxics, but pollutants of particular interest to EPA in this year’s competition include ethylene oxide, chloroprene, benzene, 1,3-butadiene and metals such as hexavalent chromium, nickel and arsenic. EPA will hold informational webinars on the competition on February 19 and 20, 2020. For further information: <https://www.epa.gov/amtic/community-scale-air-toxics-ambient-monitoring-csatam> and [https://www.epa.gov/sites/production/files/2020-02/documents/2020\\_csatam\\_webinar\\_announcement.pdf](https://www.epa.gov/sites/production/files/2020-02/documents/2020_csatam_webinar_announcement.pdf)

**(6) EPA Publishes 2018 Toxics Release Inventory National Analysis (February 11, 2020)** – EPA released its 2018 Toxics Release Inventory (TRI) National Analysis, in which the agency presents findings that “show an increase in recycling of TRI chemical wastes nationwide and indicate that companies continue to find ways to implement new source reduction activities and reduce the quantities of TRI chemicals they release into the environment.” EPA Administrator Andrew Wheeler stated that providing the TRI National Analysis data empowers communities “to protect their environment and provid[es] companies with the information they need to work toward a stronger future.” Wheeler further stated that, “The latest TRI data continue to demonstrate that under President Trump environmental stewardship and economic growth continue to go hand in hand.” Alongside the 2018 TRI National Analysis EPA released a new interactive graphic tool on its website to help explain data for the metal mining sector. For further information: <https://www.epa.gov/trinationalanalysis/introduction-2018-tri-national-analysis>

**(7) EPA Releases Enforcement Annual Results FY 2019 (February 13, 2020)**

– EPA’s Office of Enforcement and Compliance Assistance (OECA) released its 2019 annual report. In *EPA Enforcement Annual Results FY 2019*, the agency highlights increases in areas such as voluntary self-reporting of violations; spending for compliance by regulated entities; the emissions prevented from mobile sources; cleanup commitments; and Superfund cleanup activities. EPA data also show increases in civil penalties, fines and cases opened. Federal inspections fell to 10,320 however, a decrease of more than 400 inspections from 2018 that continues a seven-year decline. EPA notes in the report that state and local agencies conduct more inspections than the federal government – 34,500 in 2019. In an accompanying statement, Assistant Administrator Susan Bodine said OECA’s “goal is to eliminate inefficient duplication with state programs, and to direct federal resources to help achieve the Agency’s core mission of improving air quality, providing for clean and safe water, revitalizing land and preventing contamination, and ensuring the safety of chemicals in the marketplace.” For further information: <https://www.epa.gov/newsreleases/epa-announces-2019-annual-environmental-enforcement-results> and <http://4cleanair.org/sites/default/files/resources/EPA%202019%20enforcement%20report.pdf>

**(8) EPA Releases Reports on Impact of Piston-Engine Aircraft Lead Emissions at U.S. Airports (February 13, 2020)**

– EPA posted two final technical reports on the impacts on air quality of lead emitted by small piston-engine aircraft that operate on leaded aviation fuel. In *Model-Extrapolated Estimates of Airborne Lead Concentrations at U.S. Airports*, EPA provides estimates of the ranges of lead concentrations that may occur at airports due to aircraft activity and additional factors that were not previously evaluated. In *National Analysis of the Populations Residing Near or Attending School Near U.S. Airports*, EPA includes data on the number of people who live or attend school within 500 meters of airport runways. For further information: <https://www.epa.gov/regulations-emissions-vehicles-and-engines/epas-data-and-analysis-piston-engine-aircraft-emissions>

**(9) EPA Releases Draft Guidance on Plantwide Applicability Limitations in NSR Permitting (February 13, 2020)**

– EPA released for review and informal public comment a draft guidance document, titled *Guidance on Plantwide Applicability Limitation Provisions Under the New Source Review Regulations*. The draft guidance addresses the plantwide applicability limitation (PAL) provisions in the New Source Review (NSR) permitting regulations. A PAL is an optional, flexible permitting approach that provides a major stationary source with the ability to manage changes and facility-wide emissions without triggering major NSR and without the need for project-by-project NSR applicability analysis. The purpose of the draft guidance is to address specific concerns raised by stakeholders with the PAL regulations and to generally improve understanding of PALs. Key topics addressed include PAL permit reopening; PAL expiration; PAL adjustment during permit renewal; PAL termination; monitoring requirements; treatment of replacement units; and “general advantages of PALs and other

considerations.” Comments on the draft guidance may be submitted through March 16, 2020 via a form on EPA’s website or by email to [draft\\_permitting\\_guidance@epa.gov](mailto:draft_permitting_guidance@epa.gov). For further information: <https://www.epa.gov/nsr/forms/draft-guidance-plantwide-applicability-limitation-provisions-under-new-source-review>

**(10) EPA Releases Draft Ozone and PM<sub>2.5</sub> Permit Modeling Guidance (February 10, 2020)** – EPA released for informal public review and comment *DRAFT Guidance for Ozone and Fine Particulate Matter Permit Modeling*. The draft guidance contains EPA’s recommendations for how a stationary source seeking a Prevention of Significant Deterioration (PSD) permit may demonstrate that it will not cause or contribute to a violation of the National Ambient Air Quality Standards for ozone and PM<sub>2.5</sub> and PSD increments for PM<sub>2.5</sub>. It reflects a two-tiered demonstration approach that was promulgated as part of the 2017 revisions to the *Guideline on Air Quality Models* (40 C.F.R. part 51, Appendix W). EPA will hold a webinar to provide an overview of the draft guidance on March 12, 2020 at 3:00 p.m. Eastern. The agency asks that comments on the draft guidance be provided by email to EPA’s George Bridgers ([bridgers.george@epa.gov](mailto:bridgers.george@epa.gov)) by March 27, 2020. Following the close of the comment period, EPA will consider the input received and intends to further engage with the regulatory air quality modeling community at the 2020 Regional, State, and Local Modelers’ Workshop, which will take place May 5-7, 2020 in Minneapolis, MN. EPA says that the workshop “will allow for an open dialogue on further clarifications, potential amendments, and considerations for additions to the final guidance documentation to be released later this year.” For further information:

[https://www3.epa.gov/ttn/scram/guidance/guide/Draft\\_Guidance\\_for\\_O3\\_PM25\\_Permi\\_t Modeling.pdf](https://www3.epa.gov/ttn/scram/guidance/guide/Draft_Guidance_for_O3_PM25_Permi_t Modeling.pdf) and  
<https://meet.lync.com/usepa/bridgers.george/RCFFWM07>

**(11) EPA Proposes Revisions to Regulations for Minimum Emission Reporting Requirements in SIPs (February 7, 2020)** – EPA proposed amendments to regulations pertaining to the preparation of State Implementation Plans (SIPs) to revise, from quarterly to semiannually, the minimum reporting frequency for source categories identified in Appendix P to 40 C.F.R. part 51. EPA says this revision would be “generally consistent with the current reporting frequency requirements to which these sources are subject under other programs (e.g., New Source Performance Standards).” Each state would have the option of revising its SIP to allow semiannual reporting by four source categories: 1) fossil fuel-fired steam generators of more than 250 million British thermal units per hour heat input, 2) fluid bed catalytic cracking unit catalyst regenerators at petroleum refineries, 3) sulfuric acid plants and 4) nitric acid plants. Once this proposal is published in the *Federal Register* EPA will accept public comments for 30 days. For further information: <https://www.epa.gov/air-quality-implementation-plans/proposed-revisions-appendix-p-40-cfr-part-51-concerning-minimum>



**(12) Utility, Consumer and Environmental Groups Sign Joint Statement of Support for Electric Vehicles (February 11, 2020)**

– Five organizations signed a joint statement in support of electrification of the transportation sector and efforts by electric companies to accelerate such action. In the statement, Edison Electric Institute, Illinois Citizens Utility Board, National Consumer Law Center, Natural Resources Defense Counsel and Sierra Club identify a series of key principles that should inform efforts by electric companies to support transportation electrification. Among the stated principles are that transportation electrification should benefit all utility customers and transitioning to electrification should not result in the placement of a financial burden on those who can least afford it. For further information: [https://www.nrdc.org/sites/default/files/media-uploads/joint\\_statement\\_supporting\\_electric\\_transportation\\_0.pdf](https://www.nrdc.org/sites/default/files/media-uploads/joint_statement_supporting_electric_transportation_0.pdf)

**(13) House Republicans Offer Carbon Capture and Forestry Bills as Climate Framework (February 12, 2020)**

– Four bills introduced by Republican members of the U.S. House of Representatives are being described by the sponsors as part of a broader climate plan. A bill introduced by Reps. David Schweikert (R-AZ) and Brad Wenstrup (R-OH) would make an expiring tax credit for carbon capture, utilization and storage (CCUS) and direct air capture of carbon emissions permanent. A bill introduced by Rep. David McKinley (R-WV) would create loan guarantees from the U.S. Department of Energy (DOE) for CCUS and direct air capture projects and establish EPA funding for direct air capture research. Rep. Dan Crenshaw's (R-TX) bill focuses on CCUS deployment on fossil gas-fired power plants and would establish a \$75-million "Carbon Innovation Hub" at DOE. The Trillion Trees Act from Rep. Bruce Western (R-AR) would offer support to a United Nations' initiative to encourage countries, corporations and individuals to plant a trillion trees globally by 2050. For further information: <https://schweikert.house.gov/media-center/in-the-news/us-house-gop-starts-roll-out-broad-climate-plan>

**(14) Senate Democrats Introduce Clean Economy Act (February 11, 2020)**

– Senator Tom Carper (D-DE), Ranking Member of the Senate Environment and Public Works Committee, introduced the Clean Economy Act of 2020 to empower EPA to set a national goal of net-zero greenhouse gas emissions by no later than 2050. The bill, which has over 30 co-sponsors, would also require EPA to set interim national greenhouse gas targets for 2025, 2030 and 2040, and focuses on "low- and zero-greenhouse gas electricity, transportation, and building technologies; methane capture and destruction technologies; and carbon capture, utilization, and sequestration technologies and practices, including direct air capture." The Clean Economy Act serves as a companion to a House bill introduced by Rep. Donald McEachin (D-VA) – H.R. 5221, the 100% Clean Economy Act of 2019 – which has 150 co-sponsors. For further information: [https://www.epw.senate.gov/public/\\_cache/files/d/1/d15d8ae1-c830-48cc-9cd9-003eba3d6973/762C0E02FDB79E6DCA8FC91AB54AC46E.clean-economy-act-of-2020.pdf](https://www.epw.senate.gov/public/_cache/files/d/1/d15d8ae1-c830-48cc-9cd9-003eba3d6973/762C0E02FDB79E6DCA8FC91AB54AC46E.clean-economy-act-of-2020.pdf) and <https://www.congress.gov/bill/116th-congress/house-bill/5221>

**(15) Rhodium Group Analyzes Impacts of Forthcoming Final Rule to Rollback Light-Duty Vehicle Fuel Economy Standards (February 13, 2020) –**

In anticipation of a final rule from the Trump Administration (i.e., the “SAFE Vehicles Rule Part Two”) rolling back Obama-era fuel economy and greenhouse gas emission standards set in 2012, the Rhodium Group released an analysis of the estimated impacts of the expected revised fuel economy standards. The proposed “SAFE Vehicle Rule” sought to freeze fuel economy standards for model years (MYs) 2021 through 2026 at 2020 levels. Current information indicates that the final rule will require an increase in annual fuel economy of 1.5 percent per year from MY 2021 through MY 2026 – a rollback of about 3.5 percent per year from the existing rules, which call for a fuel economy increase of about 5 percent per year. Based on its analysis, the Rhodium Group reports in *A Step Closer to a Rollback of Fuel Economy Standards* that relative to the existing rules, the 1.5-percent-increase scenario would result in an increase in oil demand of 2.2. billion barrels from 2021 through 2035 and, during the same time period, increase consumer spending on fuel by \$231 billion. In terms of greenhouse gases (GHGs), the 1.5-percent scenario would yield only about one-fifth of the GHG emission reductions expected under the existing standards. The Rhodium Group describes itself as “an independent research provider combining economic data and policy insight to analyze global trends.” For further information: <https://rhg.com/research/fuel-economy-1-5/>

**(16) IEA Sees Global CO<sub>2</sub> Emissions Flatten in 2019 (February 12, 2020) –**

The International Energy Agency (IEA) released an analysis of global CO<sub>2</sub> emissions in which the agency says that in 2019, global energy-related CO<sub>2</sub> emissions were flat at 33.3 gigatonnes. This leveling off comes after two years of increases globally, IEA said. IEA cited a “sharp decline” in CO<sub>2</sub> from the power sector in North America, Europe and Japan as higher electric output from renewables, fossil gas-fired plants and nuclear reactors drove a dramatic fall in coal use in the power sector. “Global CO<sub>2</sub> emissions from coal use declined by almost 200 million tonnes (Mt), or 1.3%, from 2018 levels, offsetting increases in emissions from oil and natural gas,” the agency noted. The U.S. saw a dramatic 18-percent decrease in coal use in the power sector in 2019, which was the largest single contributor to the drop in emissions. However, CO<sub>2</sub> emissions in Asia and other areas of the world kept growing, also driven by increased coal use. IEA also noted in the report that arresting climate change requires global emissions pathways to trend downward steeply, rather than simply plateau. “We now need to work hard to make sure that 2019 is remembered as a definitive peak in global emissions, not just another pause in growth,” said IEA chief Fatih Batirol in a statement. For further information: <https://www.iea.org/articles/global-co2-emissions-in-2019>

**(17) Doug Benevento Nominated to Be EPA Deputy Administrator (February 13, 2020) –**

President Trump announced his intention to nominate Douglas H. Benevento to be Deputy Administrator of EPA. Benevento is currently EPA’s Associate Deputy Administrator and has previously served in several other roles at the agency, including as Regional Administrator for EPA Region 8 from



October 2017 through March 2019, and then as Senior Counselor for Regional Management and State Affairs at EPA headquarters. From 2010 to 2017, Benevento worked on environmental and energy issues in various roles at Xcel Energy and practiced law at Greenberg Traurig. During the 1990s, he served as Executive Director of the Colorado Department of Public Health and Environment. For further information: <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-announces-intent-nominate-appoint-individuals-key-administration-posts-30/> and <https://www.epa.gov/newsreleases/doug-benevento-nominated-epa-deputy-administrator>

**(18) John Busterud Named Regional Administrator for EPA Region 9 (February 11, 2020)** – EPA Administrator Andrew Wheeler announced the appointment of John W. Busterud as Regional Administrator for EPA Region 9, following last week's dismissal of Mike Stoker from that role. Busterud comes to EPA after working for 31 years at Pacific Gas & Electric (PG&E), where he was the company's senior environmental and energy attorney. During his tenure at PG&E, he served as an industry representative on the Clean Air Act Advisory Committee from 2012 to 2017. Busterud is also a retired U.S. Army Colonel with multiple active-duty deployments. EPA Region 9 serves Arizona, California, Hawaii, Nevada, U.S. territories in the Pacific Ocean and 148 tribal nations. For further information: <https://www.epa.gov/newsreleases/epa-announces-appointment-john-busterud-region-9-administrator>

## ***The Week Ahead***

- President's Day – February 17, 2020
- Congress in Recess – February 18-24, 2020

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