In this week’s Washington Update:

1. NACAA Submits Written Testimony on FY 2022 Appropriations to Senate
2. EPA to Reconsider Ethylene Oxide Risk Information in Miscellaneous Organic NESHAP
3. EPA Announces $50 Million In EJ Funding
4. EPA Responds to NACAA’s Request for the Release of 2017 NATA Data
5. Administration Nominates OECA Chief
6. House Committee Approves Bill to Address PFAS, Including Air Emissions
7. Tentative Deal Reached on Bipartisan Infrastructure Bill
8. SCOTUS Case Pressed by North Dakota
9. Community & Environmental Groups Demand “Climate-Focused” FERC Nomination
10. House GOP Members Form Conservative Climate Caucus

This Week in Review

(1) NACAA Submits Written Testimony on FY 2022 Appropriations to Senate (June 22, 2021) – NACAA submitted written testimony to the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies regarding FY 2022 appropriations, focusing on grants to state and local air quality agencies under Sections 103 and 105 of the Clean Air Act. NACAA’s testimony recommended that 1) increase federal grants to state and local air pollution control agencies by $92 million above FY 2021 levels, for a total of at least $321.5 million (consistent with the Administration’s budget request); 2) provide flexibility to state and local air quality agencies to use any additional grants to address the highest priority programs in their areas; and 3) retain grants for monitoring fine particulate matter (PM$_{2.5}$) under the authority of Section 103 of the Clean Air Act, rather than shifting it to Section 105. For further information: http://www.4cleanair.org/sites/default/files/Documents/Senate-NACAA_FY-2022_Testimony_06-22-21.pdf

(2) EPA to Reconsider Ethylene Oxide Risk Information in Miscellaneous Organic NESHAP (June 17, 2021) – EPA has announced that it will grant petitions for reconsideration on issues related to ethylene oxide (EtO) in the Miscellaneous Organic Chemical Manufacturing (MON) Residual Risk and Technology Review rule issued on August 12, 2020. The reconsideration is intended to provide an additional opportunity for the public to comment and will address two aspects of the rule. The first is the use of EPA’s Integrated Risk Information System (IRIS) value for ethylene oxide in assessing cancer risk for the source category. The second is the use of a risk value for EtO developed by the Texas Commission on Environmental Quality (TCEQ) as an alternative to EPA’s risk value in IRIS. With respect to the second issue, EPA states that it is granting reconsideration because the TCEQ risk value was not final until after the comment
period for the proposed MON closed and because the risk posed by EtO “is of central relevance to EPA’s determination that risks from sources in the Miscellaneous Organic Chemical Manufacturing source category are unacceptable and that more stringent standards are required.” EPA will issue a Federal Register notice that will begin the public comment period. The agency is also reviewing other issues raised by petitioners and may reconsider other parts of the rule in the future. On February 6, 2020, during the public comment period on the proposed MON, NACAA submitted comments expressing support for continued reliance on the IRIS values for EtO and raising concerns with features of the TCEQ draft. For further information:

(3) EPA Announces $50 Million In EJ Funding (July 25, 2021) - At an event in Baltimore, Maryland, EPA Administrator Michael S. Regan announced that EPA will provide $50 million for Environmental Justice (EJ) initiatives through funds allocated to the agency under the American Rescue Plan (ARP) passed on March 11, 2021. According to an accompanying press release, the agency will award 14 cities, states and tribes funding for EJ programs, including to the South Coast Air Quality Management District, CA, the Virginia Department of Environmental Quality, the Alabama Department of Environmental Management, the Massachusetts Department of Health, Hartford, CT, Madison, WI, Baltimore, MD, Milwaukee, WI, Ft. Collins, CO, San Pablo, CA, Houston, TX, Los Angeles, CA, Seattle & King County, WA, and the Tohono O’odham Tribal Nation in Arizona. Other grants are being awarded through EPA’s State Environmental Justice Cooperative Agreement (SEJCA) program for projects on training, developing citizen-science tools, pollution monitoring, and educational campaigns. In addition, $7,000,000 will fund Diesel Emissions Reduction Act (DERA) rebate programs and funding electric school buses in EJ communities. The announcement notes that $5,130,000 will be allocated to expanded “civil and criminal enforcement to include monitoring near low-income communities”. For further information: https://www.epa.gov/newsreleases/epa-announces-50-million-fund-environmental-justice-initiatives-under-american-rescue

(4) EPA Responds to NACAA’s Request for the Release of 2017 NATA Data (June 21, 2021) – EPA has responded to NACAA’s April 22, 2021 letter requesting that the agency complete and release the 2017 National Air Toxics Assessment (NATA) as soon as possible. NACAA’s letter was in response to learning from EPA that the agency was not planning to release the 2017 NATA data. EPA reports that it intends to provide new risk results using 2017 emissions data later this year and that the agency is developing a long-term strategy for “generating timely and relevant risk information nationally while continuing to provide vital data regularly on an interim basis.” Specifically, EPA plans to issue the 2017 data later this year and risk results using 2018 data next year through scheduled updates to the agency’s Environmental Justice Screening and Mapping
Tool (EJSCREEN). By 2023, EPA plans to produce annual estimates of risk based on the most current emissions inventories and provide this information in the Annual Trends Report (which currently focuses on criteria pollutants). For further information:
http://www.4cleanair.org/sites/default/files/Documents/Final%20Response_to_Francis_C_Steitz_PhD_NACAA_NATA_Letter2_QAR-21-000-3554_SIGNED.pdf (an identical letter was sent to NACAA Air Toxics Co-Chair Latrice Babin) and http://www.4cleanair.org/sites/default/files/Documents/NACAA_NATA_letter_04-22-21.pdf

(5) Administration Nominates OECA Chief (July 22, 2021) - The White House has announced that David Uhlmann will be nominated to be EPA’s Assistant Administrator for Enforcement and Compliance Assurance (OECA). Uhlmann is currently the director of the Environmental Law and Policy Program at the University of Michigan Law School and was previously a federal prosecutor for 17 years, including as the Chief of the Environmental Crimes Section of the US Department of Justice. A March 31, 2020 report by EPA’s Inspector General found years of declining case statistics across multiple administrations, and since leaving government in 2007 Uhlmann has been a critic of EPA’s declining enforcement trends. For further information: https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/22/president-biden-announces-three-key-nominations-2/

(6) House Committee Approves Bill to Address PFAS, Including Air Emissions (June 23, 2021) – The House Energy and Commerce Committee has approved the “PFAS Action Act” (H.R. 2467), which calls upon EPA to use laws pertaining to several environmental media to address per- and polyfluoroalkyl substances (PFAS). Introduced by Rep. Debbie Dingell (D-MI), the law would require EPA to add perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS) to the list of hazardous air pollutants (HAPS) under the Clean Air Act within 180 days of passage and to determine whether to list other PFAS as HAPs within five years. Among the bill’s other measures would be to prohibit the unsafe incineration of PFAS wastes, establish national drinking water standards for PFOA and PFOS, use the Toxics Substances Control Act to place a moratorium on introducing new PFAS into commerce and call for manufacturers to provide toxicity and exposure data for PFAS in many products. The bill is expected to go to the floor of the House for consideration sometime in July. The House passed a similar bill during the last Congress. For further information: https://debbiedingell.house.gov/uploadedfiles/pfas_action_final.pdf and https://debbiedingell.house.gov/news/documentsingle.aspx?DocumentID=2975

(7) Tentative Deal Reached on Bipartisan Infrastructure Bill (June 24, 2021) – President Joseph R. Biden Jr. has signaled tentative agreement with a group of U.S. Senators on the terms of a bipartisan infrastructure bill in the U.S. Senate. “We have a deal”, the President said in an announcement from the White House. The Administration’s initial infrastructure bill proposal, the American Jobs Plan, was a sweeping $1.7 trillion package that included hundreds of billions in new
spending on, among other areas, addressing climate change (see related story in the March 27 – April 2, 2021 *Washington Update*). A counter-offer by Senate Republicans led by Shelley Moore Capito (R-WV) did not gain traction. A bipartisan group in the U.S. Senate then advanced a framework for the infrastructure package (See related story in the June 12-18, 2021 *Washington Update*). In total, the proposed framework would spend $1.2 trillion over eight years, with $579 billion of new spending. While many of the climate provisions have been struck, $7.5 billion will go toward electric vehicle infrastructure, another $7.5 billion will be directed to electric buses, and $49 billion will go to public transit infrastructure. If a bipartisan bill can gain 60 votes, it can pass without being blocked by a filibuster. The framework will need to be molded into legislative text in the coming weeks before being considered by both chambers of Congress. https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/factsheet-president-biden-announces-support-for-the-bipartisan-infrastructure-framework/

(8) **SCOTUS Case Pressed by North Dakota (June 24, 2021)** - North Dakota has filed a petition asking the U.S. Supreme Court to review a January 19, 2021 judgment by the U.S. Court of Appeals for the District of Columbia Circuit (American Lung Association and American Public Health Association v. EPA, et al., Case No. 19-1140), and to clarify the EPA’s authority to regulate greenhouse gas (GHG) emissions under Section 111(d) of the Clean Air Act. In its petition, North Dakota seeks the court to answer whether “EPA [can] promulgate regulations for existing stationary sources that require States to apply binding nationwide ‘performance standards’ at a generation-sector-wide level, instead of at the individual source level, and can those regulations deprive States of all implementation and decision making power in creating their Section 111(d) plans?” Similar petitions are pending from a coal company and a multistate coalition led by West Virginia. The Supreme Court has not yet determined whether it will take up the legal questions in any of the pending petitions. For further information: http://www.4cleanair.org/sites/default/files/resources/ND%20Writ%20of%20Cert%20SCOTUS.pdf

(9) **Community & Environmental Groups Demand “Climate-Focused” FERC Nomination (June 23, 2021)** – A coalition of 321 local and regional community and environmental groups have written to the Biden Administration urging the Administration to nominate a “climate focused” candidate to fill the Federal Energy Regulatory Commission (FERC) vacancy being left by Commissioner Neil Chatterjee, whose term ends this month. “The upcoming vacancy at the Federal Energy Regulatory Commission provides a clear opportunity to rapidly move off of fossil fuels and fossil fuel infrastructure. We urge you to appoint a new commissioner who is committed to this vision.” For further information: https://www.foodandwaterwatch.org/wp-content/uploads/2021/06/FERC-sign-on-letter.pdf
(10) House GOP Members Form Conservative Climate Caucus (June 23, 2021) - A group of 52 Republicans in the U.S. House of Representatives have launched a “Conservative Climate Caucus” whose goal is to offer information, education, and legislation addressing climate change “consistent with conservative values”. Rep. John Curtis (R-UT) launched the group citing technology research and innovation, market based strategies, and continued use of fossil fuels with carbon capture as consistent with the group’s goals for policy measures. “Reducing emissions is the goal, not reducing energy choices,” a statement launching the group reads. For further information: https://curtis.house.gov/conservative-climate-caucus/

The Week Ahead

- **House Appropriations Interior, Environment, and Related Agencies Subcommittee Markup, FY 2022 Appropriations Bill (including EPA)** – June 28, 2021
- **House Science, Space and Technology Committee Hearing, “The State of Federal Wildland Fire Science: Examining Opportunities for Further Research & Coordination”** – June 29, 2021
- **Energy Policy Institute at the University of Chicago Discussion, “Revitalizing the Grid to Achieve a Clean-Powered Economy”** – June 30, 2020
- **House Appropriations Committee Markup, FY 2022 Interior, Environment, and Related Agencies Appropriations Bill (including EPA)** – July 1, 2021