

MINUTES

NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES BOARD OF DIRECTORS AND COMMITTEE CHAIRS 2009 WINTER MEETING

Hilton New York
1335 Avenue of the Americas
New York, NY 10019

I. Introductions and Review of Agenda – Saturday, February 7, 2009

The NACAA Board of Directors and Committee Chairs 2009 Winter Meeting was called to order. Meeting attendees introduced themselves. Those in attendance included NACAA Co-Presidents Arturo Blanco* (Houston, TX) and Colleen Cripps* (NV), as well as Bruce Andersen (Kansas City, KS), Mary Boyer (CA), Cory Chadwick (Cincinnati, OH), Stu Clark (WA), Bob Colby (Chattanooga, TN), Andy Ginsburg* (OR), Anne Gobin* (CT), Larry Greene* (Sacramento, CA), Vince Hellwig* (MI), Cheryl Heying* (UT), Bob Hodanbosi (OH), Merlyn Hough* (Springfield, OR), Jim Kavanaugh* (MO), Lynne Liddington* (Knoxville, TN), John Lyons* (KY), Shelley Kaderly (NE), Cindy Kemper* (Johnson Co., KS), Dennis McLerran (Seattle, WA), Bill O'Sullivan* (NJ), John Paul (Dayton, OH), Chris Salmi (NJ), Nancy Seidman (MA), David Shaw (NY), Eddie Terrill (OK) and Dick Valentinetti (VT). Jim Hodina* (Cedar Rapids, IA) participated in portions of the meeting by telephone. NACAA staff in attendance included Bill Becker, Nancy Kruger, Mary Sullivan Douglas, Amy Royden-Bloom and Mary Stewart Douglas. (**Denotes member of the NACAA Board of Directors.*)

NACAA Co-Presidents Arturo Blanco and Colleen Cripps reviewed the agenda (a copy of the agenda is attached).

NACAA Executive Director Bill Becker briefly reviewed the “new face” of EPA, reporting on key appointments and nominations, including that of Lisa P. Jackson as Administrator.

II. Legislative Update – Saturday, February 7, 2009

NACAA staff provided an update on legislative activities. Bill Becker reported on the stimulus package passed by the House, which includes funds for DERA (diesel retrofits), green energy and infrastructure, among other things. Bill reminded the group that NACAA had signed on to a letter with a broad coalition of other groups supporting \$1.5 million for DERA. Attendees discussed EPA's ability to disperse quickly this level of funding, noting that EPA had stated that it would be able to do so. Bill also reminded the group that NACAA had sent a letter to President Obama and House and Senate leaders offering its perspectives on the American Recovery and Reinvestment Plan and encouraging that the selection of infrastructure projects to be funded under the bill include a “green screen” to ensure the stimulation of infrastructure projects that will enhance, rather than impede, protection of the environment and public health and welfare.

NACAA Senior Staff Associate Amy Royden-Bloom provided an overview of legislative activities related to climate change, noting that House and Senate leaders have committed to moving legislation this year.

NACAA Deputy Director Nancy Kruger provided an overview of where things stand on surface transportation legislation, which is up for reauthorization this year (the current bill, SAFETEA-LU, expires in fall 2009).

Senior Staff Associate Mary Sullivan Douglas updated members on appropriations activities, including the omnibus funding bill for FY 2009 and the Administration's forthcoming appropriations recommendations for FY 2010.

III. Climate Change Activities – Saturday, February 7, 2009

State Summit on Climate Change and Preemption

Bill Becker described a State Summit on Climate Change and Preemption that will be held March 25, 2009 in Washington, DC. It is being convened at the suggestion of the Center for Progressive Reform and two law schools, which approached NACAA to cosponsor the event, and NACAA agreed. Attendees will include state and local air agency staff, environmental commissioners, congressional staff, NGOs and legal scholars. It will be a workshop to discuss issues regarding preemption in climate legislation, including delineating the rights we want to protect and the mechanisms for so doing.

Climate Conference with the Pew Center on Global Climate Change and the Georgetown Climate Center

Bill also apprised the group of a climate conference in Washington, DC to take place June 24-25, 2009. It will be co-sponsored by the Pew Center on Global Climate Change and the Georgetown Climate Center; NACAA has been invited and has tentatively agreed to be a co-sponsor. The Pew Center has in the past held several climate conferences on state and federal action on climate and the group agreed that it would be a good idea to co-sponsor this event.

Northeast Low Carbon Fuel Initiative

Nancy Seidman (MA), Co-Chair of NACAA's Mobile Sources and Fuels Committee, described the Northeast Low Carbon Fuel Initiative. The goal of the initiative is to develop a low carbon fuel standard (LCFS) applicable across the Northeast. An LCFS is a performance-based standard regulating the "carbon intensity" of or lifecycle carbon emissions from fuels. Eleven mid-Atlantic and northeastern states signed a framework document at the end of 2008 committing to entering into an MOU by December 31, 2009. One of the issues is whether the LCFS should have the same stringency as California's.

IV. NAAQS – Saturday, February 7, 2009

Lynne Liddington (Knoxville, TN), Co-Chair of NACAA's Criteria Pollutants Committee, kicked off the session by announcing that Tad Aburn (MD) is the Committee's new Co-Chair, replacing Brock Nicholson, who had recently retired.

Lead Monitoring

Mary Stewart Douglas (NACAA) described EPA's monitoring plan for lead. EPA is requiring monitoring of all sources that emit more than 1 ton per year, or those sources expected to contribute to ambient concentrations in excess of the NAAQS. Sources above 1 ton must be identified by July 1, 2009. EPA is also requiring population-oriented monitors for CBSAs of 500,000 or more people. The purpose of these monitors is to capture fugitive lead emissions. Plans for these monitors must be submitted by July 1, 2010. A question was raised as to the source of funding for these monitors, and Mary responded that EPA would like to take \$5 million from community-scale toxics monitoring. Bill Becker noted that NACAA recently had a call with EPA on lead and general aviation fuel and EPA was supportive of NACAA sending a letter to EPA and the Federal Aviation Administration (FAA) on this issue. The association needs to urge EPA to make an endangerment finding and urge FAA to regulate the lead content in general aviation fuel. The Board agreed that sending such a letter was a good idea.

Clean Air Interstate Rule (CAIR)

Update on NACAA Project – Amy Royden-Bloom provided an update on NACAA's project to develop a model rule or process for states to use to satisfy Section 110(a)(2)(D) of the Clean Air Act, also known as the good neighbor provision. NACAA is working in cooperation with LADCO, Metro4-SESARM and OTC, and has engaged Bruce Buckheit, former air enforcement chief at EPA, to work on this project. Rather than focus on compliance with the 1997 standards, the association intends to focus on what would be necessary to satisfy Section 110(a)(2)(D) with respect to the 2006 PM_{2.5} and 2008 ozone standards. This is in part because of the looming deadlines for Transport SIPs for the new standards and because EPA will not revisit approved SIPs that relied on CAIR. NACAA has convened a technical work group, and this group reached agreement on the use of modeling platforms and procedures. Per a conversation with Mike Koerber of LADCO a few of weeks ago, it is expected that the modeling will be completed by March 2009. After looking at those results and what they show, NACAA will decide on next steps.

Implications of the CAIR Reinstatement for States/Localities and What States Want/Expect from a New Transport Rule – Amy also asked attendees to describe what the CAIR reinstatement means to their agencies and agencies in their region and to ask what NACAA members would like to see in a new transport rule. She reminded attendees of NACAA's recommendations to the new administration with respect to a new transport rule.

SIP Challenges Facing States and Localities

Lynne Liddington led a discussion on identifying the association's top SIP issues. After much lively discussion, some themes emerged: guidance and rules should be issued on a timely basis, adequate funding should be provided and SIPs should be approved in a timely manner. Several attendees noted that they do not even know what the SIP backlog is and a suggestion was made that EPA be asked to provide a list of outstanding SIPs. Another comment was that in at least one region, EPA regional office staff will hold onto a SIP and keep raising the same issues over and over again, rather than trusting the air agencies to do their job; the region should approve the SIP and put the burden on state and local air agencies to meet the standard, rather than EPA telling air agencies what needs to be done before their SIP will be approved. Bill Becker suggested that NACAA needed a discussion among the Board, OAQPS and regional offices regarding SIP approvability issues and other SIP issues. After discussion, it was agreed that such a meeting would be a good idea but to expand it beyond SIP issues.

V. Funding – Sunday, February 8, 2009

EPA's Allocation Methodology

Bruce Andersen (Kansas City, KS), Co-Chair of the NACAA Program Funding Committee, summarized the activity to date on EPA's development of a revised methodology for allocating Section 105 grants to the regions. He reported that EPA has developed a new allocation formula and has invited NACAA to participate in the implementation workgroup that will determine how to begin using the new scheme. He noted that some of the shifts in grants from one region to another were more dramatic than expected.

Andy Ginsburg (OR), Co-chair of the NACAA Program Funding Committee, described in greater detail how the funds would be reallocated among the regions, according to the updated formula and noted that certain regions, primarily Regions 1 and 10, could experience significant cuts (i.e., over 40 percent). The members discussed the specifics of the formula and expressed their concerns with certain aspects of it. They agreed that additional funding would be essential in order to implement the new formula without severely disrupting some state and local agencies' budgets.

The members agreed to send a letter to EPA to accept the invitation to have NACAA representatives participate in the implementation workgroup, emphasize the need for significant grant increases to ensure that no agencies suffered significant decreases and identify several specific concerns they have with the methodology. These concerns were that the proposed methodology does not address the costs associated with controlling pollution that is transported from other regions, it does not reflect the actual costs of the workloads that face state and local air agencies, and it does not account for the fact that certain fixed costs exist regardless of how large the population is or how polluted the air (e.g., costs associated with developing State Implementation Plans).

NACAA's Funding Survey

Mary Sullivan Douglas (NACAA) provided a summary of the responses to NACAA's Needs Assessment Survey, which had been distributed in November 2008. The information in the survey will be helpful in making the case that increased federal grants for state and local air agencies are critically important. Using the data that has been submitted, Mary noted that state and local contributions to air programs far exceed those of federal grants and that the federal share would have to be increased significantly to reach the 60-percent mark envisioned by the Clean Air Act. She noted that only 24 states and 36 local agencies had responded to the survey so far. The members agreed that they should contact the other agencies in their regions and urge them to submit the questionnaire, if they have not done so already.

State Finances/Budget Situation

Bruce Andersen led a discussion about the impacts of the recession on state and local air programs. Among the problems that the lack of funding will likely cause are being unable to hire and train staff, returning programs to EPA, limiting certain programs (i.e., air toxics), reducing responses to citizen complaints, restricting travel, reducing monitoring and cutting back on public outreach and opportunities for public participation. The members discussed the upcoming economic stimulus bill and what portion, if any, would be available for state and local air programs, besides funds for diesel retrofit programs.

Following additional discussion about the problems they face, the members articulated the importance of discussing with EPA the steps they will have to take to manage with fewer funds. They agreed that state and local resources should be a topic of discussion when NACAA members meet with upper-level EPA management.

VI. Training Update – Sunday, February 8, 2009

Mary Boyer (CA), Co-Chair of NACAA's Training Committee, reported on a survey of the regional consortia of how they were using the additional funding for training (the money that used to go to universities). She said that many were using the funds to update at least one course, some were adding additional training sessions and many were using the funds to support travel by their members to training sessions. It is clear that more money is needed to support travel. While distance learning is an option, it is expensive. There is an overall concern with EPA's level of support for training – only \$175,000 and one FTE. Bill O'Sullivan (NJ) suggested that with each new rule, EPA be required to allocate money for training on the rule at the outset. Arturo Blanco (Houston, TX), Co-Chair of NACAA's Training Committee, said that the Training Committee's next meeting will be in March in Denver and the Committee wants to hear what the Board's attitude is with regard to supporting training. He said he will convey that the Board wants EPA to provide more support for training or, given that this is unlikely with the current economic climate, we should at least maintain what we have.

VII. Air Toxics – Sunday, February 8, 2009

Vince Hellwig (MI), Co-Chair of the NACAA Air Toxics Committee, provided an update on several air toxics issues.

Portland Cement MACT Schedule

At the end of March 2009, EPA is expected to propose a new Portland Cement MACT that addresses emissions of mercury. The earlier standard was remanded by the court due to its lack of mercury provisions. Vince noted that the next version has been sent to OMB and the agency is awaiting a response.

Reopening of Steel MACT for Mercury

EPA's Electric Arc Furnace area source standard was disappointing because it did not include rigorous requirements for removing mercury-containing switches from automobiles prior to recycling. EPA is expected to reopen the Steel MACT standard, which will provide an opportunity to address the need for a robust switch removal program in the new rule.

EPA Residual Risk Review

EPA has issued residual risk rules that do not provide for additional reductions or requirements and are based on risk assessments that are inadequate. NACAA has commented on the proposed rules.

Update on Quicksilver Caucus

The Quicksilver Caucus advocated legislation – recently signed by the President – that would eliminate exports of mercury by 2013. One issue that needs to be addressed is the location of the national repository for the mercury. The Quicksilver Caucus worked on the vehicle switch recycling program, but it has not met expectations and must be reviewed.

Clean Air Mercury Rule

Vince noted that EPA had withdrawn its appeal before the Supreme Court regarding the vacatur of the Clean Air Mercury Rule.

Vince reported that NACAA had concerns about EPA's Information Collection Request for the Boiler MACT and had submitted comments.

Mary Stewart Douglas (NACAA) provided an overview of the memorandum that White House Chief of Staff Rahm Emanuel issued announcing that recent rulemakings from the previous Administration would be reviewed. It is unclear which air rules would be affected.

VIII. Discussion of *USA Today* Article on Air Toxics in Schools – Sunday, February 8, 2009

Kelly Rimer (EPA), participating by telephone, provided an overview of a series of articles that *USA Today* had published in December 2008 on toxic air pollution near schools in the U.S. She described the databases and modeling *USA Today* used and identified some of the concerns EPA had with the methodology on which *USA Today* based its conclusions. She noted that *USA Today* has not shared its actual data with EPA. Kelly reported that incoming EPA Administrator Lisa Jackson referenced the issue of air toxics near schools during her confirmation hearings and said that EPA would address the problem. Kelly indicated that OAQPS would brief the Administrator about the issue in a couple of weeks.

The members discussed some of their concerns with the analysis, including the use of Toxic Release Inventory (TRI) data, rather than National Air Toxics Assessment (NATA) data. Several members provided anecdotes of local schools that had been ranked very high on the *USA Today* ranking, yet were not actually exposed to high levels of toxics. They described what was occurring in their areas to address the public's concerns, including public meetings and discussions about the possibility of additional monitoring. They discussed the fact that the articles had been helpful in raising the interest in addressing toxic air pollution, but the challenge will be to target resources to activities that will be most useful, which may not necessarily be monitoring at individual schools.

Kelly agreed to help provide additional information to the members as needed, including developing a list of frequently asked questions and sending the members links to helpful websites.

IX. Future NACAA Meetings - Monday, February 10, 2009

Update on Future Meeting Locations and Dates

Bill Becker advised the group of the following schedule for future meetings: 2009 Spring Membership Meeting – May 3-6, 2009 in New Orleans (Westin Hotel); 2009 Summer Board/Committee Chairs Meeting – July 24-27, 2009 in San Francisco (Palace Hotel); 2009 Fall Membership Meeting – September 21-23, 2009 (no Sunday Board Meeting) in Boston (Omni Parker House Hotel); 2010 Spring Membership Meeting – Sacramento; 2010 Fall Membership Meeting – Washington, DC.

Development of Agenda for 2009 Spring Membership Meeting

Nancy Kruger reviewed a list of staff recommendations for 2009 Spring Membership Meeting sessions. Board Members and Committee Chairs discussed the session topics and provided the NACAA staff with guidance on which sessions to pursue.

X. NACAA Finances – Monday, February 10, 2009

Presentation of Financial Statements

Bill Becker reviewed the financial reports for NACAA's grant and non-federal funds account. He reported that NACAA's finances are in order. He also reported that the short-term money market that was funded with annuity funds had reached its term and that other low-risk investment options were being researched. In addition, Bill noted that for NACAA would begin a new two-year grant in FY 2010 and that he and staff were working hard to develop a budget based on no increase in dues in the first year of the grant. He also noted that residual funds in this year's grant would be used to offset meeting expenses for members during the remainder of this fiscal year.

Presentation of FY 2008 Audit

Bill Becker reported that NACAA's recent audit had been very good (members had received an electronic version of the report in advance of the meeting).

XI. Adjournment – Monday, February 10, 2009

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

AGENDA

NACAA BOARD OF DIRECTORS AND COMMITTEE CHAIRS WINTER MEETING

February 7-9, 2009

Hilton New York
1335 Avenue of the Americas
New York, New York 10019

Saturday, February 7, 2009

- 7:30 a.m. – 8:30 a.m. Registration and Breakfast
- 8:30 a.m. – 8:45 a.m. Introductions and Review of Agenda
- 8:45 a.m. – 9:00 a.m. The Face of the New EPA
- 9:00 a.m. – 9:45 a.m. Legislative Update
- 9:45 a.m. – 10:30 a.m. Climate Change Activities
- State Summit on Climate Change and Preemption
 - Climate Conference With Pew Center and Georgetown Climate Center
 - Northeast Low-Carbon Fuel Initiative
- 10:30 a.m. – 10:45 a.m. Break
- 10:45 a.m. – 12:15 p.m. NAAQS
- Lead Monitoring (20 minutes)
 - Clean Air Interstate Rule
 - Update on NACAA Project (10 minutes)
 - Implications of the CAIR Reinstatement For States/Localities (20 minutes)
 - What States Want/Expect From a New Transport Rule (20 minutes)
 - SIP Challenges Facing States/Localities (20 minutes)
- 12:15 p.m. Lunch

Sunday, February 8, 2009

- 7:30 a.m. – 8:30 a.m. Breakfast

Sunday, February 8, 2009 (continued)

8:30 a.m. – 9:45 a.m.	<u>Funding</u> <ul style="list-style-type: none">• EPA's Allocation Methodology (45 minutes)• NACAA's Funding Survey (30 minutes)
9:45 a.m. – 10:15 a.m.	How States/Localities Are Coping With the Economic Crisis
10:15 a.m. – 10:30 a.m.	Break
10:30 a.m. – 10:50 a.m.	<u>Training Update</u>
10:50 a.m. – 11:20 a.m.	<u>Air Toxics</u> <ul style="list-style-type: none">• Portland Cement MACT Schedule• Reopening of Steel MACT for Mercury• EPA Residual Risk Review• Update on Quick Silver Caucus
11:20 a.m. – Noon	<u>Discussion of <i>USA Today</i> Article on Air Toxics in Schools</u>
Noon	Lunch

Monday, February 9, 2009

7:30 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 9:30 a.m.	<u>Future NACAA Meetings</u> <ul style="list-style-type: none">• Development of Agenda for 2009 Spring Membership Meeting• Update on Future Meeting Locations and Dates
9:30 a.m. – 10:00 a.m.	<u>NACAA Finances</u> <ul style="list-style-type: none">• Presentation of Financial Statements• Presentation of FY 2008 Audit
10:00 a.m. – 10:30 a.m.	<u>New Business</u>
10:30 a.m.	Adjourn