

**MINUTES**

**NATIONAL ASSOCIATION OF CLEAN AIR AGENCIES  
2007 BOARD OF DIRECTORS AND COMMITTEE CHAIRS  
WINTER MEETING**

**January 27-29, 2007**

**Portola Plaza Hotel  
Monterey, California**

**I. Introductions and Review of Agenda – Saturday, January 27, 2007**

NACAA Co-President Shelley Kaderly (NE) called to order the Winter Meeting of the Board of Directors and Committee Chairs of the National Association of Clean Air Agencies and welcomed attendees, who then introduced themselves.

**II. Election of NACAA Local Agency Group Officers and Director – Saturday, January 27, 2007**

Shelley announced that NACAA Co-President Gary Young (Des Moines, IA) had retired from his position with Polk County. NACAA Executive Director, Bill Becker, then explained that, per the NACAA Bylaws, the Local Agency Group Co-Vice President – Ursula Kramer (Tucson, AZ) – would ascend to the Co-Presidency and the Local Agency Group of the NACAA Board would vote on the remaining succession of officers. Nominees were as follows: Co-Vice President – Christine Robinson (Las Vegas, NV); Co-Treasurer – Arturo Blanco (Houston, TX); and Director – James Hodina (Cedar Rapids, IA). The Local Agency Group of the NACAA Board of Directors voted 6 to 0 to elect the nominees to office.

**III. NACAA Update – Saturday, January 27, 2007**

Bill Becker apprised the Board Members and Committee Chairs that the transition from STAPPA/ALAPCO to NACAA is continuing to move “full speed ahead.” NACAA is being very well received, there has been a very good reaction from members on the new logo, and new letterhead, listing all Board Members, is ready to go to the printer. Bill passed around a draft of the new letterhead for review. In addition, steps are being taken to integrate the new logo into the web sites and the trademarking is moving forward as planned.

**IV. Legislative Update – Saturday, January 27, 2007**

Bill Becker updated Board Members and Committee Chairs on upcoming legislative actions, noting that the Administration intends pursue an increase fuel

economy up to 4 percent per year, as well as an increase in alternative fuel requirements, from the 7.5-billion-gallon-per-year mandate in the Energy Policy Act of 2005 to 35 billion gallons per year. Various members expressed concern that little consideration is being given to the adverse air quality impacts of the rapid expansion of alternative fuels.

Bill also explained that Congress would be taking an active interest in the issue of global warming. At least six greenhouse gas bills are likely in the Senate; Senator Barbara Boxer, Chair of the Environment and Public Works Committee, has expressed her commitment to enacting greenhouse gas legislation. In the House of Representatives, Speaker Nancy Pelosi has created a Climate Change Advisory Committee, headed by Rep. Edward Markey. In addition, the Energy and Commerce Committee and Government Reform Committee will be taking up the issue of global warming.

Regarding FY 2007 appropriations, Bill said Congress will likely pass a continuing resolution to fund the government at FY 2006 levels.

#### **V. Report on NACAA Meeting with EPA Acting Assistant Administrator Bill Wehrum – Saturday, January 27, 2007**

Shelley Kaderly reported on a meeting she and Bill Becker had with Bill Wehrum, Acting Assistant Administrator of EPA's Office of Air and Radiation (OAR), and several of his senior staff, in December. The purpose of the meeting was to discuss communications between OAR and NACAA. At the conclusion of their discussion, Bill Wehrum agreed that he would talk with his senior managers about establishing a collaborative process with NACAA, wherein they would work with NACAA Committee Chairs and staff to identify the top priority issues for the coming six months and then establish a process and timeline for engaging in two-way dialogue on these issues. The group then engaged in a discussion of such a process and agreed that it would be worthwhile.

#### **VI. Critical Issues and Related Discussion – Saturday, January 27, 2007**

##### *Criteria Pollutants*

Brock Nicholson (NC) and Lynne Liddington (Knox County, TN), Co-Chairs of the NACAA Criteria Pollutants Committee, reported on issues being followed by the Committee, including 1) the D.C. Circuit Court of Appeals' decision vacating EPA's Phase 1 8-Hour Ozone Implementation Rule and next steps; 2) comments on the Phase 2 8-Hour Ozone Implementation Rule reconsideration; 3) EPA's review of the ozone NAAQS; 4) changes to the NAAQS review process; 5) EPA's consideration of a pulp and paper sector strategy; 6) the status of the PM<sub>2.5</sub> implementation rule and 7) the lead NAAQS review and a recommendation in the EPA staff paper to revoke the lead NAAQS.

With respect to the court decision on the 8-Hour Ozone Phase I Rule, with SIPs due on June 2007, attendees discussed the need for guidance on the impact of the decision on state SIPs and much discussion ensued regarding this topic, with the suggestion that perhaps NACAA could develop or urge EPA to provide some guidance. Discussion of this topic was continued during the "New Business" session on Monday.

Participants also discussed EPA's proposal to revoke the lead NAAQS, with strong objections voiced.

Brock then described NACAA's plans to prepare a menu of options for states that wish to adopt a more stringent annual PM<sub>2.5</sub> NAAQS, to be based on factual information, including EPA's staff paper, the Clean Air Scientific Advisory Committee's recommendations, EPA's Regulatory Impact Analysis and California's adoption of a more stringent NAAQS. There was much discussion about the issue, including whether such a menu might be perceived as a model rule that states must adopt. There was agreement to defer further discussion until Monday's "New Business" session.

#### *Public Education and Communications*

Colleen Cripps (NV) and Corey Chadwick (Cincinnati, OH), Co-Chairs of the NACAA Public Education and Communications Committee, apprised their colleagues of the upcoming National Air Quality Conference, which is to be held February 11-14, 2007 in Orlando, Florida. Corey said that this was the first year that the conference has included different tracks in addition to plenary sessions. Colleen noted that the Air Quality Forecasting, Mapping, and Monitoring track was the more technical track and that the Communicating Air Quality and Communities in Motion track was geared toward public communication. Corey encouraged attendees to send both their technical and public education staff members to the conference.

#### *Global Warming*

Art Williams (Louisville, KY), Co-Chair of the NACAA Global Warming Committee, noted the abundance of global warming-related news, including an upcoming Supreme Court decision on whether EPA has authority to regulate greenhouse gas (GHG) emissions under the Clean Air Act, the introduction of many global warming bills in the current Congressional session, the development of a multi-state GHG registry, 370 mayors having signed the U.S. Mayors Climate Protection Agreement and the announcement of the U.S. Climate Action Partnership. Given these and other developments, it was suggested that it is time for NACAA to develop a statement of principles on global warming. Bill Becker noted that he had reviewed the National Governors Association's principles related to global warming and found nothing that would constrain NACAA from supporting a mandatory program; Bill also discussed the issue with the NGA lead staff person on energy and environment, who agreed with Bill's assessment. Board Members and Committee Chairs agreed that the Global Warming Committee Co-Chairs should move forward to develop principles to present for adoption at the NACAA Spring Membership Meeting.

### **VII. Moving Toward an Efficient and Decarbonized Economy – Saturday, January 27, 2007**

Chris James (CT), Co-Chair of the NACAA Global Warming Committee, gave a presentation entitled, "From BACT, RACT, MACT to IOUs, Discos and NUGs: Connecting Dots, Challenging Existing Mental Models and Moving Toward an Efficient and Decarbonized Economy." His presentation touched on how future challenges will require new skills and problem-solving abilities, and pointed to global warming as a key example. Climate change cuts across all media and economic sectors. There are structural, institutional, technical and mental barriers to dealing with cross-cutting issues

such as global warming. Chris recommended that NACAA re-engage with energy/economic regulatory colleagues and provide training on integrated systems thinking for NACAA members, starting with Board members and designees.

### **VIII. Critical Issues and Related Discussion – Saturday, January 27, 2007**

#### *Air Toxics*

Vince Hellwig (MI), Co-Chair of the NACAA Air Toxics Committee, reported that EPA issued a Maximum Achievable Control Technology (MACT) standard for Portland Cement plants, but published a reconsideration at the same time. He reviewed the provisions of the new standard.

John Paul (Dayton, OH) reviewed a summary of events related to EPA's adoption of the Clean Air Mercury Rule (CAMR). He provided an update on state agencies' progress in developing and adopting state plans to implement CAMR and the status of the legal challenges to the rule.

Vince announced that EPA proposed a relaxation to the Once-In, Always-In policy. The proposed rule would allow sources to become exempt from MACT if they reduce emissions below the major source threshold at any time. He indicated that the association will submit comments in opposition.

Vince described new approaches EPA is developing for establishing both Residual Risk and Area Source standards. Both approaches are designed to consider groups of standards at once, in order to address similar types of sources in "bundles" and streamline the standard-setting process. EPA staff hopes this will allow the agency to meet court-ordered deadlines. EPA is planning to publish an Advance Notice of Proposed Rulemaking for both approaches in the near future.

### **IX. Critical Issues and Related Discussion – Sunday, January 28, 2007**

#### *Agriculture*

Shelley Kaderly (NE) and Doug Quetin (Monterey, CA), Co-Chairs of the NACAA Agriculture Committee, briefed participants on the following: 1) implementation of EPA's safe harbor agreement for animal feeding operations (AFOs); 2) recent efforts to exempt agricultural activities from regulation under the Clean Air Act; and 3) the USDA Agricultural Air Quality Task Force (AAQTF) and whether NACAA should convene a smaller group of the task force and NACAA members to try to make some headway on agricultural air issues.

Doug noted that EPA will not identify the farms being monitored under the safe harbor agreement. Shelley talked about challenges filed by the National Cattlemen Beef Association and the Farm Bureau to the PM NAAQS (specifically, regarding the inclusion of agricultural activities) and legislative attempts to exclude air emissions from manure from regulation under the Comprehensive Emergency Response, Compensation and Liability Act and the Emergency Planning and Community Right to Know Act. With respect to engaging with the AAQTF, participants responded positively. Participants also discussed a letter to be sent by the Environmental Integrity Project and other environmental groups expressing serious concerns with the lack of balance in

representation on the AAQTF and that citing evidence that the AAQTF is straying from its mission of providing advice on agricultural science. Participants agreed that the NACAA Agriculture Committee Co-chairs should convey the association's concerns about the AAQTF to EPA and seek a seat for one or both of the Agriculture Committee Co-Chairs on the Task Force.

### *Mobile Sources and Fuels*

Nancy Seidman (MA), Co-Chair of the NACAA Mobile Sources and Fuels Committee, apprised the group that she and Co-Chair Dennis McLerran (Seattle, WA), along with Nancy Kruger (NACAA), talk regularly with Margo Oge, Director of EPA's Office of Transportation and Air Quality, and her senior staff. Their most recent discussion had been earlier that week, during which they discussed mobile source air toxics, motor vehicle Inspection and Maintenance programs (including Appendix D), the renewable fuel standard, efforts related to the International Maritime Organization, the small nonroad engine rule and diesel retrofits and SmartWay. Nancy also advised the group that oral argument in *NACAA v. EPA*, in which the association has challenged EPA's aircraft rule, would be in late February (the Court subsequently postponed oral argument until March). Bill Becker then briefed attendees on a series of meetings he and Shelley Kaderly had attended in December on behalf of NACAA, as part of a coalition with industry and environmental groups, to advocate for FY 2008 funding for STAG air grants and Diesel Emission Reduction Act (DERA) programs. The five-person contingent representing the broad coalition met with White House policy advisors; Marcus Peacock, the Deputy Administrator of EPA; and James Connaughton, the Chairman of the Council on Environmental Quality. The FY 2008 request conveyed by the coalition representatives was for a total of \$45.5 million for DERA and a \$25-million increase over the FY 2006 appropriation for STAG air grants. In making this request, it was made clear that funding for DERA should not come at the expense of STAG air grants.

### *Program Funding*

Andy Ginsburg (OR), Co-Chair of the NACAA Program Funding Committee, summarized the status of the FY 2007 appropriations process and noted that it was likely that FY 2007 funding levels will be the same as those in FY 2006, pursuant to a continuing resolution Congress would likely adopt for the remainder of the fiscal year. He noted that the FY 2008 budget would be announced on February 5, 2007 and would probably be similar to the FY 2007 budget proposal.

Andy summarized the effort to develop a reallocation for Section 105 grants. He reported that there had been several calls with a small group of NACAA and EPA representatives, as well as with the workgroup (including 12 members of NACAA and the EPA regional offices and others). He noted that NACAA and EPA do not agree completely on the principles guiding the process, but that complete agreement is not necessary. He reported that the EPA contractor will share with the workgroup the type of data that is collected, but NACAA should not discuss the merits of the data.

Andy raised the issue of financial need and stated that it does not seem that EPA knows how to characterize it. This could be a fundamental issue for the smaller programs. The members discussed possible options for addressing financial need. They agreed that defining a core program would vary from agency to agency.

Maintenance of effort issues should be raised during discussions about implementation of the reallocation.

The group also discussed that implementation of the reallocation could be smoothed over if there were adequate increases to Section 105 funds. That way, no agency would lose funds and those that should receive proportionally more could do so.

The members reiterated that they need to be careful not to delve into details of a reallocation with EPA, since that could divide the association.

### *Enforcement and Compliance*

Eddie Terrill (OK), Co-Chair of the NACAA Enforcement and Compliance Committee, gave an overview of recent enforcement and compliance activities. He stated that the State Review Framework (SRF) audits will no longer result in EPA making a determination that a program is or is not “adequate.” Eddie said that this change diverges from the original intent of the SRF, which was to insure that there was a nationally consistent enforcement and compliance program by identifying and remedying states that were falling short.

Eddie announced that he, Committee Co-Chair Felicia Robinson (IN) and Mary Stewart Douglas (NACAA) are now having quarterly calls with Adam Kushner (EPA OECA) to discuss issues of interest to OECA and state and local air agencies.

Eddie also reported on an October EPA meeting he attended, along with industry and environmental representatives, on Performance Track (PT) During the meeting, EPA staff solicited feedback on a number of aspects of the PT program, including enhanced environmental projects, community relations, regulatory incentives and integration of environmental projects into ecosystem protection. Board Members and Committee Chairs then discussed PT. Eddie noted that two main concerns are that noncompliant facilities should be expelled from the program and that EPA gives unilateral approval to PT applicants without consulting with states and localities.

### *External Relations*

Larry Greene (Sacramento, CA), Co-Chair of the NACAA External Relations Committee, reported that the Committee held a conference call with representatives of several tribes and a tribal organization. He noted that they are interested in working with NACAA in the future. Larry noted that future committee calls will cover U.S.-Canada border issues as well as U.S.-Mexico border issues.

The members discussed what requirements apply to the tribes with respect to submitting monitoring data to the EPA database. They agreed that if the tribe received federal grants, it was likely subject to the same requirements as state and local agencies.

### *Monitoring*

Dick Valentinetti (VT), Co-Chair of the NACAA Monitoring Meeting, reported on activities of the Monitoring Committee, noting that the Monitoring Steering Committee (MSC) continues to be as transparent as possible and communicates closely through

conference calls with and web postings for the larger Monitoring Committee. Dick said that the MSC is a good forum for discussion of various issues with EPA, and that some adjustments in EPA regulations and policies that the Committee has advocated have been made.

Dick raised the question of reallocation of the \$42.5 PM<sub>2.5</sub> monitoring funds. A discussion ensued on whether the reallocation of the monitoring funds should proceed as a part of the process for reallocating the Section 105 funds, whether it should be separate but utilize the same principles or whether it should be separate and based on different principles. The possibility was raised that EPA may eventually combine Section 103 funds with Section 105 funds. Concern was expressed that, if funds from Section 103 are shifted to Section 105, many programs may not be able to accept the funds due to lack of the 40 percent match. Andy Ginsburg stated that if EPA wants to designate the uses for the monitoring funds, that it is better to leave them in Section 103. Dick agreed that the MSC, at its June meeting, should arrive at principles of its own for reallocation of the PM<sub>2.5</sub> Section 103 funds. Such factors as nonattainment areas, population, and regulatory requirements can also be taken into account, Dick said.

Dick also pointed out that many areas (approximately 50) are now required by the new regulations to sample PM<sub>2.5</sub> every day, which is very difficult for air agencies in light of funding problems. Dick also noted that the Las Vegas Monitoring Conference was attended by 550 people, and was very successful. Finally, Dick summarized recent activities regarding mercury monitoring, which is being headed by EPA's Clean Markets Division in conjunction with the National Atmospheric Deposition Program, a national group of governmental agency representatives and academics.

### *Permitting*

Ursula Kramer (Tucson, AZ), Co-Chair of the NACAA Permitting Committee, gave a brief update on the latest Clean Air Act Advisory Committee (CAAAC) meeting, focusing on the EPA activities that will be undertaken in response to the 100 recommendations of the Title V Task Force. CAAAC plans to respond with rules in some cases, guidance in others and, working with NACAA, will also identify "best practices" that states are now using regarding other recommendations. Turning to New Source Review, John Paul gave a status update summarizing the 2002 NSR Reforms, the Equipment Replacement Rule, the Alternative Applicability Hourly Test for Electric Generating Units, the NSR measures in the 8-Hour Ozone Implementation Rule, the Ethanol Plant Emissions Threshold Rule, the Indian Lands NSR Rule, the Debottlenecking, Aggregation and Project Netting Rule and the *Duke Energy* Supreme Court case.

### *Training*

Arturo Blanco (Houston, TX), Co-Chair of the NACAA Training Committee, provided an update on the Committee's activities, including development of a course matrix and working with EPA to update a course on controlling particulate matter and to create an intermediate enforcement course. Eddie Terrill (OK) discussed a letter to foundations he was proposing to send to seek funds for training; he noted that he initiated this project of fundraising for training during his tenure as STAPPA President and had been asked to continue it. He said the Central States Air Resource Agencies had established an account to deposit funds received from foundations or pursuant to

settlements (Supplemental Environmental Projects), and all these funds would go to training.

Mary Boyer (CA), Co-Chair of the NACAA Training Committee, discussed training funding for FY 2009 (the funds would come from FY 2008 appropriations, since training activities are forward-funded). The Committee is recommending that training be funded at the same level as agreed upon last year (\$1,995,000) and with the same allocation. In addition, the Committee Co-Chairs asked that even if Section 105 funds are cut, training funds should not be cut. Participants discussed the issue, including the effect of commissioner sign-off on Section 105 off-the-top allocations and if EPA decides that training funding needs to be competed and cannot go directly to the regional consortia. Board Members and Committee Chairs voted unanimously (12 states and 11 locals), with no abstentions, in favor of funding training in FY 2009 from FY 2008 appropriations at \$1,995,000, with allocations as proposed (see meeting materials), and no cuts to training even if Section 105 funds are cut.

#### **X. NACAA Finances – Monday, January 29, 2007**

Bill Becker presented and explained the NACAA financial statements, including those covering the association's non-federal funds and the operating grant (through September 30, 2007). Bill then reported on the audit of NACAA's finances, indicating that the auditors found compliance in all material respects and no material weaknesses. Copies of the audit report had been provided to Board Members earlier in the meeting.

Bill reported that NACAA had been advised to have a Conflict of Interest policy, which includes a form that all board members and staff would sign. The forms were distributed for signature, either then or to be submitted later.

Bill provided an update on the two states that were not paying complete dues – Texas and Ohio. He reported that he had discussed the situation with representatives of Texas and indicated NACAA's strong desire to have Texas participate fully in the association. Bill was still waiting to hear from Texas regarding whether it would pay its complete dues in the coming year. With respect to Ohio, Bill reported that the state would likely return to paying its full dues.

The members discussed the situation with Texas and expressed concerns about the fact that the state is paying only a fraction of its dues. It was agreed that Texas would be advised that it will need to pay its full share of FY 2008 dues by October 1, 2007 if the state wishes to remain a member of NACAA and that Texas will be given until the 2007 Summer Board of Directors and Committee Chairs Meeting to make this commitment or else it cannot remain a member of NACAA. NACAA Co-Past President Eddie Terrill (OK) agreed to communicate this decision to Texas; Arturo Blanco (Houston, TX) offered to let the other local agencies in Texas know of this discussion. If Texas decides to leave the association, the Texas local agencies would need to determine how their dues would be paid.

#### **XI. NACAA Meetings – Monday, January 29, 2007**

The Board and Committee Chairs discussed agenda topics for the 2007 Spring Membership Meeting, to be held in Louisville. It was agreed that NACAA should encourage increased EPA regional participation through a panel of regional office



speakers. Other sessions agreed upon included NAAQS and regional haze issue, monitoring activities, the Clean Air Science Advisory Committee and the standard-setting process, funding for diesel retrofits, air toxics activities, a federal enforcement update and state and local greenhouse gas activities. Bill Becker reminded members of the decision at the 2006 Fall Membership Meeting to make the Spring Meeting NACAA's first-ever "paperless" meeting.

Bill reported that the 2007 Fall Membership Meeting will be October 28-31, 2007 in San Diego. For future meeting locations, the group recommended a Colorado location for the 2007 Summer Board Meeting; the Florida Keys or Miami area for the 2008 Winter Board Meeting; and (in order of preference) Asheville, NC, northern Florida (e.g., Jacksonville) or Atlanta, GA for the 2008 Spring Membership Meeting.

## **XII. Other Business – Monday, January 29, 2007**

### *EPA Review of Co-Regulator Exception in Grant Competition Policy*

Bill Becker reported that EPA is likely doing away with the exception in its grant competition policy for co-regulators. The exception allows EPA to provide grants to co-regulator associations without subjecting them to competition. However, the agency had proposed the elimination of the exception and it would likely become final. Bill noted that NACAA will likely not be as affected by the change as the regional organizations that provide training. However, there may be a different exception that those groups could use. Bill said NACAA would continue to work with EPA to try to solution to the situation or to reduce any negative impacts.

### *New EPA Policy on Approval Process for STAG Awards to State Co-Regulator Organizations*

Bill Becker reported that EPA issued a new policy that requires written approval from state environmental commissioners if State and Tribal Assistance Grants are to be granted to associations (e.g., NACAA, the Environmental Council of the States). He noted that ECOS was not aware that the policy was going to be issued. This policy is similar to a provision that was previously proposed in Congress, but did not pass. The members discussed the impacts of this new EPA policy.

## **XIII. New Business – Monday, January 29, 2007**

Two issues discussed previously were raised during this session: a NACAA menu of options for a more stringent PM<sub>2.5</sub> NAAQS and next steps on 8-hour ozone following the court decision. With respect to the PM<sub>2.5</sub> NAAQS menu of options, it was agreed that NACAA would note in the preface that adoption of a more stringent PM<sub>2.5</sub> NAAQS is totally voluntary. Once development begins, the document would be reviewed by a committee of the members; the association may acquire outside assistance for this effort.

Participants agreed that NACAA would send a letter to EPA Administrator Johnson, signed by the Co-Presidents, regarding PM<sub>2.5</sub> and 8-hour ozone. In the letter, the associations will call on EPA to immediately issue the PM<sub>2.5</sub> implementation rule. With respect to ozone, the associations will explain that states are in a bind on 8-hour ozone, since SIPs are due June 2007; therefore, EPA should quickly issue guidance on

what states should do in light of the court decision. Otherwise states will submit SIPs that they think are appropriate. It was also agreed that EPA would be encouraged to refrain from further prolonging the litigation.

The 2007 NACAA Board of Directors and Committee Chairs Winter Meeting was adjourned.