WASHINGTON UPDATE

National Association of Clean Air Agencies
NACAA

This Week in Review – May 20-24, 2013

(1) House Passes Bill to Maintain Grid Reliability During Power Emergencies (May 22, 2013) – The House of Representatives passed, by voice vote, H.R. 271 – the Resolving Environmental and Grid Reliability Conflicts Act of 2013. Sponsored by Rep. Pete Olson (R-TX), H.R. 271 would amend the Federal Power Act to require the Federal Energy Regulatory Commission (FERC) to ensure that any emergency order issued under the Federal Power Act that may result in a conflict with a requirement of an environmental law shall 1) require generation, delivery, interchange or transmission of electric energy only during hours "necessary to meet the emergency and serve the public interest" and 2) "to the maximum extent practicable" be consistent with any applicable federal, state or local law or regulation and "minimize any adverse environmental impacts." The bill also provides that, when complying with an order, if a party takes an action or makes an omission that results in noncompliance with an environmental law, the action or omission shall not be considered a violation of the law and the party will not be subject to any requirement of, or civil or criminal liability under, that law. The bill further limits the applicability of FERC orders to which this would apply to 90 days, after which FERC is authorized to renew or reissue the order, as necessary, to address an emergency and serve the public interest, for periods not to exceed 90 days; requirements are included regarding how renewal and reissuance shall occur. For further information: http://www.gpo.gov/fdsys/pkg/BILLS-113hr271ih/pdf/BILLS-113hr271ih.pdf

(2) House Committee Proposes Further Cuts to Environmental Programs (May 21, 2013) – The House Appropriations Committee has proposed a plan that could include steep reductions in funding for environmental programs for FY 2014. The Sequestration adopted on March 1, 2013 included a second round of reductions to take effect in October 2013. In order to accommodate those cuts, the House Appropriations Committee has developed FY 2014 funding levels ("302(b) allocations") for each of the Subcommittees that include some significant reductions for domestic programs (and increases for some defense programs). For programs under the jurisdiction of the Interior, Environment, and Related Agencies Subcommittee (which includes EPA funding), the Committee is recommending a total of $24.3 trillion, which is a reduction of 14 percent from the FY 2013 level of $28.2 trillion. Since the cuts are not necessarily across-the-board, it is unknown how such cuts, if they come to pass, would affect EPA's budget, not to mention individual line items within the agency's funding. The Senate has not yet established funding levels for FY 2014, but it is likely that those figures will differ from the House. For further information: http://appropriations.house.gov/

(3) GAO Releases Results of Study of Adequacy of EPA Categorical Grants to States (May 21, 2013) – The U.S. Government Accountability Office (GAO) released the results of a study of *Funding for 10 States' Programs Supported by Four Environmental Protection Agency Categorical Grants*. GAO undertook this study due to concerns expressed by members of Congress and stakeholders over generally decreasing EPA categorical grants over the past 10 years – from a high of $1.17 billion in fiscal year (FY) 2004 to $1.09 billion (in current dollars) in FY 2012 – and the effects on state budgets of recent economic conditions across the country. The study involved the review by GAO of 1) four categorical grants – the Water Pollutant Control, Nonpoint Source, Air Quality and Underground Injection Control grants – that constituted 60 percent of the total budget for categorical grants in FY 2012 and 2) funding for state programs that use these grants in 10 states – Hawaii, Idaho, Michigan, Mississippi, Nebraska, New Jersey, North Dakota, Oklahoma, Vermont and West Virginia. What GAO found is that as EPA grant funding has decreased, "the patterns and sources of funding for the 10 states' programs supported by the four EPA grants varied over the past 5 to 9 years, in constant fiscal year 2012 dollars" and states' responses differed in terms of the adjustments they made to their programs. GAO did not make any recommendations as a result of this study. For further information: http://www.gao.gov/assets/660/654389.pdf

(4) EPA Publishes Proposed Tier 3 Vehicle and Gasoline Standards in *Federal Register*, Will Extend Comment Deadline (May 21 and 23, 2013) – EPA published in the *Federal Register* its proposed rule for Tier 3 Motor Vehicle Emission and Fuel Standards (78 FR 29816), originally signed on March 29, 2013. In addition, the agency has indicated that it will announce, next week, an extension to the public comment deadline to July 1, 2013 (the original deadline was June 13, 2013.) The Tier 3 proposal, to take effect in 2017 and phase in through 2025, includes significantly tighter volatile organic compound, nitrogen oxide and particulate matter tailpipe standards, as well as a reduction in sulfur in gasoline to an average of 10 parts per million (from the current average of 30 ppm). The agency held public hearings on the proposal on April 24 and April 29, at which NACAA provided testimony. NACAA is currently drafting written comments, which will be available for membership review in early June. For further information: http://www.gpo.gov/fdsys/pkg/FR-2013-05-21/pdf/2013-08500.pdf

(5) Missouri Lawmakers Write President Obama Expressing Concern About Proposed GHG NSPS for New Power Plants (May 22, 2013) – Six Missouri lawmakers sent a letter to President Barack Obama to express concern about EPA's proposal to set a carbon dioxide (CO_2) emissions standard for new fossil fuel-fired power plants. In the letter, the lawmakers write that EPA's analysis states that the rule would increase the cost of electricity generation from coal plants by 80 percent, and that this cost would be a significant burden to Missouri residents, since 82 percent of Missouri electricity is generated from coal-fired power plants. The lawmakers request that the president urge EPA to amend the proposed rule to differentiate standards based on fuel type and to establish supercritical coal generation technology as the performance standard for new coal plants. The letter was signed by Senator Roy Blunt (R-MO) and Representatives Billy Long (R-MO), Sam Graves (R-MO), Blaine Luetkemeyer (R-MO), Vicky Hartzler (R-MO) and Ann Wagner (R-MO). For further information: http://www.blunt.senate.gov/public/_cache/files/8a081fac-ddba-4c1e-9677-4eb8a82cb663/5-20-13%20Letter%20to%20President%20Obama%20Re%20EPA_NSPS.pdf

(6) Proposed Amendments to NSPS for Kraft Pulp Mills Published in the *Federal Register* (May 23, 2013) – EPA's proposal to revise the New Source Performance Standards (NSPS) for kraft pulp mills was published in the *Federal Register* on May 23, 2013 (78 *Federal Register* 31,316). A pre-publication version of the proposed rule was made available on EPA's website last week, along with an EPA Fact Sheet (see related article in May 13-17, 2013 *Washington Update*). Among other things, the proposal would amend particulate matter (PM) emission limits to make them consistent with those in the national emission standards for hazardous air pollutants (NESHAPs); impose additional testing, monitoring, recordkeeping and reporting requirements; and make emission limits applicable at all times, including during periods of startup, shutdown and malfunction, with an affirmative defense for malfunctions that meet specified criteria. EPA will accept public comments on the proposed rule on or before July 8, 2013. For further information: http://www.epa.gov/ttn/atw/pulp/pulppg.html; https://www.federalregister.gov/articles/2013/05/23/2013-12081/kraft-pulp-mills-nsps-review

(7) EPA Publishes Draft Technical Assistance Documents on Monitoring and Modeling for SO_2 NAAQS Designations (May 21, 2013) – EPA released for public review and comment two draft technical assistance documents (TADs) to assist state, local and tribal air agencies with air monitoring and modeling for implementation of the 2010 sulfur dioxide (SO_2) health-based air quality standard. The two TADs provide recommendations on how to, respectively, model and monitor ambient air in areas in proximity to or impacted by an SO_2 emissions source to assess compliance with the primary (one-hour) SO_2 NAAQS for designation purposes. Comments on both draft TADs are due on July 22, 2013. For further information: http://www.epa.gov/airquality/sulfurdioxide/implement.html

(8) California Holds Third Auction of GHG Allowances (May 21, 2013) – California held its third auction of GHG allowances, with $203 million worth of 2013 vintage year allowances sold at $14 per allowance. In addition, $80 million of 2016 vintage year allowances were sold at $10.71 per allowance. According to the California Air Resources Board (CARB), 90 percent of vintage year 2013 allowances were purchased by "compliance entities," meaning entities covered by the greenhouse gas (GHG) cap-and-trade program. With respect to 2016 vintage year allowances, 86 percent were purchased by compliance entities. California's GHG cap-and-trade program is part of the state's plan for reducing GHG emissions to 1990 levels by 2020 and ultimately achieving an 80 percent reduction in emissions by 2050. The program was launched in 2012, with an enforceable compliance obligation beginning January 1, 2013. For further information: http://www.arb.ca.gov/cc/capandtrade/auction/may-2013/results.pdf

(9) Report Identifies Policy Changes Needed to Spur Energy Efficiency Investment (May 21, 2013) – Ceres and the Investor Network on Climate Risk (INCR) released a report identifying three areas of policy – utility regulation, demand-generating policies and innovative financing policies – that can increase demand for energy efficiency enough to attract sufficient institutional investments. With respect to utility regulation, the report recommends that state Public Utility Commissions reward utilities that maximize energy efficiency rather than simply increase energy sales, and that they provide the same level of investor protection to energy efficiency programs as they do to electricity sales in order to make these programs investment grade. Investors also recommended adoption of policies that generate demand for energy efficiency, such as building codes and standards, appliance and equipment efficiency standards, and building energy disclosure requirements. Finally, innovative financing policies can help attract institutional investors, such as Property Assessed Clean Energy (PACE) bonds, on-bill repayment and credit enhancement. The researchers surveyed 30 institutional investors to prepare the report. Ceres is an advocate for sustainability leadership and also directs INCR, a network of 100 institutional investors with collective assets totaling more than $11 trillion. For further information: https://www.ceres.org/resources/reports/power-factor-institutional-investors2019-policy-priorities-can-bring-energy-efficiency-to-scale/view

(10) EPA Proposes Modifications to RFS Program, Includes New Pathways to Enhance Role of Biofuels (May 20, 2013) – EPA proposed a rule, RFS Pathways II and Technical Amendments to the RFS 2 Standards, in which it seeks to modify the Renewable Fuel Standard (RFS) program and E15 misfueling mitigation rules, among other things. According to the agency, the proposal "will facilitate the introduction of new renewable fuels as well as improve implementation of the program" and includes renewable fuel pathways that will further enable the biofuels industry to supply biofuels (including cellulosic biofuels) to the market. Among the fuels EPA identifies in the proposal as ones that would be allowed to generate Renewable Identification Numbers are renewable diesel, renewable naphtha, renewable electricity (to power electric vehicles) and renewable compressed natural gas/liquefied natural gas – all produced from landfill biogas; EPA also proposes to allow butanol that complies with the 50-percent greenhouse gas emission reduction threshold to qualify as an advanced biofuel. In addition, EPA proposes "technical" corrections and amendments to its E15 misfueling mitigation rule relative to labeling, E15 surveys, product transfer documents and prohibited acts. Once the proposal is published in the *Federal Register*, EPA will accept comments for 30 days. If the agency receives a request for a public hearing within 15 days after publication, it will publish a notice announcing a hearing and the timing of a new comment deadline. For further information: http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm

(11) CBO Reports On Potential Effects of Carbon Tax (May 23, 2013) – In a newly published report, the Congressional Budget Office (CBO) examines how a carbon tax, combined with alternative uses of the revenues it would generate, might affect the economy and the environment. A carbon tax, imposed either on CO_2 emissions directly or on fuels that release CO_2 when they are burned, could potentially generate "a substantial amount of revenue," CBO concludes, but the economic impact of such a tax would depend on how its revenues were spent. Using carbon tax revenues to reduce deficits or cut marginal tax rates would decrease the tax's total cost to the economy, CBO found, while targeting the revenues toward low-income groups who would likely bear a disproportionate burden under the tax would tend not to reduce the tax's total economic costs. CBO found that because the United States accounts for less than one-fifth of global CO_2 emissions, the tax's associated emissions reductions would have "only a modest effect on the world's climate" unless it were part of a coordinated effort with other countries. However, cuts in U.S. emissions alone would produce incremental reductions in costly and potentially catastrophic environmental damage, CBO concludes. For further information: http://www.cbo.gov/sites/default/files/cbofiles/attachments/44223_Carbon_0.pdf

(12) CO_2 Emissions from U.S. Coal-Fired Power Plants Projected to Increase in 2013 Due to Rising Natural Gas Prices, Environmental Integrity Project Reports (May 23, 2013) –The Environmental Integrity Project (EIP) predicts that carbon dioxide emissions from coal-fired electric power plants in the U.S. will increase in 2013 following a 13.1 percent decline between 2005 and 2012, based on its analysis of data from EPA and the Energy Information Administration. In the first quarter of 2013, CO_2 emissions from coal-fired plants were up 7.1 percent over the same period last year, and increased emissions are projected to continue throughout the year, according to EIP's analysis. EIP reports that the emissions increase is occurring as natural gas prices are rising and coal prices remain flat. This price trend is encouraging power companies to "squeeze more generation out of remaining coal plants," EIP concludes. The group urges states to embrace energy efficiency and renewable energy sources, such as wind and solar in order to decrease CO_2 emissions in the long term. EIP's report also breaks down emissions data by state and concludes that states more dependent on coal emit far more CO_2 than those with a more diverse mix of fuels and renewables. For further information: http://www.environmentalintegrity.org/news_reports/05_25_2013.php

The Week Ahead

- Memorial Day Holiday – May 27, 2013

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