

MINUTES

**NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES
BOARD OF DIRECTORS AND COMMITTEE CHAIRS
2011 WINTER BOARD MEETING**

January 29-31, 2011

**Sonesta Bayfront Hotel
2889 McFarlane Road
Coconut Grove, Florida**

I. Introduction and Review of the Agenda – Saturday, January 29, 2011

Lynne Liddington (Knoxville, TN), Co-President of NACAA, called the meeting to order and reviewed the agenda. NACAA Board members present included Tad Aburn (MD), Bruce Andersen (Kansas City, KS), Anne Gobin (CT), Larry Greene (Sacramento, CA), Vince Hellwig (MI), Cheryl Heying (UT), Thomas Huynh (Philadelphia, PA), Lynne Liddington (Knoxville, TN), John Lyons (KY), Shelley Schneider (NE), Dave Shaw (NY), Mary Uhl (NM) and Barry Wallerstein (Los Angeles, CA). NACAA committee chairs who are not Board members in attendance included Cory Chadwick (Cincinnati, OH), Bob Colby (Chattanooga, TN), Mike Dowd (VA), Bob Hodanbosi (OH), Jim Hodina (Cedar Rapids, IA), Ursula Kramer (Tucson, AZ), Bill O’Sullivan (NJ), Nancy Seidman (MA), Eric Stevenson (San Francisco, CA) on behalf of Jack Broadbent and Dick Valentinetti (VT). NACAA staff present included Bill Becker (Executive Director), Misti Duvall (Staff Associate), Mary Sullivan Douglas (Senior Staff Associate), Nancy Kruger (Deputy Director) and Amy Royden-Bloom (Senior Staff Associate). The meeting agenda is attached.

II. Legislative Update – What to Expect in the New Congress – Saturday, January 29, 2011

Bill Becker (NACAA) provided a legislative update. The new Congress is now settling in, and observers expect to see efforts to rescind EPA regulations, curtail the applicability of EPA rules and target the agency’s appropriations, as well as regulatory oversight. New leaders in the House include Rep. Upton (R-MI), the new Chairman of the House Committee on Energy and Commerce, and Rep. Whitfield (R-KY), the new Chairman of the Subcommittee on Energy and Power.

Efforts to invoke the Congressional Review Act are expected. There is also an effort underway to change the way regulations, in general, are promulgated. The Regulations from the Executive in Need of Scrutiny (REINS) Act, H.R. 10, was introduced by Rep. Davis (R-KY), with 83 co-sponsors, and would require that regulations be approved by Congress before taking effect. Other efforts have focused on curtailing or delaying EPA authority to regulate GHGs. Examples include bills from Rep. Blackburn (R-TN), Rep. Poe (R-TX), Sen. Inhofe (R-OK), and Sen. Barasso (R-WY) that would prohibit some or all EPA regulation of GHGs, and bills from Rep. Capito (R-WV) and Sen. Rockefeller (D-WV) that seek to delay for two years EPA

regulation of GHGs from stationary sources. There will likely also be attempts to insert delays and/or curtailments of EPA authority into any Continuing Resolution (CR) or spending bill. Some are seeking a return to 2008 spending levels, a \$100-billion cut in discretionary spending. The current short-term CR for FY 2011 ends on March 4, 2011.

With respect to energy legislation, the President has expressed his desire for 80 percent of power to come from clean energy by 2035 and Sen. Carper (D-DE) is still working on 3P legislation.

III. Program Funding – Saturday, January 29, 2011

FY 2011 Budget Issues

Bruce Andersen (Kansas City, KS), Co-Chair of the NACAA Program Funding Committee, reported that the federal government is operating under a Continuing Resolution until March 4, 2011 at FY 2010 levels. Congress is expected to act within the next several weeks to issue a final FY 2011 budget.

President's FY 2012 Budget Request

Bruce announced that the President is scheduled to release his proposed FY 2012 budget for the federal government on February 14, 2011. There were rumors that the request may be similar to FY 2011 for state and local air agencies, but nothing has been confirmed. He also announced that the National Governors Association (NGA) had asked Congress to not impose maintenance-of-effort (MOE) provisions on states as a condition of funding.

FY 2013 Budget Issues

Bruce reported that the Environmental Council of the States (ECOS) has asked each of the media groups to provide their funding recommendations for FY 2013 by May. NACAA will provide this to ECOS after seeing what is contained in the President's FY 2012 budget request.

Strategies for Communicating with Congress

Bruce reminded members there are several activities that NACAA has carried out in the past and would like to do again to inform Congress about the need for additional grants, including meeting with congressional staff, testifying at congressional hearings, providing information (e.g., model letter and lists of Appropriations Committee members) to the NACAA membership so that they can contact their delegations, and working with ECOS and NGA to seek additional grants. He noted that the most effective way of conveying the message to Congress is for individual NACAA members to contact their respective delegation.

IV. SIP Reform – Saturday, January 29, 2011

Nancy Kruger (NACAA) provided an update on the progress of the NACAA-ECOS-EPA SIP Reform Workgroup, which was established the previous summer. Nancy explained that the workgroup – consisting of 10 state and local representatives, two EPA headquarters representatives, two EPA regional representatives and representatives of NACAA headquarters and ECOS headquarters – had developed a list of 13 potential SIP improvements. This list was vetted by the NACAA and ECOS memberships and the workgroup was working through the list delving into the problems that warrant the potential improvements and how the improvements

might be accomplished. Nancy also summarized the two other key components of the workgroup's mission – developing a state/local toolkit of best SIP practices and enhancing federal measures. Other workgroup members present at the meeting complimented the process and expressed their satisfaction with how productive it had been so far.

V. Toxics – Saturday, January 29, 2011

ICI Boiler Rule

Bob Colby (Chattanooga, TN), Co-Chair of the NACAA Air Toxics Committee, reported that EPA had requested that the deadline for issuing the final MACT for Industrial Boilers be extended until April 13, 2012 or July 15, 2011, however, the court denied the request and provided an extension until February 21, 2011. He reported that EPA has already said that the final rule will be “significantly” different from the April 2010 proposal and that the agency plans to use the reconsideration process to go back and address problematic issues in the final rule. EPA said it will ensure that the rules will be “practical to implement” and protective of public health. Bob noted that industry groups have been outspoken about their opposition to this rule. The members discussed the fact that Congress will be very interested in the final boiler rule and may act on it after it is final.

Utility MACT Rule Development

Vince Hellwig (MI), Co-Chair of the NACAA Air Toxics Committee, reported that EPA is required to propose the Utility MACT on March 16, 2011 and issue the final rule on November 16, 2011. EPA staff has indicated that this rule is a priority for the agency and the deadline is not expected to slip. Vince noted that the new rule will focus on toxic air pollutants in addition to mercury. He also noted that there have been demonstrations showing mercury can be controlled without exorbitant costs.

VI. Critical Issues – Saturday, January 29, 2011

Permitting

Misti Duvall (NACAA) provided an overview of NACAA efforts on GHG permitting, as well as recent EPA rulemaking efforts. Starting in January, NACAA began providing a forum for states and localities to share experiences and concerns regarding GHG permitting and GHG Best Available Control Technology (BACT) on the monthly NACAA New Source Review (NSR) and Permitting call. These discussions will continue on future calls. NACAA also recently compiled an updated state-by-state summary of the status of GHG permitting rules. Finally, the association is conducting a survey on GHG permitting, including the number of currently pending Prevention of Significant Deterioration (PSD) permit applications triggering GHG BACT and source categories that will be subject to GHG permitting, state by state. NACAA is still collecting information and will share results soon.

At the end of December, EPA finalized a number of regulations regarding implementation of GHG permitting. These included the final SIP Call and Federal Implementation Plan for those programs unable to permit GHGs under their SIP-approved PSD programs, as well as final SIP Narrowing to conform PSD SIP programs and federal Title V programs to the higher thresholds contained in the GHG Tailoring Rule. Earlier this month, EPA announced plans to exempt carbon dioxide emissions from biomass and biogenic sources from

GHG permitting requirements for three years. The agency promised to propose and finalize the exemption by July 1, 2011. In the interim, EPA will issue guidance on evaluating biomass as GHG BACT.

Bill O'Sullivan (NJ) spoke about the current status of GHG BACT. Bill went over a handout with an article from *Environmental Energy Insights*, entitled "EPA Issues Long-Awaited Greenhouse Gas Permitting Guidance," and discussed highlights from the guidance. There is considerable discretion in the guidance; as always, documentation is crucial.

The group discussed experiences and concerns with GHG permitting thus far. Members agreed that case-by-case BACT evaluation is appropriate for GHGs; no one size fits all. Questions were raised about the recent letter from EPA Region 6 with comments on GHG BACT for the Louisiana Nucor facility, as well as whether facilities need to construct before July 1, 2011 in order to avoid GHG controls. Misti will follow up. [Note: Sources that received a PSD permit prior to January 2, 2011 do not have to construct prior to July 1, 2011 to avoid GHG BACT; the issue only applies to minor NSR permits.]

Bob Hodanbosi (OH) presented recommendations from the Title V Task Force, along with two handouts. The Task Force provided more than 100 recommendations for improving the Title V process back in 2006. Thus far, EPA has not made much progress. We would like to raise these recommendations again. The group agreed. The NACAA Permitting Committee will follow up with EPA.

Misti reviewed a handout on recent NSR rules, highlighting regulations that are expected soon, including the final Tribal NSR Rule, final PM_{2.5} Grandfathering and Surrogate Policy Reconsideration, final Aggregation Reconsideration and final NSR Ozone Anti-Backsliding Rule.

VII. Participation in NACAA and Dues Structure – Sunday, January 30, 2011

The members discussed the fact that there are many new state commissioners and that it is important for air directors to raise to their attention the role and benefits of NACAA. They also discussed situations in which individual states may not agree with a NACAA position and that in those situations, the states should feel free to provide their own comments to EPA. In general, the members agreed on the importance of good communication, with commissioners and among NACAA members.

Dave reminded the Board that they had begun a discussion about revisions to the structure for assessing state contributions to NACAA ("dues") at a previous meeting and had requested options to review. Bruce Andersen noted that EPA had created the current system for apportioning dues 30 years ago, based on population. He reported that there are various options, none of them perfect. He emphasized that a final decision was not needed at this meeting, but that the members may want to discuss this with their regional colleagues and eventually take the decision to the full membership.

Mary Sullivan Douglas reviewed a spreadsheet containing state-by-state information and estimates of the current distribution of dues, as well as several alternative ways of calculating them that the members had previously suggested.

The Board members and committee chairs had a lengthy discussion about the issue and then agreed to move ahead with the following strategy for further consideration: There should be a revision to the dues structure and it should be based on the distribution of section 105

grants (i.e., each state would pay the same percentage of NACAA's budget that it receives of the total section 105 pot); the revision would be phased in over a number of years (e.g., five years); and the phase-in would begin no sooner than FY 2013. They agreed that further discussion is needed and that ultimately the issue would go before the membership for approval. They also agreed that there should be an emphasis on ensuring that members do not withdraw from the association over this issue.

The next steps would include the following: NACAA staff would distribute the spreadsheet with a cover memorandum to the Board members, as a PDF file, clearly marked as draft/not for circulation; the Board members would distribute the spreadsheet to the states in their regions and have calls to explain the strategy and get feedback; and, if needed, the Board would have a call with the Presidents and Program Funding Committee chairs to provide feedback. Next steps would be determined based upon the feedback received.

The Program Funding Committee members (consisting of the Board or Directors and committee chairs) voted unanimously (both state and local members) to proceed with the plan as articulated.

VIII. Critical Issues – Sunday, January 30, 2011

Training

Arturo Blanco (Houston, TX), Co-Chair of the NACAA Training Committee, provided a short update on the committee's Training Strategy Action Plan. The committee worked on the plan for over a year and it is now complete and being implemented. One of the key elements of the plan is establishing a Learning Management System (LMS), for which EPA is developing an RFP. Mike Dowd (VA), Co-Chair of the Training Committee, noted that it is not clear if the funding identified for the LMS will cover day-to-day maintenance of the LMS after the initial two years, but if not, EPA and the Training Committee are committed to finding some cost-sharing effort to fund the LMS operational costs. However, the first choice would be for the existing funds to cover the full five years of operation. Arturo also noted that Amy Royden-Bloom had sent out a survey to the committee to find out how to encourage more participation in the committee by state and local air agencies.

GHG NSPS Settlement and Next Steps

Amy Royden-Bloom provided a brief summary of EPA's plans to develop greenhouse gas (GHG) New Source Performance Standards (NSPS) for power plants and petroleum refineries. For power plants, EPA will propose by July 26, 2011, GHG NSPS for new, modified or reconstructed power plants and emissions guidelines for existing power plants. The final rules will be issued by May 26, 2012. With respect to petroleum refineries, EPA will sign proposed GHG NSPS and emissions guidelines by December 10, 2011, and finalize any GHG NSPS or GHG emissions guidelines for petroleum refineries by November 10, 2012. EPA will hold five listening sessions to solicit input on developing the GHG NSPS. One of the sessions, which will be February 17, 2011, in Chicago, is for state, local and tribal input, and EPA has asked NACAA and ECOS to identify participants to represent state and local agencies. Amy sent an e-mail to air directors seeking volunteers to participate; the air directors who will participate reflect a regional balance among NACAA members.

Mobile Sources and Fuels

Nancy Seidman (MA), Co-Chair of the NACAA Mobile Sources and Fuels Committee, reported to the group on two recent NACAA comment letters. First, earlier in the month the association submitted comments to EPA on the proposed E15 waiver. NACAA expressed concern in the comments about the increases in air pollution likely to result from increased levels of ethanol in gasoline and urged EPA to address this problem. NACAA also recommended several near-term steps EPA should take regarding sulfur reductions and misfueling. A second set of comments, to be submitted to EPA the following day, will address the agency's proposed GHG emissions standards for heavy-duty vehicles. In those comments, NACAA will be generally supportive, but will provide various recommendations for strengthening the effectiveness of the rule.

Next, Nancy Kruger reported on NACAA's continued involvement in a coalition of industry representatives, public health and environmental advocates and state/local air officials that works to secure adequate funding for grants under the Diesel Emissions Reduction Act (DERA) and for state and local air grants under the Clean Air Act. For the better part of 2010, the coalition worked on the reauthorization of DERA; a new bill was approved by Congress in the lame duck session.

Finally, Barry Wallerstein (Los Angeles, CA), Co-Chair of the NACAA Mobile Sources and Fuels Committee, updated members on reauthorization of federal surface transportation legislation. Barry reminded the members that the association adopted reauthorization principles at their 2010 Fall Membership Meeting and provided a run-down of the key priorities currently being discussed in the House, including stabilization of the Highway Trust Fund, doing more with less and better leveraging resources and expedited project delivery. In the Senate, Environment and Public Works Committee Chairman Barbara Boxer (D-CA) and Ranking Member James Inhofe (R-OK) have been working together and held a hearing the week before on transportation and the economy. The U.S. Department of Transportation is reported to be working on a proposed bill, due out in the spring.

Multi-Pollutant Sector Strategies

Tad Aburn (MD), Criteria Pollutants Committee Co-Chair, described the committee's outreach to EPA to work with the agency to craft a multi-pollutant sector-based approach for some of the seven sectors NACAA identified in the resolution adopted in fall 2010. He asked whether the group supported moving forward with EPA on a couple of different sectors as pilots, noting that staff support will be needed from state and local air agencies that have experience with these sectors. Support was expressed and several possible categories were suggested for the pilot including marine engines and airport expansions or airport ground equipment.

Report from Air Enforcement Managers Meeting

Misti Duvall provided an overview of important issues from the most recent EPA Air Enforcement Managers Meeting in Tampa in early December that she attended along with the NACAA Enforcement Committee Co-Chairs, Eddie Terrill (OK) and Richard Stedman (Monterey, CA). EPA is currently working to revise its High Priority Violations Policy in response to a report from the EPA Inspector General in 2009. EPA has convened a workgroup, including NACAA members, to discuss revisions. The workgroup report is expected in March 2011; EPA will then have one year to complete revisions. EPA is also working to streamline data metrics in

the State Review Framework (SRF) for SRF Round 3 in order to increase the focus on the worst problems, significant violations and transparency. EPA indicated that it plans to establish a workgroup with ECOS to look at this, and NACAA will continue to follow up. Finally, EPA is currently discussing proposed changes as a result of the project to modernize the Air Facility System (AFS). One of the proposed changes would require states and localities to include start-to-finish reporting of federally reportable violations in AFS. A number of states and localities are very concerned that this would entail a huge resource burden for very little environmental benefit. NACAA is currently preparing comments.

NO₂/SO₂ Modeling Issues, PM_{2.5} Workgroup Report

Jim Hodina (Cedar Rapids, IA) discussed permit modeling under the 1-hour nitrogen dioxide (NO₂) and sulfur dioxide (SO₂) standards. EPA has committed to revamping the existing AERMOD Implementation Workgroup to look at outstanding issues and concerns with regard to NO₂ and SO₂ permit modeling, and indicated that the workgroup will be open to interested state and local representatives. NACAA will share more information as soon as it is available, and encourages state and local representatives to get involved. The group discussed ongoing concerns with permit modeling under the 1-hour standards, including emergency generators and the need to raise stack heights above 200 feet in some cases.

Jim also provided an overview of the recent report from the NACAA PM_{2.5} Modeling Implementation Workgroup. The workgroup completed work earlier this month, and provided technical recommendations to EPA regarding PM_{2.5} permit modeling in three areas: 1) emissions inventories; 2) background concentrations; and 3) secondary formation. Several excellent state and local modelers provided a lot of time and work for the report.

IX. NACAA Finances – Monday, January 31, 2011

Bill Becker reviewed the results of NACAA's, hardcopies of which were distributed, and reported that the audit was excellent and showed no material deficiencies.

Bill then reviewed NACAA's financial statements and the federal grant accounts. Bill noted that NACAA would be working to revise its websites. He also indicated that, to the extent possible, the association would assist members with expenses associated with attending NACAA meetings and workshops in the remainder of this fiscal year.

X. Development of Agenda for 2011 Spring Membership Meeting – Monday, January 31, 2011

The group considered a discussion draft agenda for the 2011 Spring Membership Meeting, to take place May 22-25 in Chicago, and offered additional suggestions for meeting session topics. In addition to the usual presentations and the business meeting, the session topics selected for the agenda included "Face the Air Directors" with Gina McCarthy; the latest on the NAAQS and regional haze; progress of the NACAA-ECOS-EPA SIP Reform Workgroup; state and local GHG permitting experiences; EPA efforts to support GHG permitting; EPA regulation of air toxics; federal enforcement initiatives; the impact of federal and state energy and utility policies on achieving clean air goals; permit modeling under the new NO₂, SO₂ and PM_{2.5} NAAQS; and environmental justice.

XI. Update on Future Meeting Locations and Dates – Monday, January 31, 2011

Bill Becker apprised the group of the dates and locations, or potential locations, of future NACAA meetings:

- 2011 Spring Membership Meeting – May 22-25, 2011 in Chicago, IL
- Permitting and Enforcement Committee Joint Workshop – tentatively June 14-16, 2011; exploring locations in the middle of country
- 2011 Summer Board-Committee Chairs Meeting – either July 23-25, 2011 or July 30-August 1, 2011; exploring a location in Maine
- 2011 Fall Membership Meeting – September 18-21, 2011; exploring locations in the Southeast

XII. New Business – Monday, January 31, 2011

Larry Greene (Sacramento, CA) informed the group that CAPCOA is providing training to California districts on the tool CAPCOA developed (with assistance from NACAA) to assist local governments in quantifying GHG emissions reductions from GHG mitigation measures. Amy Royden-Bloom will send out an e-mail to the Global Warming Committee to gauge interest by NACAA members outside of California in receiving this training.

Barry Wallerstein reported that South Coast is releasing a model (called the California Emissions Estimator Model) that calculates GHG and criteria pollutant emissions from land use projects. Contractors are prepared to turn the model into a national model.

Bill Becker reported that the association is working with the National Association of State Energy Officials and the National Association of Regulatory Utility Commissioners to bring together utility, energy and air regulators. He noted that the three groups held a very productive workshop in early December that included the Chairman of the Federal Energy Regulatory Commission, Gina McCarthy and a high-level Department of Energy official. He said that they have decided to continue these discussions in various venues and are considering another meeting this summer, perhaps in Baltimore. Bill will keep members posted.

XIII. Adjourn

The NACAA Board of Directors and Committee Chairs 2011 Winter Meeting was adjourned.

FINAL AGENDA

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

January 29-31, 2011

**Sonesta Bayfront Hotel
2889 McFarlane Road
Coconut Grove, Florida**

Friday, January 28, 2011

5:00 p.m. – 11:00 p.m. NACAA Hospitality Suite

Saturday, January 29, 2011

7:30 a.m. – 8:30 a.m. Breakfast

8:30 a.m. – 8:45 a.m. Introductions and Review of Agenda

8:45 a.m. – 9:15 a.m. Legislative Update – What to Expect in the New Congress

9:15 a.m. – 9:55 a.m. Program Funding

- FY 2011 Budget Issues
- President's FY 2012 Budget Request
- FY 2013 Budget Issues
- Strategies for Communicating with Congress

9:55 a.m. – 10:15 a.m. SIP Reform

10:15 a.m. – 10:30 a.m. Toxics

- ICI Boiler Rule
- Utility MACT Rule Development

10:30 a.m. – 10:45 a.m. Break

10:45 a.m. – 12:00 noon Critical Issues

- Permitting (75 minutes)
 - GHG Permitting
 - Operating Permit Program Improvements
 - NSR Update

12:00 noon Lunch

Sunday, January 30, 2011

7:30 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 9:45 a.m.	<u>NACAA Participation and Dues Structure</u>
9:45 a.m. – 10:45 a.m.	<u>Critical Issues</u> <ul style="list-style-type: none">• Training (15 minutes)• GHG NSPS Settlement and Next Steps (15 minutes)• Mobile Sources and Fuels (30 minutes)
10:45 a.m. – 11:00 a.m.	Break
11:00 a.m. – 12:00 noon	<u>Critical Issues</u> <ul style="list-style-type: none">• Multi-Pollutant Sector Strategies (15 minutes)• Report from Air Enforcement Managers Meeting (30 minutes)• NO2/SO2 Modeling Issues (10 minutes)• PM2.5 Workgroup Report (5 minutes)
12:00 noon	Lunch

Monday, January 31, 2011

7:30 a.m. – 8:30 a.m.	Breakfast
8:30 a.m. – 9:00 a.m.	<u>NACAA Finances</u>
9:00 a.m. – 10:00 a.m.	<u>Development of Agenda for 2011 NACAA Spring Membership Meeting</u>
10:00 a.m. – 10:30 a.m.	<u>Update on Future Meeting Dates and Locations</u>
10:30 a.m. – 11:00 a.m.	<u>New Business</u>
11:00 a.m.	Adjourn

NACAA BOARD OF DIRECTORS

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Shelley Schneider (Nebraska)
Merlyn Hough (Springfield, OR)

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Vince Hellwig (Michigan)
Bob Colby (Chattanooga, TN)

Criteria Pollutants Committee

Lynne Liddington (Knoxville, TN)
Tad Aburn (Maryland)

Emissions and Modeling Committee

David Thornton (Minnesota)
Jim Hodina (Cedar Rapids, IA)

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Eddie Terrill (Oklahoma)
Richard Stedman (Monterey, CA)

External Relations Committee

Dave Shaw (New York)
Vacant

Global Warming Committee

Stu Clark (Washington)
Larry Greene (Sacramento, CA)

Mobile Sources and Fuels Committee

Nancy Seidman (Massachusetts)
Barry Wallerstein (Los Angeles, CA)

Monitoring Committee

Dick Valentinetti (Vermont)
Jack Broadbent (San Francisco, CA)
Eric Stevenson (San Francisco, CA)
(attending on behalf of Jack Broadbent)

New Source Review Committee

Bill O'Sullivan (New Jersey)
John Paul (Dayton, OH)

Permitting Committee

Bob Hodanbosi (Ohio)
Ursula Kramer (Tucson, AZ)

Program Funding Committee

Andy Ginsburg (Oregon)
Bruce Andersen (Kansas City, KS)

Public Education and Communications Committee

Cory Chadwick (Cincinnati, OH)
Vacant

Training Committee

Arturo Blanco (Houston, TX)
Mike Dowd (Virginia)

Italics = Not present at this meeting

NACAA STAFF

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Amy Royden-Bloom
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Office Manager

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Administrative Assistant

Italics = Not present at this meeting