

MINUTES

**NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES
BOARD OF DIRECTORS AND COMMITTEE CHAIRS
2008 SUMMER MEETING**

August 2-4, 2008

**Hilton Portland & Executive Tower
921 SW Sixth Avenue
Portland, Oregon 97204**

I. Introduction and Review of the Agenda – Saturday, August 2, 2008

The NACAA Board of Directors and Committee Chairs 2008 Summer Meeting was called to order. Meeting attendees introduced themselves. Those in attendance included NACAA Co-Presidents Andy Ginsburg (OR) and Ursula Kramer (Tucson, AZ), as well as Arturo Blanco (Houston, TX), Colleen Cripps (NV), Mary Boyer (CA), Cory Chadwick (Cincinnati, OH), Stu Clark (WA), Bob Colby (Chattanooga, TN), Joyce Epps (PA), Andy Ginsburg (OR), Anne Gobin (CT), Larry Greene (Sacramento, CA), Vince Hellwig (MI), Merlyn Hough (Springfield, OR), Lynne Liddington (Knoxville, TN), Dennis McLerran (Seattle, WA), Brock Nicholson (NC), Bill O’Sullivan (NJ), Keith Overcash (NC), John Paul (Dayton, OH), Richard Steadman (Olympia WA), Eddie Terrill (OK), Paul Tourangeau (CO), Mary Uhl (NM) and Dick Valentinetti (VT). Bob Elliott (Vancouver, WA), attended the meeting on Monday, August 4. NACAA staff in attendance included Bill Becker, Nancy Kruger, Mary Sullivan Douglas and Amy Royden-Bloom.

II. NACAA Recommendations for the Next Administration – Saturday, August 2, 2008

Bill Becker (NACAA) raised with the group the concept of NACAA developing for the next presidential administration a set of recommendations focusing on important policy issues. Following a discussion, the members agreed that the NACAA staff should pursue development of such a set of recommendations and work with the Committee Chairs as they do so and investigate the best time for discussing NACAA’s recommendations with EPA staff. It was also suggested that we apprise the Environmental Council of the States of this effort.

III. Global Warming - Saturday, August 2, 2008

Status of Federal Legislation

Global Warming Committee Co-Chair Stu Clark (WA) provided a status report on federal climate legislation. He noted that the Lieberman-Warner bill reached the Senate floor, but the Democrats were unsuccessful in invoking cloture. Congressman John Dingell (D-MI), Chairman of the House Energy and Commerce Committee, has been writing a series of white papers on global warming, which may culminate in his introducing legislation this fall. However, given the

forthcoming election and the very short period of time during which Congress will be in session in the fall, it is likely there may not be any action on federal climate legislation until spring 2009.

Status of California Waiver Litigation

Mobile Sources and Fuels Committee Co-Chair Dennis McLerran (Seattle, WA) provided an update on NACAA's participation as an *amicus curie* in the California waiver litigation. There are two main issues: the importance of the California motor vehicle standards in giving states and localities flexibility in reducing greenhouse gas (GHG) emissions and the federal/state imbalance of power created by EPA's denial of the waiver.

The Role of States and Localities in a Federal Climate Change Program

Andy Ginsburg (OR), Co-President of NACAA, noted that because global warming will be a key issue in the next Congress, NACAA needs to be prepared to present its views. Stu Clark said there are a huge number of issues in the legislation and thousands of stakeholders, so NACAA must identify its "niche," which is state and local roles and rights. More specifically, the association needs to define the role of states and localities in implementing a national (federal) climate change program, and to advocate for the preservation of state and local rights to set more stringent standards for reducing GHG emissions. Larry Greene (Sacramento, CA), Co-Chair of the Global Warming Committee, noted that preemption goes against 40 years of precedent in environmental law and treads on traditional areas of local responsibility, and that local governments have more tools to deal with climate change. There was a lively discussion of this issue, after which the group agreed that NACAA should 1) develop a narrative explaining how legislative language to preserve states' rights to go beyond the federal program would compliment, not disrupt, the federal program and help better define the state/local role in day-to-day implementation and 2) develop legislative language to preserve states' rights to go beyond the federal program and to codify state/local implementation roles.

IV. Advance Notice of Proposed Rulemaking on Regulating Greenhouse Gas Emissions under the Clean Air Act: EPA Briefing and Open Discussion – Saturday, August 2, 2008

Nancy Ketcham-Colwill and Jim Ketcham-Colwill of EPA's Office of Air and Radiation joined the group by telephone to provide a briefing on the agency's Advance Notice of Proposed Rulemaking (ANPR) on regulating GHGs under the Clean Air Act. Nancy explained that the ANPR presents the latest science with respect to endangerment, reviews the most up-to-date information available on options for reducing GHGs from mobile sources and outlines the Clean Air Act authorities that might be applied to GHGs. Nancy stressed that this is not a proposal, but, rather, a "soup-to-nuts" review of authorities and options. She also highlighted some of the key issues on which EPA seeks comment. Jim then highlighted key issues relevant to the regulation of GHGs from stationary sources. Following the briefing, the group engaged in open discussion and Q&A.

V. Court Decision Vacating CAIR – Saturday, August 2, 2008

Sam Napolitano (EPA CAMD) briefed attendees by telephone on the court decision to vacate the Clean Air Interstate Rule (CAIR). He said that EPA and the Department of Justice are considering their options, including filing a petition for rehearing, which would be due by August 25, 2008. Until the court issues its mandate, making the vacatur official, CAIR is still in

effect and EPA is considering its options. He said all options are on the table, including a legislative “quick fix.”

After Sam left the call, Lorie Schmidt, Counsel to Congressman John Dingell (D-MI), Chairman of the House Energy and Commerce Committee, joined the meeting by telephone. She said that there is very little time for Congress to act this year: the House may only be in session for two to four weeks in the fall and may not come back for a lame duck session. Even if all stakeholders agree on legislative language, this is a “heavy lift” – any one Senator could stop the legislation since unanimous consent will be needed for it to pass. What is being considered is codification of Phase 1 only of CAIR, for a limited time period (three to five years), with a provision precluding EPA from finalizing the NSR hourly rule until after February 1, 2009 (because the hourly test is heavily based on CAIR). Attendees discussed the pros and cons of this proposal and noted that the court decision seemed to exclude Minnesota from CAIR. There was overwhelming support for legislative codification of CAIR Phase 1 for a limited period of time (three to five years), probably excluding Minnesota, with or without preclusion of action to approve NSR annual to hourly until February 1, 2009 either with or without the NSR preclusion.

Brock Nicholson (NC), Co-Chair of the Criteria Pollutants Committee, described a potential NACAA effort that would complement the legislative path. NACAA would develop a model rule, policy or guideline that states could use to put nitrogen oxide and sulfur dioxide controls in places (if they so desire), using the same process as used for the boiler MACT, with a NACAA workgroup. There was widespread support for this idea.

VI. Program Funding – Sunday, August 3, 2008

Status of FY 2009 Budget

Mary Sullivan Douglas (NACAA) provided an update on the status of the FY 2009 appropriations process. The members discussed briefly the benefits of contacting individual members of Congress to request additional federal grants for state and local air agencies.

Update on EPA Development of New Allocation Formula

Andy Ginsburg, Co-Chair of the NACAA Program Funding Committee, reported that the EPA workgroup that is developing an updated formula for allocating Section 105 grants among the regions has developed a draft set of criteria and factors for distributing the funds. He reviewed the draft recommendations that the EPA workgroup had developed and the members discussed some of the possible ramifications. They also identified elements about which they had questions. Andy noted that the EPA workgroup still needs to brief upper level management and that the criteria he reviewed are not yet final. It was agreed that the Program Funding Committee Co-Chairs would follow-up with EPA to gather more information.

Andy stated that EPA must also develop a process for implementing the new reallocation scheme. He asked the members to consider whether NACAA wishes to be involved in that process and who from the association should serve on the workgroup. After a discussion, the members agreed that NACAA should participate in the discussions and that the same workgroup that represented the association in the earlier reallocation discussions with EPA should continue to work on the issue. The workgroup should include several substitutions for members who have retired and to integrate the new NACAA Co-Presidents into the process.

The members also discussed the importance of flexibility within the allocation process, especially with respect to how the funds are distributed by the regions to the state and local agencies. They further emphasized the importance of ensuring that the distribution to state and local agencies includes a minimum allocation to each agency that is sufficient to maintain their respective operations.

Future Funding Needs

Andy recommended that NACAA develop an updated analysis of funding needs for state and local air agencies. The group agreed that the analysis NACAA has relied on in the past – the “Sagamore Study” – is now out of date. An updated needs study would be useful in discussing funding requirements with a new administration. Ideally, such a study would be completed by spring 2009.

Following a discussion, the members agreed that NACAA should undertake a survey and analysis, possibly with the assistance of a contractor. The survey should ask state and local agencies how much more funding they would need and how they would use the additional funds. Several members volunteered to assist in developing the survey, including Larry Greene (Sacramento, CA), Bruce Andersen (Kansas City, KS), Andy Ginsburg (OR), John Paul (Dayton, OH), Shelley Kaderly (NE), Colleen Cripps (NV), Mary Uhl (NM) and Joyce Epps (PA).

VII. Regional Hot Topics: Regional Reports on Issues of Importance to States and Localities – Sunday, August 3, 2008

Dick Valentinetti, VT (Region 1) and Bill O’Sullivan, NJ (Region 2) gave a joint presentation. Their regions’ priorities include 1) climate change; 2) ozone, including high electric demand days; 3) PM; 4) mercury; 5) wood and biomass combustion; 6) California-LEV; 7) air toxics; 8) opacity; and 9) diesel retrofits.

Joyce Epps (PA) presented Region 3’s priorities, which include 1) the implications of the CAIR vacatur, especially on PM_{2.5} attainment demonstrations; 2) EPA’s position on the Section 105 work plans and the delegation of MACT standards; 3) the need for PM_{2.5} offsets; 4) funding concerns; 5) continuation of the NO_x Budget Program; and 6) mercury, since the benefits of CAIR are gone.

Keith Overcash (NC) reviewed hot topics in Region 4. They include 1) funding; 2) the CAIR vacatur; 3) concern about the legal competency of EPA, since so many of EPA’s rules are being vacated or remanded by the courts; 4) area source MACT and the EPA threat to withhold funding if states do not implement; 5) maintenance of effort and matching funds; 6) mercury with vacatur of CAIR; and 7) greenhouse gas (GHG) emissions.

Region 5’s priorities were presented by Vince Hellwig (MI) and John Paul (Dayton, OH). They include 1) GHG emissions, especially PSD/permitting considerations because of the number of sources; 2) the CAIR vacatur; 3) concern that plants being built will violate the PM_{2.5} NAAQS; 4) ammonia controls, as certain areas may be ammonium nitrate or ammonium sulfate limited in terms of PM_{2.5} formation; 5) getting sued on PSD permits; and 6) cement kilns.

Mary Uhl (NM) reviewed hot topics in Region 6: 1) vacatur of CAIR and CAMR – what is the status of electric utility controls of nitrogen oxides, sulfur dioxides, mercury and GHGs?; 2) funding; 3) the new ozone NAAQS, with several new nonattainment areas in rural areas; 4) how to monitor for lead; and 5) revisions to the Clean Air Act, with respect to climate change. Arturo

Blanco (Houston, TX) added that another priority is problems with the AP-42 emission factors, especially with respect to air toxics.

Region 7's hot topics were listed by Shelley Kaderly (NE). They include 1) the need for support for additional training, with the new NAAQS, new implementation rules and new lead monitors; 2) disaster response; 3) the first new petroleum refinery, which, though located in South Dakota, affects Iowa and Nebraska; 4) and issues with ethanol plants.

Paul Tourangeau (CO) presented Region 8's priorities. They include 1) the new ozone standard, which will be hard to meet in the region and is a regional issue; 2) energy development and impacts on air quality; 3) regional haze; 4) Region 8's significant SIP backlog; 5) emissions from biomass-burning devices such as outdoor wood boilers and the Fuels for Schools program; and 6) area source MACTs, particularly how to manage implementation of these.

Region 9's hot topics were reviewed by Ursula Kramer (Pima County, AZ): 1) funding; 2) SIPs, including regional haze, ozone and lead; 3) preservation of state and local rights; and 4) GHGs, which are woven into all three issues listed above.

Finally, Andy Ginsburg (OR) listed Region 10's priorities: 1) PM_{2.5} nonattainment areas, which in many cases are due to very local problems like woodstoves; 2) GHGs and the impact of global warming; 3) tribes, scenic and Class 1 areas and cultural issues; and 4) area source NESHAPs.

All attendees agreed that this was a valuable discussion.

VIII. Update on Mercury Issues – Sunday, August 3, 2008

John Paul (Dayton, OH) provided an update on issues related to mercury. He noted that EPA is in the process of deciding whether to appeal the court's vacatur of the Clean Air Mercury Rule. John also reported that state and local agencies that have participated in NACAA's monthly mercury calls have expressed an interest in retaining the Part 75 monitoring provisions that pertained to mercury monitoring. He stated that EPA and NESCAUM are working on a model protocol related to CEMS for mercury. John also indicated that it would be beneficial to have data related to mercury from utilities for use by state and local agencies and by EPA when the agency develops a new MACT standard.

IX. Approval of Proposed Slates for NACAA Board of Directors – Monday, August 4, 2008

The Local Group of the NACAA Board of Directors approved, by a vote of 5 to 0, the proposed slate of local nominees for the NACAA Board of Directors, to be forwarded to the membership for consideration:

Co-President – Arturo Blanco (Houston, TX)
Co-Vice President – Larry Greene (Sacramento, CA)
Co-Treasurer – Lynne Liddington (Knoxville, TN)
Director – James Hodina (Cedar Rapids, IA)
Director – Merlyn Hough (Springfield, OR)
Director – Cindy Kemper (Johnson County, KS)
Immediate Past President – Ursula Kramer (Tucson, AZ)

The State Group of the NACAA Board of Directors approved, by a vote of 8 to 0, the proposed slate of state nominees for the NACAA Executive Committee and Immediate Past President:

Co-President – Colleen Cripps (Nevada, Region 9)

Co-Vice President – Vinson Hellwig (Michigan, Region 5)

Co-Treasurer – Joyce Epps (Pennsylvania, Region 3)

Immediate Past President – Andrew Ginsburg (Oregon, Region 10)

The remaining regions of the country will each add their respective nominee to the slate before the slate is distributed to the membership for consideration.

NACAA will hold its annual election of the Board of Directors on Tuesday, October 21, 2008 in Tempe, Arizona.

X. NACAA Meetings – Monday, August 4, 2008

Development of Agenda for 2008 Fall Membership Meeting

The Board and Committee Chairs discussed agenda topics for the 2008 Fall Membership Meeting, to be held in Tempe, Arizona. The session topics on which the group agreed included innovative strategies for VMT control and land-use planning; state and local initiatives to combat global warming; tribal air quality programs; the latest on CAIR, NAAQS and regional haze; a conversation with OAR senior management; a federal enforcement update; a screening of the film, *The Search for One Clean Breath*; and an update on EPA's funding reallocation initiative.

Update on Future Meeting Locations and Dates

Bill Becker apprised the group of the arrangements under way for the 2008 Fall Membership Meeting, which will take place in Tempe, Arizona. The group then agreed to hold the 2009 Winter Board and Committee Chairs Meeting in New York City, the 2009 Spring Membership Meeting in New Orleans and the 2009 Summer Board and Committee Chairs Meeting in San Francisco. Looking ahead, all agreed that the 2010 Fall Membership Meeting should be held in Washington, DC, to commemorate the 30th anniversary of the establishment of a NACAA national headquarters.

XI. NACAA Finances – Monday, August 4, 2008

Bill Becker (NACAA) reviewed the financial reports for the NACAA grant and the association's non-federal funds. He reported that NACAA's finances are in order. The association's accountants suggested that some of the non-federal funds be invested so as to reap a higher return than the association currently gets. Additionally, he reported that there are several special projects for which NACAA will likely use any as-yet unexpended funds during the upcoming fiscal year.

With respect to possible additional investment options for NACAA to pursue, the members discussed the risks and benefits of various scenarios. Following a discussion, the members agreed that 75 percent of NACAA's non-federal funds should remain in less aggressive accounts (e.g., Certificates of Deposit and bonds), while 25 percent should be invested in a mixture of equity and mutual funds. Of that 25 percent, one-half should be invested in "green" accounts.

XII. New Business – Monday, August 4, 2008

Update to NACAA Headquarters Salary Survey

Ursula Kramer apprised the group that the Compensation Committee was moving ahead to review and update the NACAA headquarters staff salary survey, conducted in 2005. Upon the completion of the survey in 2006, the Compensation Committee committed to updating the survey in three years.

XIII. Adjourn

The NACAA Board of Directors and Committee Chairs 2008 Summer Meeting was adjourned.

FINAL AGENDA

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

August 2-4, 2008

**Hilton Portland & Executive Tower
921 SW Sixth Avenue
Portland, Oregon 97204**

Saturday, August 2, 2008

8:00 a.m. – 8:30 a.m.	Registration and 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>NACAA Recommendations for the Next Administration</u>
9:15 a.m. – 10:00 a.m.	<u>Global Warming</u> <ul style="list-style-type: none">• Status of Federal Legislation• Status of California Waiver Litigation• The Role of States and Localities in a Federal Climate Change Program
10:00 a.m. – 10:30 a.m.	Break
10:30 a.m. – 11:15 a.m.	<u>Advance Notice of Proposed Rulemaking on Regulating Greenhouse Gas Emissions under the Clean Air Act – EPA Briefing and Open Discussion</u> <i>Nancy Ketcham-Colwill and Jim Ketcham-Colwill (EPA OAR) (by teleconference)</i>
11:15 a.m. – 12:30 p.m.	<u>Court Decision Vacating CAIR</u>
12:30 p.m.	Lunch

Sunday, August 3, 2008

8:00 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 9:45 a.m.	<u>Program Funding</u> <ul style="list-style-type: none">• Status of FY 2009 Budget• Update on EPA Development of New Allocation Formula• Future Funding Needs
9:45 a.m. – 10:15 a.m.	Break
10:15 a.m. – 12:00 noon	<u>Regional Hot Topics: Regional Reports on Issues of Importance to States and Localities</u>
12:00 noon – 12:15 p.m.	<u>Update on Mercury Issues</u>
12:15 p.m.	Lunch

Monday, August 4, 2008

8:00 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 8:45 a.m.	<u>Approval of Proposed Slates for NACAA Board of Directors</u>
8:45 a.m. - 9:45 a.m.	<u>NACAA Meetings</u> <ul style="list-style-type: none">• Development of Agenda for 2008 Fall Membership Meeting Agenda• Update on Future Meeting Locations and Dates
9:45 a.m. – 10:15 a.m.	Break (and check-out)
10:15 a.m. – 10:45 a.m.	<u>NACAA Finances</u> <ul style="list-style-type: none">• Presentation of Financial Statements• Discussion of Alternative Investment Options to Variable Annuities
10:45 a.m. – 11:00 a.m.	<u>New Business</u>
11:00 a.m.	Adjourn

(July 28, 2008)