

MINUTES

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

July 25-27, 2009

**The Palace Hotel
2 New Montgomery Street
San Francisco, CA**

I. Introductions and Review of Agenda – Saturday, July 25, 2009

NACAA Co-President Arturo Blanco called the meeting to order and welcomed attendees. NACAA Co-President Colleen Cripps (NV) reviewed the agenda. Board members present included Arturo Blanco (Houston, Texas), Colleen Cripps (NV), Joyce Epps (PA), Andy Ginsburg (OR), Anne Gobin (CT), Larry Greene (Sacramento, CA), Vince Hellwig (MI), Cheryl Heying (UT), Jim Hodina (Cedar Rapids, IA), Merlyn Hough (Springfield, OR), Jim Kavanaugh (MO), Cindy Kemper (Johnson County, KS), Ursula Kramer (Tucson, AZ), Lynne Liddington (Knoxville, TN), John Lyons (KY) and Bill O’Sullivan (NJ). Committee Chairs (who are not also Board Members) present included Mary Boyer (CA), Cory Chadwick (Cincinnati, OH), Stu Clark (WA), Bob Colby (Chattanooga, TN), Dennis McLerran (Seattle, WA), John Paul (Dayton, OH), Nancy Seidman (MA), David Shaw (NY), Richard Stedman (Monterey, CA), Eddie Terrill (OK) and Dick Valentinetti (VT). NACAA staff in attendance included Bill Becker (Executive Director), Mary Stewart Douglas (Senior Staff Associate), Mary Sullivan Douglas (Senior Staff Associate) and Nancy Kruger (Deputy Director); Amy Royden-Bloom (Senior Staff Associate) participated in a portion of the meeting by telephone. Eric Stevenson (San Francisco, CA) also attended for a portion of the meeting. A copy of the meeting agenda is attached.

II. Climate Legislation – Saturday, July 25, 2009

Amy Royden-Bloom (NACAA) provided an update on the status of climate legislation in Congress. The House passed legislation in June and NACAA testified in support of the legislation and suggested changes to strengthen the bill. With action now needed in the Senate, NACAA plans to send a letter to Senate leaders supporting the House-passed bill but suggesting some modifications.

Amy, Mary Stewart Douglas (NACAA) and Nancy Kruger (NACAA) then reviewed the main points NACAA would like to make in its letter to the Senate: 1) retain the framework of an economy-wide program, including such components as strong emissions limits and a cap-and-trade program; 2) strengthen offset provisions, including for agriculture and forestry; 3) preserve state and local authorities, including delineating specific implementation roles for states and localities and authorizing funding for state/local implementation efforts; 4) retain important Clean Air Act programs for new and existing sources inside and outside the cap; 5) include a Low Carbon Fuel Standard and support the inclusion of indirect emissions in lifecycle greenhouse gas emissions analyses; 6) strengthen the transportation planning provisions; and 7) strengthen

the Renewable Electricity Standard. The Board discussed the points and endorsed them. They also emphasized how important it is that state and local air agencies have a role in implementing the legislation, including a specific requirement that EPA work with state and local air agencies *as equals* (rather than as stakeholders) in implementation. The Board agreed on the points to be raised in the letter and that the staff will draft the letter.

III. Regulating Greenhouse Gases under the Clean Air Act – Saturday, July 25, 2009

Bill Becker (NACAA) provided a summary of EPA's plans for regulating greenhouse gases (GHGs) under the Clean Air Act. Bill also noted that NACAA had completed a survey regarding the training and funding needs that would be associated with state and local air agencies permitting GHG sources at the current emissions levels in the Act. The survey will likely assist EPA with its anticipated legal approach to regulating at the 25,000-ton-per-year level for GHGs.

IV. Criteria Pollutants – Saturday, July 25, 2009

Amy Royden-Bloom (NACAA) provided an update on NACAA's transport modeling project, which the Board had discussed previously, to conduct modeling to assist states in the eastern region of the U.S. in addressing transport. She reported that NACAA is poised to move forward with its modeling now that the State Collaborative Group – a joint effort of the Ozone Transport Commission (OTC) and the Lake Michigan Air Directors' Consortium (LADCO), with some participation by southeastern states – has completed its modeling. (NACAA waited until the State Collaborative Group had finished its modeling so as to not interfere with OTC and LADCO's efforts to develop joint recommendations on reduction levels for power plants.) Amy said that NACAA's goal is to provide a suggestion to EPA of what level of reductions and which sectors it should include in a CAIR Replacement Rule in order to reduce transported emissions in the East, for both the 1997 and 2006/2008 ozone and PM_{2.5} standards. This is a "what-if" exercise rather than SIP-quality modeling.

Amy then reported on EPA's possible reconsideration of the 2008 ozone standard. EPA is considering two options. One option is to continue moving forward with implementation of the 0.075 ppm standard but speed up the review of the standard, which NACAA supported in its recommendations to the new administration. The other option is to reconsider the 0.075 ppm standard. Under this option, EPA would state that the 0.075 ppm standard is deficient and reconsider the standard using the same administrative record that was used for the 0.075 ppm standard. There was a discussion about these options, with concerns expressed about the upcoming March 2010 designations, the need to support the science, and the need, as the NAAQS get lowered, for new federal initiatives to support state and local reduction efforts. The Board agreed to continue advocating its original recommendation to move forward with implementing the 0.075 ppm standard while accelerating the review of the standard.

Lynne Liddington (Knoxville, TN), Co-Chair of the NACAA Criteria Pollutants Committee, discussed EPA's proposal for revising the nitrogen dioxide (NO₂) NAAQS. The proposal was published in the *Federal Register* on July 15, 2009, two public hearings will be held and comments are due by September 14, 2009. EPA is proposing to establish a new one-hour NO₂ standard at a level between 80 and 100 parts per billion (ppb). EPA is also proposing to retain the current annual average NO₂ standard of 53 ppb. This is consistent with the recommendations of the Clean Air Scientific Advisory Committee (CASAC), which recommended that EPA set a one-hour standard at a level no higher than 100 ppb and opined that the evidence is too limited to suggest any change to the level of the annual average

standard. (The proposed monitoring plan for the standard was discussed during the Monitoring Committee's report later in the meeting).

V. Training – Saturday, July 25, 2009

Arturo Blanco (Houston, TX), Co-Chair of the NACAA Training Committee, said the Committee was concerned about the lack of EPA funding for training and the lack of a centralized body responsible for national training. Mary Boyer (CA), Co-Chair of the NACAA Training Committee, proposed that NACAA send a letter to EPA requesting more funding for training, one full-time equivalent devoted to training and for EPA to be a full partner in implementing the National Training Strategy. After a discussion, the Board agreed that these concerns about training should be conveyed to EPA Assistant Administrator Gina McCarthy in a more comprehensive letter that will cover a number of issues of concern for the association.

VI. Air Toxics – Saturday, July 25, 2009

Electric Arc Furnace MACT – Vince Hellwig (MI), Co-Chair of the NACAA Air Toxics Committee, reported on the status of the development of EPA's area source rule for Electric Arc Furnaces. He noted that provisions of the existing rule related to the switch removal program are deficient and that EPA has decided to reopen and amend the regulation.

Lesser Quantity Cut-offs – Vince reported that the Quicksilver Caucus and ECOS have begun discussing the idea of a lesser quantity cut-off for mercury, whereby sources emitting some amount less than 10 tons per year (e.g., 25 pounds per year) would be considered a major source. He noted that Florida raised the issue and ECOS is interested in discussing the idea further. The members discussed some of the ramifications of a new cut-off. Several members said the idea was interesting, but that they would need more information before determining if they could support it.

Portland Cement MACT – Vince reported that there are two plants in Oregon and California that would be unlikely to meet the requirements of the proposed Portland Cement MACT, due to the high mercury content of the ore they use. Andy Ginsburg (OR) noted that his state may recommend the establishment of a subcategory for plants in that position, since the adverse environmental effects of a plant closure and the resulting importation of cement would be worse.

VII. Funding – Sunday, July 26, 2009

Andy Ginsburg (OR), Co-Chair of the NACAA Program Funding Committee, provided a status report on several funding issues. He noted that Congress was in the process of adopting FY 2010 appropriations legislation and both houses were calling for an increase of \$2.5 million above FY 2009, for a total of \$226.6 million. With respect to FY 2011, Andy reported that NACAA is requesting an increase of \$100 million above FY 2009 levels (for a total of \$326 million), which is consistent with the recommendations of ECOS. He emphasized the importance of obtaining increases in the President's request, rather than waiting for Congressional action.

Andy reported on a meeting among NACAA leadership and Gina McCarthy, the new EPA Assistant Administrator of the Office of Air and Radiation, to discuss funding needs. NACAA recommended an increase of \$100 million in FY 2011 and offered to help EPA secure this amount. Following the meeting, NACAA sent a letter to Gina reiterating the recommendations; EPA has not yet responded.

The members discussed how to emphasize to EPA the need for additional federal grants for state and local air agencies. They noted that some agencies may need to turn back programs if additional funds are not available. It was suggested that the state members discuss this concern with their environmental commissioners and request that they raise it with the EPA Administrator.

Andy noted that funding for the Regional Planning Organizations (RPOs) is inadequate. NACAA had drafted a letter to EPA requesting additional funds and suggesting an expansion of the role of the RPOs beyond regional haze. The members discussed whether there should be a separate letter on the RPO issue, or whether to include the RPO funding issue in the letter to Gina McCarthy discussed earlier in the meeting, articulating the top issues of concern discussed at this Board/Committee Chair's meeting. They ultimately decided to send the RPO letter as drafted and also to include the RPO issue in the comprehensive letter to Gina McCarthy.

Andy provided a status report on the reallocation of Section 105 grants. He noted that reallocating the grants without significant additional funds would cause some agencies to lose resources, which is one of NACAA's major concerns. He reported that NACAA put its discussions about the implementation of the reallocation scheme on hold in order to concentrate on securing additional grant funds in FY 2011 which would, among other things, facilitate a redistribution of grants. The question the Board needs to decide is whether to participate in discussions about implementation without knowing whether there will be significant increases in FY 2011 grants.

Following a discussion about whether the association should continue to participate in the implementation of a reallocation scheme, the members agreed to tell EPA that NACAA's participation is on hold until the association learns if the FY 2011 budget has been increased significantly. Until there are significant increases, NACAA will not participate in the reallocation effort. If there are significant increases, the association will consider rejoining the effort.

VIII. Monitoring – Sunday, July 26, 2009

Nitrogen Dioxide – Dick Valentinetti (VT) briefed the Board on the monitoring issues raised by the NO₂ NAAQS revisions. He stated that 165 near-road NO₂ monitors must be deployed if EPA's proposal is finalized, and 52 area-wide monitors will be located in communities. The \$18 million estimated by EPA to be needed is not very realistic, Dick said. Dick also noted that neither CASAC nor the CASAC Subcommittee on Ambient Air Monitoring and Methods has been consulted regarding the technical aspects of the proposed near-road network. In addition, numerous implementation issues have been raised, including the question of how – and whether – air pollution control agencies can address emissions from mobile sources. Eric Stevenson (San Francisco, CA), a member of the NACAA Monitoring Committee, said, in response to a question from Bill Becker, that nonattainment would likely be widespread.

Dick noted that a few monitors at representative sites should be sited in order for the science to be understood. He is also interested in whether nonattainment can be determined, as a legal matter, by modeling demonstrations. Several members stated that a near-roadway network should address toxics and diesel emissions. Monitors must be operational by January 2013, according to the proposed rule.

Ozone – Eric Stevenson summarized the proposed changes to the ozone monitoring network, including requirements to monitor cities of 50,000 to 350,000 people, to site three non-urban monitors per state to ascertain impacts on sensitive vegetation (and to meet other goals), and to monitor for longer time periods in 19 states, thus extending the ozone season. The members

discussed whether additional monitors are needed and if control strategies could begin without monitoring.

Discussion ensued about the cumulative impact on air agencies of the monitoring requirements

Lead and Air Toxics in Schools – Mary Stewart Douglas (NACAA) reported that EPA is reconsidering its lead monitoring requirements (promulgated last October). She said that it is anticipated that the agency will lower the threshold for lead source monitoring and raise the population-based monitoring. With regard to air toxics in schools, monitoring has been completed in only three schools, as many had not wanted to start monitoring until the school year had begun. Mary also said that data is being posted on an EPA web site in order for the agency to be as transparent as possible. NACAA will continue to closely track developments for lead and school air toxics.

IX. Enforcement – Sunday, July 26, 2009

Lisa Lund, Director of EPA's Office of Compliance, participating by speaker phone, gave a report on the four areas of deficiency that had been found through EPA's Round 1 State Review Framework, in which all states' and many localities' enforcement and compliance programs were evaluated by EPA. According to Lisa, air programs' areas of weakness involved data issues, high priority violator identification, timely and appropriate enforcement actions and penalties. She also noted that the EPA Administrator had requested in a letter to the Assistant Administrator (AA) of the Office of Enforcement and Compliance Assurance, Cynthia Giles, that she (the AA) require development of a plan that addresses similar weaknesses identified in the water program. The same planning is likely to be required to address problems in the air and waste programs.

Lisa was asked when the AIRS Facility System would be modernized, and responded that 2011 was projected, but that she is starting this now. The members emphasized to Lisa the need for state and local air programs to be closely involved with the response to the SRF Round 1. In addition, they told Lisa that issues not in the files obtained for the SRF should not be reviewed. Lisa said that EPA's suggested solutions to the SRF-identified problems (including, for example, training availability, Standard Operating Procedures and more frequent communications) will be available in September.

X. Mobile Sources and Transportation – Sunday, July 26, 2009

Dennis McLerran (Seattle, WA), Co-Chair of the NACAA Mobile Sources and Fuels Committee, apprised the members that the association would be commenting in support of EPA's proposed emissions and fuel standards for Category 3 (ocean-going) marine vessels, noting that the proposal parallels regulations adopted by the International Maritime Organization.

Nancy Kruger (NACAA) provided an update on congressional reauthorization of surface transportation legislation that is due to expire on September 30, 2009. Nancy explained that a Subcommittee of the House Transportation and Infrastructure Committee had approved, on June 25, 2009, a six-year, \$500-billion bill that would overhaul the surface transportation program, while the Senate Environment and Public Works Committee, on July 22, 2009, had approved a bill, consistent with the Administration's position, to extend the current legislation – SAFETEA-LU – by 18 months.

XI. Development of the Agenda for 2009 Fall Membership Meeting – Sunday, July 26, 2009

After discussion of a set of staff recommendations for the 2009 Fall Membership Meeting agenda, the group agreed that agenda items should include, among other things, sessions on toxic air pollution; the National Ambient Air Quality Standards; CAIR, transport and regional haze; air monitoring; public health; environmental justice; federal enforcement efforts; and an northeastern initiative facilitating states' abilities to move toward multi-pollutant planning. In addition, all agreed that Gina McCarthy, Assistant Administrator of EPA's Office of Air and Radiation, should be invited to participate in the meeting in an open discussion and question and answer session.

XII. NACAA Finances – Monday, July 27, 2009

Bill Becker reviewed financial information that had been distributed to the members regarding NACAA's non-grant funds. The members briefly discussed the fact that some agencies pay their dues directly to NACAA, while others contribute through the grant mechanism. Bill noted that there is administrative ease related to using the Section 105 grant process.

Bill explained the financial information related to the federal funds provided to operate NACAA. He noted that a portion of the funds NACAA receives from the states that are invoiced is put into the grant account.

Bill reported that NACAA will probably spend all the remaining funds in the grant account by the end of the fiscal year. It is likely, though, that NACAA will be in a position to subsidize some of the members' costs associated with attending the September 2009 membership meeting in Boston. The group then discussed whether members wanted to increase NACAA's budget in the future so that the association could subsidize members' meeting costs. It was agreed that Board Members would talk with their colleagues in other state and local air agencies and that the Board would discuss this issue again in the future.

XIII. Region 4 Recommendation for Funding NACAA Operating Budget – Monday, July 27, 2009

On behalf of the state and local agencies in Region 4, John Lyons (KY) raised a concern about the formula by which NACAA's dues are calculated. He noted that the dues are based upon population, while Section 105 grants are distributed according to a different formula. This results in the Region 4 agencies paying what they believe is a disproportionate share (i.e., 20 percent of the total of NACAA's dues, while receiving only 12 percent of the Section 105 grants). The Region 4 agencies agreed not to raise this as an issue for the NACAA grant proposal that was recently approved, but requested that it be raised for future budgets. The Region 4 agencies are proposing that future dues reflect the percentage each region receives in Section 105 grants, beginning in FY 2011 so that the structure for dues would be consistent with the distribution of Section 105 grants.

During the ensuing discussion, several members opposed the proposal, indicating that the distribution of Section 105 grants only reflects the federal mandates and not the state and local agencies' total programs. Additionally, the Section 105 breakdown does not mirror the activities, issues and projects on which the association spends its time. The use of the Section 105 grant mechanism is merely a convenience and not an indication of the association's priorities. One recommendation was to base the dues on the state and local agencies' total

budgets. Others indicated that population, while not perfect, is probably the best indicator to use. Other suggestions were to charge each agency the same amount or to establish three tiers of charges for small, medium and large agencies.

Since the matter did not need to be decided at the meeting, the members agreed to table it and address it again in the future, prior to the next NACAA grant application. In the meantime, Board Members and Committee Chairs agreed to discuss this issue with the other agencies in their respective regions and be prepared to provide their input when the topic is discussed again.

XIV. CAPCOA GHG Request – Monday, July 27, 2009

Larry Greene (Sacramento, CA) requested \$5,000 and the use of NACAA's name on a project being conducted by the California Air Pollution Control Officers Association (CAPCOA) to quantify the emissions reduction effectiveness of the GHG mitigation measures most commonly recommended for land use development projects. Larry indicated the project may also be expanded to include criteria pollutants and toxic air pollutants. After discussion of the request, the Board voted to authorize the expenditure and the use of NACAA's name, contingent on the receipt by CAPCOA of an appropriate bid on the project.

XV. Future Meetings – Monday, July 27, 2009

Bill Becker (NACAA) reviewed the schedule for upcoming NACAA Membership Meetings:

- 2009 Fall Membership Meeting – September 21-23, 2009 in Boston, MA
- 2010 Spring Membership Meeting – May 16-19, 2010 in Sacramento, CA
- 2010 Fall Membership Meeting and NACAA 30th Anniversary Celebration – October 17-20, 2010 in Washington, DC

Bill also noted the following tentative dates for future NACAA Board of Directors/Committee Chairs Meetings:

- 2010 Winter Board/Chairs Meeting – January 30-February 1, 2010
- 2010 Summer Board/Chairs Meeting – July 24-26, 2010

After a discussion of potential venues for the 2010 Winter Board/Chairs Meeting, the group decided that the NACAA staff should find the most cost-effective location in either Florida (possibly the Keys) or Arizona (possibly Tucson).

XVI. Board Approval of NACAA Nominees – Monday, July 27, 2009

The state members of the NACAA Board of Directors approved the following slate of officers and Board members for 2009-2010, to be voted on by the state members of NACAA at the 2009 Fall Membership Meeting:

Co-President : Vince Hellwig (Michigan/Region 5)
Co-Vice President: David Shaw (New York/Region 2)
Co-Treasurer : Mary Uhl (New Mexico/Region 6)
Director: Anne Gobin (Connecticut/Region 1)
Director: Joyce Epps (Pennsylvania/Region 3)
Director: John Lyons (Kentucky/Region 4)

Director: Rick Brunetti (Kansas/Region 7)
Director: Cheryl Heying (Utah/Region 8)
Director: Andy Ginsburg (Oregon/Region 10)
Co-Immediate
Past President: Colleen Cripps (Nevada/Region 9)

The local members of the NACAA Board of Directors approved the following slate of officers and Board members for 2009-2010, to be voted on by the local members of NACAA at the 2009 Fall Membership Meeting:

Co-President : Larry Greene (Sacramento, CA)
Co-Vice President: Lynne Liddington (Knoxville, TN)
Co-Treasurer : Merlyn Hough (Springfield, OR)
Director: Jim Hodina (Cedar Rapids, IA)
Director: Cindy Kemper (Johnson Co, KS)
Director: Richard Stedman (Monterey, CA)
Co-Immediate
Past President: Arturo Blanco (Houston, TX)

XVII. New Business – Monday, July 27, 2009

Bill Becker apprised the members that Chris James, former Connecticut air director and currently with Synapse, had extended an offer to NACAA that he and the Regulatory Assistance Project would provide services, at no cost to NACAA, to develop and implement projects that would integrate energy and air quality issues. It was agreed that a group of Board Members, Committee Chairs and NACAA staff would hold a conference call with Chris to define state and local air agencies' needs and discuss the potential value to air agencies of such a project.

XI. Adjournment – Monday, July 27, 2009

The Board of Directors and Committee Chairs 2009 Summer Meeting was adjourned.

FINAL AGENDA
NACAA
BOARD OF DIRECTORS AND COMMITTEE CHAIRS
SUMMER MEETING

July 25-27, 2009

The Palace Hotel
2 New Montgomery Street
San Francisco, CA

Friday, July 24, 2009

5:00 p.m. – 11:00 p.m. Social Hour in NACAA's Hospitality Suite Ambassador Suite #788

Saturday, July 25, 2009

7:00 a.m. – 8:00 a.m. Breakfast Pacific Heights

8:00 a.m. – 8:10 a.m. Introductions and Review of Agenda Pacific Heights

8:10 a.m. – 9:15 a.m. Climate Legislation Pacific Heights

- Legislative Update
 - House
 - Senate
- Next Steps

9:15 a.m. – 9:45 a.m. Regulating Greenhouse Gases under the Clean Air Act Pacific Heights

9:45 a.m. – 10:00 a.m. Break Pacific Heights

10:00 a.m. – 11:00 a.m. Criteria Pollutants Pacific Heights

- NACAA Model Transport Rule Project
- Potential EPA Reconsideration of Ozone Standard
- Proposed NO₂ NAAQS Revision

11:00 a.m. – 11:15 a.m. Training Pacific Heights

- Strengthening EPA's Role in Training

11:15 a.m. – 11:45 a.m. Air Toxics Pacific Heights

- Electric Arc Furnace MACT
- Portland Cement MACT

Saturday, July 25, 2009 (continued)

11:45 a.m. – Noon	<u>Honoring Doug Quetin for His Service to NACAA and His Retirement from the Monterey Bay Unified APCD</u>	Pacific Heights
Noon	Lunch	Pacific Heights

Sunday, July 26, 2009

7:00 a.m. – 8:00 a.m.	Breakfast	Pacific Heights
8:00 a.m. – 9:00 a.m.	<u>Funding</u> <ul style="list-style-type: none">• FY 2010 Congressional Appropriations• FY 2011 Funding<ul style="list-style-type: none">○ Recent Meeting with Gina McCarthy○ RPO Funding Letter• Status Report on Revised Allocation Formula	Pacific Heights
9:00 a.m. – 10:15 a.m.	<u>Monitoring</u> <ul style="list-style-type: none">• NO₂• Ozone• Lead• Air Toxics Near Schools	Pacific Heights
10:15 a.m. – 10:30 a.m.	Break	Pacific Heights
10:30 a.m. – 11:15 a.m.	<u>Enforcement</u> <ul style="list-style-type: none">• Results of EPA's Round 1 State Review Framework	Pacific Heights
11:15 a.m. – 11:30 a.m.	<u>Mobile Sources and Transportation</u> <ul style="list-style-type: none">• EPA's C3 Marine Engine Proposal• Update on Surface Transportation Legislation	Pacific Heights
11:30 a.m. – 12:30 p.m.	Development of Agenda for 2009 Fall Membership Meeting	Pacific Heights
12:30 p.m.	Lunch	Pacific Heights

Monday, July 27, 2009

7:00 a.m. – 8:00 a.m.	Breakfast	Pacific Heights
8:00 a.m. – 8:15 a.m.	<u>NACAA Finances</u>	Pacific Heights
8:15 a.m. – 9:15 a.m.	<u>Region 4 Recommendation for Funding NACAA Operating Budget</u>	Pacific Heights

Monday, July 27, 2009 (continued)

9:15 a.m. – 9:45 a.m.	<u>CAPCOA GHG Request</u>	Pacific Heights
9:45 a.m. – 10:00 a.m.	<u>Future Meetings</u> <ul style="list-style-type: none">• Scheduling of NACAA/EPA OAR Retreat• Update on Future Meeting Dates and Locations	Pacific Heights
10:00 a.m. – 10:10 a.m.	<u>Board Approval of NACAA Nominees</u>	Pacific Heights
10:10 a.m. – 10:30 a.m.	<u>New Business</u>	Pacific Heights
10:30 a.m.	Adjourn	

(7/21/09)