

MINUTES

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

Sunday, September 30, 2012

**Skamania Lodge
Adams Room
Stevenson, Washington**

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), Mike Bates (AR), Rick Brunetti (KS), Stu Clark (WA), Vince Hellwig (MI), Merlyn Hough (Springfield, OR), Thomas Huynh (Philadelphia, PA), Dave Klemp (MT), Lynne Liddington (Knoxville, TN), 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), Cory Chadwick (Cincinnati, OH), Mike Dowd (VA), Andy Ginsburg (OR), Larry Greene (Sacramento, CA), Ursula Kramer (Tucson, AZ), Barbara Lee (Healdsburg, CA), Bill O'Sullivan (NJ), John Paul (Dayton, OH), Nancy Seidman (MA), Eddie Terrill (OK) and Dick Valentinetti (VT). NACAA staff present included Bill Becker, Stephanie Cooper, Mary Sullivan Douglas, Misti Duvall, Monique Faye, Nancy Kruger and Amy Royden-Bloom. The meeting agenda is attached.

Feedback on NACAA Efforts to Address Commissioner Concerns

Dave Shaw (NY), NACAA Co-President, noted that the Board had committed to allot time during Board meetings for discussion of how NACAA's processes and procedures are working and what feedback members have shared with Board Members, Committee Chairs and staff. He noted that a couple of agencies had decided to leave NACAA in recent months and that several other states may opt to remain in NACAA while also joining the new association of air quality agencies that is being formed.

There was a discussion of how dues from local agency NACAA members are paid and how pass-through agencies and direct-funded (i.e., section 105 grants) agencies are handled. It was noted that methods for paying local dues vary by state, that this is a matter between a state and the local agencies within that state and that NACAA is not aware of how this is handled state by state. The members also discussed the role of local agencies in NACAA and several members noted that NACAA's by-laws explicitly ensure that the association cannot adopt a position unless a majority of the state agencies and a majority of the local agencies approve it; neither member group can compel an action without the support of the other.

Tad Aburn (MD), NACAA Co-Vice President, asked if the members believe that the process and procedure changes NACAA had adopted are helping to ensure that the members' opinions are heard, or if there are still concerns being expressed. Members noted that they have heard from agencies in their regions that the changes have been very helpful and good progress has been made. All agreed they should continue to communicate with the agencies in their regions.

Finally, there was a brief discussion of ways to help alert the membership to draft comment letters and their deadlines. Ideas included notifying members on the NACAA website and through emails or other communications.

NACAA Dues Structure

Bruce Andersen (Kansas City, KS), Co-Chair of the NACAA Program Funding Committee, reviewed NACAA's recent activities related to the association's dues structure. He noted that NACAA voted in June 2012 to change the dues structure to a formula based on the distribution of section 105 grants.

Andy Ginsburg (OR), Co-Chair of the NACAA Program Funding Committee, reviewed a table that listed previous dues and a preliminary calculation of the new dues that would fund NACAA's FY 2014 budget (collected in FY 2013, for most agencies), based on the first year of a five-year phase in of the new formula.

The members discussed again the situation related to local agencies' dues and the fact that states may address the payment of dues differently. They noted that different states have varying procedures for paying local dues and NACAA does not necessarily know how each state handles the matter. They discussed raising the issue of local payment of dues at a future meeting.

The members also discussed how the second year of the five-year phase in of the new dues formula would be treated. A question was raised regarding whether dues would be capped during the second year, as they will be during the first, or if they will continue to adjust toward the new formula. The members agreed that this should also be discussed at a future meeting.

Possible SIP Call Regarding Exemptions for Startup, Shutdown and Malfunction Emissions

Richard Stedman (Monterey, CA), Co-Chair of the NACAA Enforcement Committee, briefed the Board on a SIP call EPA may issue regarding exemptions in state SIPs for emissions from startup, shutdown and malfunctions (SSM). The Sierra Club filed a petition with EPA on June 30, 2011, alleging that 39 states had illegal exemptions for SSM emissions in their SIPs and requesting that EPA either 1) notify these states of these deficiencies in their SIPs and finalize a rule requiring the states to revise their SIPs to eliminate these exemptions (in other words, a SIP call) or 2) determine that EPA's approval of the SIPs with the SSM exemptions was in error and revise those approvals so that the SIPs are brought into compliance with the Clean Air Act or promulgate a FIP. He noted that EPA entered into a consent decree with Sierra Club providing that the agency would make a decision on the petition by August 31, 2012; this decision was delayed to October 1. Amy Royden-Bloom, NACAA Senior Staff Associate, contacted EPA last week asking whether EPA is poised to make any announcement but she did not yet receive a response. We should hear something from EPA shortly and will pass along whatever information is received. Attendees discussed the potential impact of an EPA decision on their respective states.

CSAPR: What Are Your Agency's Perspectives and Questions?

Tad Aburn (MD), Co-Chair of the NACAA Criteria Pollutants Committee, reminded members that the U.S. Court of Appeals for the District of Columbia Circuit had vacated and remanded EPA's Cross-State Air Pollution Rule (CSAPR) in August 2012 and that EPA has until Friday, October 5, 2012 to seek a rehearing. He then asked Board members and Committee Chairs to share their respective agencies' perspectives on the court decision and any concerns and thoughts they have regarding the situation. The group then engaged in an open discussion.

Concerns with EPA Air Enforcement Reporting Requirements

Eddie Terrill (OK), Co-Chair of the NACAA Enforcement Committee, described concerns about enforcement reporting that have come to light with EPA's effort to modernize the Air Facility System (AFS). Eddie and Amy Royden-Bloom (NACAA), along with NESCAUM Executive Director Arthur Marin and Senior Policy Advisor Lisa Rector, on September 18, 2012, met with representatives of the Office of Enforcement and Compliance Assurance (OECA) and the Office of Air and Radiation (OAR) to talk about these concerns. At the meeting, Eddie let OECA and OAR know that NACAA has been hearing for the past several months from the southeastern states and local agencies, NESCAUM states and California local agencies that they are concerned with how EPA is proceeding with AFS modernization and the underlying enforcement reporting requirements. Eddie reported that he advised EPA that these agencies were troubled that EPA was not listening to state and local concerns about enforcement reporting. Eddie told the Board and Chairs that EPA transmitted a proposal yesterday to him, his Co-Chair, Richard Stedman, and Amy for a process for moving forward to address these concerns; the proposal will be vetted with the entire Enforcement Committee. Eddie described the proposed structure OECA set out, with a steering committee and three workgroups consisting of EPA and state/local members. He also noted that EPA is advocating among environmental commissioners for electronic reporting, so if air directors have concerns with electronic reporting they should advise their commissioners.

Clean Cars, Clean Fuels and Transportation Issues

Barry Wallerstein (Los Angeles, CA), Co-Chair of the NACAA Mobile Sources and Fuels Committee, apprised the group that Margo Oge, long-time Director of EPA's Office of Transportation and Air Quality, was retiring as of October 1, 2012 and lauded Margo for her many accomplishments. He also told the group that Tom Cackette, Chief Deputy Executive Officer of the California Air Resources Board and a key figure in the national mobile source program, would retire at the end of the year. Barry then indicated that four issues high on the Committee's agenda are 1) Tier 3, 2) California's waiver request, 3) the North American Emission Control Area (ECA) and 4) implementation of MAP-21. He asked NACAA Executive Director Bill Becker and Deputy Director Nancy Kruger to provide updates on these issues.

On federal Tier 3 vehicle and fuel standards, Bill reported that proposal of the rule would likely be after the election. He reminded members of all the work NACAA has done on this issue, including publishing a report in October 2011 on the costs and benefits of the Tier 3 program and several members remarked on the critical importance of the Tier 3 rule to state and local air programs.

Nancy reported to members on the September 19, 2012 EPA hearing on California's request for a waiver of federal preemption to enforce its Advanced Clean Car program. She provided NACAA's testimony at that hearing, in support of California's request.

Nancy also updated the group on the status of the North American Emission Control Area (ECA) including that the first phase of low-sulfur marine fuel requirements had taken effect on August 1, 2012 with no fuel shortage problems. In addition, EPA has been working to provide flexibility in instances that are consistent with the IMO treaty provision that allows EPA to agree to “equivalent measures” in the ECA. The population-weighted averaging scheme that the cruise line industry is seeking to affect through a congressional rider is not, however, an “equivalent measure.” The pilot program being advocated for by the Cruise Lines Industry Association did not make it into the Senate-passed Coast Guard authorization bill, but the House has not yet acted on this legislation, so we will stay tuned during the lame duck session.

Finally, Nancy advised members of several issues related to implementation of the new transportation law – Moving Ahead for Progress in the 21st Century – of potential concern to state and local air agencies: 1) the law allows for 50 percent of Congestion Mitigation and Air Quality Improvement (CMAQ) funds to be flexed out to other transportation programs, 2) states and localities are now required to provide a 20-percent match for CMAQ funds and 3) states and metropolitan areas with a population over 1 million must now set emission reduction targets, raising the question of whether and how these targets will be consistent with SIP goals.

Air Regulator Dialogue on Energy Efficiency Savings

Amy Royden-Bloom (NACAA) described a process that NACAA is looking to convene that would include EPA technical assistance and, potentially, contractor support. She said that state and local air regulators around the country are exploring opportunities to account for energy-efficiency (EE) policies and programs in their SIP submittals. There are a number of key questions air regulators have about EE and calculating EE savings that need to be addressed in order to fully incorporate the benefits of EE into air quality planning. The need for good EE data and for accounting for the benefits of EE in the air quality world was emphasized at the NACAA, NASEO and NARUC meeting in July 2012, in Washington, DC. As a follow-up to that meeting, NACAA is exploring convening an Air Regulator Dialogue on EE Savings Estimates. The goal of the Air Regulator Dialogue would be to help air regulators 1) understand how to calculate and use EE savings estimates; 2) know how to use available tools and resources to support EE accounting in SIPs; 3) be aware of experience and examples from other jurisdictions; and 4) know where to go for more information and whom to call to get questions answered. She said that NACAA was waiting to hear whether EPA would provide technical assistance and contractor support. Attendees provided positive feedback and encouraged NACAA staff to make the process simple.

NACAA Finances and Future Funding Needs

Bill Becker (NACAA) presented and explained the NACAA financial statements, including those covering the association’s non-federal funds and the operating grant (through August 31, 2012). He also outlined NACAA’s proposed budget for FY 2014, which will be slightly lower than FY 2013 due to a reduction in dues revenue because of a few states leaving the association at the end of the current year. The FY 2014 budget was unanimously approved by the State Agency Members and by the Local Agency Members of the NACAA Board of Directors.

Future NACAA Meeting Locations

Bill Becker (NACAA) indicated that the 2013 Spring Membership Meeting would be held May 6-8, 2013, at the Hyatt Regency St. Louis at the Arch. The 2013 Winter Board and Committee Chairs Meeting will be held January 26-28, 2013 likely in the Orlando area and the 2013 Fall Membership Meeting will likely be held in Baltimore, Maryland. Other meeting dates and locations will be sent out as they become available.

New Business

There was no new business.

Adjourn

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

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AGENDA

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| 7:00 a.m. – 9:00 a.m. | Buffet Breakfast |
| 8:30 a.m. – 8:45 a.m. | <u>Introductions and Review of Agenda</u> |
| 8:45 a.m. – 9:15 a.m. | <u>Feedback on NACAA Efforts to Address Commissioner Concerns</u> |
| 9:15 a.m. – 9:45 a.m. | <u>NACAA Dues Structure</u> |
| 9:45 a.m. – 10:00 a.m. | <u>Possible SIP Call Regarding Exemptions for Startup, Shutdown and Malfunction (SSM) Emissions</u> |
| 10:00 a.m. – 10:15 a.m. | Break |
| 10:15 a.m. – 10:30 a.m. | <u>CSAPR: What Are Your Agency's Perspectives and Questions?</u> |
| 10:30 a.m. – 11:00 a.m. | <u>Concerns with EPA Air Enforcement Reporting Requirements</u> |
| 11:00 a.m. – 11:15 a.m. | <u>Clean Cars, Clean Fuels and Transportation Issues</u> |
| 11:15 a.m. – 11:30 a.m. | <u>Air Regulator Dialogue on Energy Efficiency Savings</u> |
| 11:30 a.m. – 12:00 p.m. | <u>NACAA Finances and Future Funding Needs</u> |
| 12:00 p.m. – 12:15 p.m. | <u>Future NACAA Meeting Locations</u> |
| 12:15 p.m. – 12:30 p.m. | <u>New Business</u> |
| 12:30 p.m. | Adjourn |