

MINUTES

NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES BOARD OF DIRECTORS AND COMMITTEE CHAIRS MEETING

Sunday, May 5, 2013

Hyatt Regency St. Louis at the Arch
St. Louis, Missouri

The NACAA Board of Directors convened its meeting at 8:30 a.m. NACAA Board members present included Tad Aburn (MD), Bruce Andersen (Kansas City, KS), Mark Asmundson (Mount Vernon, WA), Mike Bates (AR), Stu Clark (WA), Anne Gobin (CT), Vince Hellwig (MI), Merlyn Hough (Springfield, OR), Thomas Huynh (Philadelphia, PA), Dave Klemp (MT), John Paul (Dayton, OH), David Shaw (NY), Richard Stedman (Monterey, CA), Barry Stephens (TN) and Barry Wallerstein (Los Angeles, CA). Committee Co-Chairs, who are not also Board members, present included Arturo Blanco (Houston, TX), Jac Capp (GA), Mike Dowd (VA), Andy Ginsburg (OR), Larry Greene (Sacramento, CA), Jim Hodina (Cedar Rapids, IA), Ursula Kramer (Tucson, AZ), Barbara Lee (Healdsburg, CA), Lynne Liddington (Knoxville, TN), Nancy Seidman (MA), Shelley Schneider (NE), Eddie Terrill (OK) and Dick Valentinetti (VT). NACAA staff present included Bill Becker, Mary Sullivan Douglas, Monique Faye, Nancy Kruger, Karen Mongoven, Amy Royden-Bloom and Stephanie Steigman. The meeting agenda is attached.

Feedback from the Regions

Dave Shaw (NY), NACAA Co-President, asked Board Members, Committee Chairs and staff if they had any input on how NACAA's processes and procedures are working and if any feedback has been shared with them by other members. Several members reported that there do not seem to be any notable concerns on the part of NACAA members in their regions.

The group also discussed the level of response received from the membership on drafts that NACAA distributes for comment. They discussed how to alert the air directors when there are draft comments for review and suggested that staff email draft comment letters to all the NACAA air directors in addition to the relevant committees. All draft comments are routinely posted on Air Web; NACAA's the new website will highlight drafts available for comment.

Committee Reports

Agriculture

Shelley Schneider (NE), Co-Chair of the NACAA Agriculture Committee, reviewed the history of EPA's National Air Emissions Monitoring Study for Animal Feeding Operations (AFOs). In 2005, EPA and the AFO industry (except cattle) entered into a consent agreement that set up the monitoring study in exchange for participating AFOs receiving a safe harbor from enforcement of the Clean Air Act, CERCLA and EPCRA. In February 2012, EPA released draft

emissions estimation methodologies based on data from the study, which only measured emissions at 24 sites in 20 farms. A Science Advisory Board convened by EPA reviewed the draft methodologies and recommended that EPA instead develop a process-based modeling approach and use a wider set of data. Shelley noted NACAA's extensive comments to EPA on the issue, which were largely ignored. She also noted it was not clear what EPA's next steps would be.

Air Toxics

Vince Hellwig (MI), Co-Chair of the NACAA Air Toxics Committee, provided a brief report. He noted that the new source Mercury and Air Toxics (MATS) rule had been issued in March 2013. He also reported that several major air toxics rules have recently been subject to legal challenge by both industry and the environmental community, including the Boiler Maximum Achievable Control Technology (MACT) rule, the Commercial and Industrial Solid Waste Incinerators rule and the Portland Cement MACT. Finally, he stated that EPA had received FY 2013 funding for the emissions inventory work related to the 2011 National Air Toxics Assessment (NATA). He had learned that one of the reasons the funding was provided was due to NACAA's letter in support of NATA.

The members engaged in a brief discussion of the MATS rule, including pending lawsuits, the impact of the rule on reliability and the fact that there do not seem to be a lot of plants seeking an additional year to implement the rule.

Training

Arturo Blanco (Houston, TX), Co-Chair of the NACAA Training Committee, provided an update on APTI-Learn, the learning management system (LMS), which was launched last year. There are still some technical issues EPA and the multijurisdictional organizations are working through. He nevertheless asked attendees to urge their staff to register to use the LMS so they can learn what training opportunities there are and see which courses are recommended depending on their job function.

Emissions and Modeling

Jim Hodina (Cedar Rapids, IA), Co-Chair of the NACAA Emissions and Modeling Committee, summarized recent and upcoming issues of interest to the committee. He noted that EPA's Draft Guidance for PM_{2.5} Permit Modeling was released on March 4, 2013. EPA has repeatedly thanked NACAA's PM_{2.5} Implementation Workgroup for its technical input into the development of this document. However, EPA did not adopt many of the workgroup's recommendations in the draft guidance, particularly those related to emission inventories and background concentrations. NACAA is preparing comments on the draft guidance; the comments are due at the end of the month.

Jim reported that EPA held a Regional/State/Local Modelers' Workshop in Dallas, Texas the previous week. A highlight of the technical discussions was the newest version of AERMOD, which is better able than its predecessors to model at low wind speeds. A number of policy issues were also raised at the workshop. The recent D.C. Circuit case vacating the PM_{2.5} Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) was discussed; EPA apparently believes that the court would have overturned all other SILs and SMCs if the case had not focused solely on PM_{2.5} and is proceeding with that mindset as it works to re-promulgate PM_{2.5} SILs. EPA is also preparing a rulemaking to update the Guideline on Air

Quality Models (40 C.F.R. Part 51, Appendix W) to reflect changes in modeling science. In the future, Jim noted, it appears that EPA will focus more heavily on keeping Appendix W updated and move away from reliance on aging guidance documents.

Enforcement

Eddie Terrill (OK), Co-Chair of the NACAA Enforcement Committee, provided an update on the committee's activities. The focus of the committee over the last six months has been on EPA's efforts to modernize the Air Facility System (AFS) and on state and local concerns with EPA's Federally Reportable Violations (FRV) policy. Eddie reported on a series of calls the committee has had with EPA regarding revising the FRV policy, noted that this would be discussed at a session at the Spring Membership Meeting and encouraged air directors to get involved since this is a policy-level discussion.

SIP Reform

Nancy Kruger (NACAA) updated the group on the efforts of the NACAA-ECOS-EPA SIP Reform Workgroup (SRWG), which is now in its third year. Nancy reviewed some of the issues on which the SRWG has made headway over the past few years including electronic SIP submittals, elimination of unnecessary documentation for redesignation and maintenance plan submittals, letter approval or certification for minor SIP revisions and allowing states flexibility in determining how best to get public input on SIP amendments. She also highlighted issues on which the SRWG continues to focus, including timely SIP-related rules and guidance, an effective EPA-state partnership in the development of rules and guidance, consistency across regions and communications, noting that while work on these items is ongoing there has been progress, particularly in the form of several EPA-NACAA workgroups on PM_{2.5} implementation, the all-NAAQS implementation guidance and sulfur dioxide designations and implementation. In addition, the SRWG provided significant input to EPA on the development of the PM_{2.5} Full-Cycle Analysis Process (FCAP) and will review and oversee the work products of the two FCAP subgroups.

Finally, Nancy apprised the group that the SRWG had recently taken up the issue of the SIP backlog in response to the request of the NACAA Board of Directors and Committee Chairs at their winter meeting, at which the members expressed strong interest in NACAA, through the SRWG if possible, working with EPA and ECOS to develop a memorandum of understanding, rules of engagement, collaborative agreement or some other form of specific commitments from EPA as part of a collaborative process on tackling the SIP backlog and preventing it from occurring in the future. The SRWG received a presentation from EPA on the agency's efforts with respect to the SIP backlog and would be responding on the next call. Nancy also advised the group that Anna Wood (EPA OAQPS), accompanied by Becky Weber (EPA Region 7), would be discussing the SIP backlog during her presentation at the NACAA Spring Membership Meeting on Tuesday. During the discussion, the Board and Committee Chairs reaffirmed their concern over the SIP backlog and their desire for NACAA to continue its work on this issue.

Monitoring

Dick Valentinetti (VT), Co-Chair of the NACAA Monitoring Committee, provided an update on EPA's proposal to cut funding for the near-road NO₂ monitoring program due to the sequestration. He reported that EPA has indicated it agrees with the NACAA Board's recommendation that the agency formally extend the deadline for implementation of Phase II of the program, such that installation of the Phase II monitors will not be required until funds

become available. However, instead of undertaking a formal rulemaking on this issue, EPA would prefer to “explore other options” for such an extension. Dick also noted that the committee is urging EPA to adopt a more effective process to evaluate the performance of continuous PM_{2.5} monitors after they are granted federal equivalent status.

Dick next reported that EPA is making a significant effort to promote the development of highly effective and affordable “personal-scale” air monitors. He noted that the potential for community groups to deploy such devices on a large scale raises significant policy issues for regulators. The members discussed various experiences and concerns that these types of monitors may pose in the future, and there was general consensus that issues such as data quality, use and interpretation could pose significant challenges. Monitoring Committee Co-Chair Barbara Lee (Healdsburg, CA) observed that the science is evolving very rapidly and recommended that the personal-scale monitoring issue be placed on the agenda for the NACAA Fall Membership Meeting. She suggested that NACAA consider asking EPA to hold a retreat with NACAA on this issue.

New Source Review

John Paul (Dayton, OH), Co-Chair of the NACAA New Source Review Committee, provided an update on the committee’s activities. EPA recently released two draft policies related to its handling of complaint investigations under Title VI of the Civil Rights Act. Among other things, EPA is proposing to eliminate the “rebuttable presumption” that if an area is in compliance with the NAAQS, there is no “adverse impact” on any particular community. John noted that under EPA’s construction of Title VI, disparate, adverse emissions impacts on disadvantaged populations are treated as potential Title VI violations, regardless of whether there is discriminatory intent. Several members expressed concern with how EPA’s implementation of Title VI is playing out. The committee will continue to follow this issue closely.

John also reviewed recent court cases of interest, recommended that members review EPA’s comments on the State Department’s Draft Supplemental Environmental Impact Statement (EIS) on the Keystone XL pipeline project and noted that the committee has drafted comments on the NSR and Title V permitting sections of the EPA National Program Manager Guidance for 2014. In addition, the committee is tracking the status of proposed new coal-fired electric generating units that would be “grandfathered” and not required to meet the proposed GHG NSPS. John also called the group’s attention to the Department of Energy’s EIS for the FutureGen 2.0 Project

Finally, John reported that an issue of particular importance to the committee is EPA’s plan to survey states and localities as part of the five-year study required under 40 C.F.R. § 52.22(b)(2). The purpose of the study is to examine the administrative burden on permitting authorities associated with the emission thresholds for GHG permitting of stationary sources. The committee believes this effort deserves NACAA’s strong support and John encouraged members to provide input to EPA on its draft survey questions, which are available on Air Web.

Permitting

Jac Capp (GA), Co-Chair of the NACAA Permitting Committee, reiterated the importance of EPA’s five-year study of GHG permitting burdens. The study results will determine whether EPA lowers the GHG emissions threshold for stationary source permitting under Step 4 of the

Tailoring Rule. Jac also noted that EPA has a good “Q&A” document on its NSR web page concerning the recent D.C. Circuit case vacating the PM_{2.5} SILs and SMC.

Jac reported that nationally, it appears that operating permit applications are remaining remarkably stable. However, PSD permit applications have dropped dramatically – down about 75%.

Program Funding

Bruce Andersen (Kansas City, KS), Co-Chair of the NACAA Program Funding Committee, provided a summary of recent appropriations activity. He reported that NACAA had made recommendations to EPA on how to address the \$11.8-million decrease in FY 2013 state and local air grants mandated by the March 1, 2013 sequestration, but that EPA had not yet made a final decision on how it would be handled. He reported that the President’s FY 2014 budget request for EPA included an increase of \$21.5 million in state and local air grants over the FY 2012 enacted amount, for a total of \$257.2 million. He noted that NACAA had submitted testimony to Congress supporting the Administration’s requested funding level for air grants but opposing EPA’s proposal to begin shifting PM_{2.5} monitoring grants from section 103 authority (where matching funds are not needed) to section 105 authority. He stated that NACAA staff plan to meet with House and Senate Appropriations Committee staff and that NACAA would provide the members with model letters that they can use to develop their own letters to Congress requesting the additional grants.

Andy Ginsburg (OR), Co-Chair of the NACAA Program Funding Committee, reported that EPA had made available the FY 2014 draft National Program Managers Guidance for public comment. NACAA had drafted a comment letter, which was distributed to the membership for review and comment. The final letter was due to EPA the following week.

Andy noted that the Administration had proposed cutting funds for the Diesel Emissions Reduction Act (DERA) program. He reported that NACAA would probably express support for DERA funding, but not at the expense of state and local air grants under sections 103 and 105.

Andy asked the members if there would be interest in including a discussion at the next Board meeting regarding the funding for PM_{2.5} monitoring. For several years, NACAA has opposed the shift of monitoring funds from section 103 to section 105 authority because the latter would require matching funds. Additionally, in the past, EPA had recommended this shift and had also called for a reduction in the monitoring grants commensurate with the 40-percent match that agencies would need to supply. However, for FY 2014, EPA did not recommend the reduction. Andy suggested that it may be worth discussing whether NACAA should change its position on this issue for future years, provided EPA was not calling for reductions. There was agreement that there was enough interest to include this issue on the agenda for the next Board meeting.

Criteria Pollutants

Tad Aburn (MD), Co-Chair of the NACAA Criteria Pollutants Committee, updated members on matters related to interstate transport, including the two state-EPA meetings held in April in the East and the West, during which EPA outlined its thinking on how to respond to the court’s *Homer City* decision on the Cross-State Air Pollution Rule – including that EPA will define states’ obligations and states and localities will determine how to meet their respective obligations. Tad noted that EPA had not yet established timeframes and has been encouraging

states to get together to figure out how to fulfill their responsibilities. Tad asked the group for their thoughts on the likelihood of states collaborating in this way and, in particular, on any differences from East to West.

Mobile Sources and Fuels

Nancy Seidman (MA), Co-Chair of the NACAA Mobile Sources and Fuels Committee, reported to the group that she had testified on behalf of NACAA on EPA's proposed Tier 3 vehicle and fuel standards at the April 24, 2013 public hearing in Philadelphia and that the association had submitted written testimony for the April 29, 2013 hearing in Chicago. She noted that turnout at the Philadelphia hearing was very good with a large majority of those who testified supporting the proposal. She announced that NACAA would hold a call on May 13, 2013, during which EPA would provide an in-depth briefing on the proposal. She also noted that NACAA would be submitting written comments and encouraged individual state and local air agencies to send in their own comments to EPA as well.

Review of NACAA's Draft Section 111(d) Principles for Regulating GHGs from Existing Power Plants

Stu Clark (WA), Co-Chair of the NACAA Global Warming Committee, described NACAA's efforts to craft principles to guide EPA's development of greenhouse gas (GHG) emission standards for existing power plants under section 111(d). He noted that all indications are that EPA will issue a proposal on 111(d) in FY 2014. He said that NACAA can play a constructive role in shaping EPA's section 111(d) proposal by providing context and raising issues that other stakeholders may not share or do not regard as a high priority, such as adequate funding, state equivalency, recognition of regional differences and implementation flexibility. He then turned to Amy Royden-Bloom (NACAA), who walked through draft principles. After some discussion, it was agreed that the Global Warming Committee Co-Chairs and staff would revise the principles to address the few concerns expressed and then circulate the principles for review by the membership. Next steps will be determined based on the reaction of the membership, in consultation with the Board and Committee Co-Chairs.

Finances

Financial Reports

Bill Becker (NACAA) presented and explained the NACAA financial statements, including those covering the association's non-federal funds and the operating grant (through March 31, 2013).

NACAA Grant – FY 2014-2015

Bill Becker (NACAA) reported that NACAA is required to submit its two-year grant application for FY 2014-2015 activities immediately following the Spring Membership Meeting. Prior to submitting it, Board approval of the proposed grant amounts is necessary.

Bill explained that the dues amounts for each state for the first year, FY 2014, of the new grant period were distributed to NACAA members last fall and again in April 2013. The dues amounts reflect the membership's decision that NACAA should implement the phase-in of the new dues structure – based on section 105 grant distribution – but that in the first year no agency would pay more than in the previous year. As a result, the grant request for the first

year of the upcoming grant (FY 2014) would represent a reduction from the year before and a shortfall of \$50,000 to \$100,000 from what is needed. He noted that he would seek funding from outside sources or, if necessary, ask for permission to use some NACAA treasury funds to bridge the gap. The grant request for the first year – FY 2014 – is approximately \$1.49 million.

For the second year of the grant – FY 2015 – Bill noted that NACAA is only required to submit a placeholder amount; the staff is requesting that the Board approve approximately \$1.6 million. While the requested FY 2015 grant amount represents a modest increase over the FY 2014 requested amount, it is still lower than any other NACAA grant since FY 2008. It is also still short of what is needed to operate the association, so NACAA would again have to seek outside funding.

NACAA is seeking data from EPA on FY 2012 section 105 grants in order to calculate the dues for the second year of the grant request. It is unlikely that NACAA can again promise states that no dues will increase in the second year of the phase-in of the new dues structure.

The members discussed some possible sources of outside funding that NACAA may investigate.

The Board voted unanimously to approve the requested grant amounts for FY 2014 and FY 2015. The Local Agency Board Members voted seven in favor, none opposed and no abstentions. The State Agency Board Members voted eight in favor, none opposed and no abstentions.

NACAA Investments

Bill Becker (NACAA) noted that he and the NACAA Co-Treasurers, Thomas Huynh (Philadelphia, PA) and Stu Clark (WA), had spoken about potential investments for a portion of NACAA's funds. Bill noted that they would report back to the Board with additional information at the Summer Board Meeting.

Adjourn

The NACAA Board of Directors and Committee Chairs Meeting was adjourned.

FINAL AGENDA

**NACAA
BOARD OF DIRECTORS AND COMMITTEE CHAIRS
SPRING MEETING**

May 5, 2013

**Hyatt Regency St. Louis at the Arch
St. Louis, Missouri
Gateway East**

7:00 a.m. – 8:30 a.m.	Continental Breakfast
8:30 a.m. – 8:45 a.m.	<u>Introductions and Review of Agenda</u>
8:45 a.m. – 9:00 a.m.	<u>Feedback from the Regions</u>
9:00 a.m. – 10:15 a.m.	<u>Committee Reports</u> 1. Agriculture 2. Air Toxics 3. Training 4. Emissions and Modeling 5. Enforcement 6. SIP Reform
10:15 a.m. – 10:30 a.m.	Break
10:30 a.m. – 11:30 a.m.	<u>Committee Reports</u> 7. Monitoring 8. New Source Review 9. Permitting 10. Program Funding 11. Criteria Pollutants 12. Mobile Sources and Fuels
11:30 a.m. – 12:00 p.m.	<u>Review of NACAA's Draft Section 111(d) Principles for Regulating GHGs from Existing Power Plants</u>
12:00 p.m. – 12:30 p.m.	<u>Finances</u> 1. Financial Reports 2. NACAA Grant—FY 2014/2015 3. NACAA Investments
12:30 p.m.	<u>Adjourn</u>