

MINUTES

STAPPA AND ALAPCO BOARDS OF DIRECTORS AND COMMITTEE CHAIRS SUMMER MEETING

**July 16-17, 2000
The Summit at Big Sky
Big Sky, Montana**

The STAPPA and ALAPCO Boards of Directors and Committee Chairs 2000 Summer Meeting was called to order at 8:15 a.m. STAPPA Board members present included Ron Methier (GA), Dick Valentinetti (VT), Lloyd Eagan (WI), Cynthia Marvin (CA) on behalf of Mike Kenny, Jim Salvaggio (PA) and Herb Williams (TX). ALAPCO Board members present included Marcia Willhite (Lincoln, NE), Art Williams (Louisville, KY), Ellen Garvey (San Francisco, CA), Cory Chadwick (Cincinnati, OH), Jim Manning (Jacksonville, FL), Dennis McLerran (Seattle, WA), and Eric Skelton (Spokane, WA). Committee Chairs present included Bruce Andersen (Kansas City, KS), Wendy Barrott (Detroit, MI), Ken Colburn (NH), Norm Covell (Sacramento, CA), John Elston (NJ), Bliss Higgins (LA), Chris James (CT), Brian Jennison (Eugene, OR), Charlie Lagges (Cook County, IL), Curt Marshall (Dayton, OH), Brock Nicholson (NC), John Paul (Dayton, OH), Darryl Tyler (DE) and Mel Zeldin (Los Angeles, CA). A copy of the agenda is attached.

I. REACTION AND FOLLOW-UP TO NATIONAL STATE AND LOCAL AIR ROUNDTABLE DISCUSSION – Sunday, July 16, 2000

The meeting began with a follow-up discussion of the National State and Local Air Roundtable meeting held the previous day (Saturday, July 15, 2000) in connection with the Board meeting. Overall the Directors felt that the meeting had been more productive than the first meeting of the Air Roundtable, held on February 7, 2000 in Florida. Members expressed a desire to improve the partnership between state and local agencies and EPA. They reiterated their support for additional funding for all EPA programs, the operating budget and Section 105 alike. And, they endorsed Bob Perciasepe's offer to have EPA staff work directly with the STAPPA/ALAPCO Program Funding Committee to discuss ongoing funding issues.

Specifically, there was strong support for a more systematic approach to the associations' interactions with EPA. The group felt that because roles were not clearly defined progress was being hampering. They believed that clearly defined roles would improve EPA's view of state and local agencies as equal partners in the area of policy development. It was noted that EPA has more experience in dealing with states as

program implementers than it does as partners in program development. Until the “institutionalized roles” established under the current federal and state partnerships are overcome, this partnership will continue to be unsatisfactory for state and local agencies. Members did acknowledge that EPA’s offer to work directly with the Program Funding Committee is an effort to overcome those institutionalized roles. The associations need to capitalize on EPA’s willingness to talk, even if similar discussions have been held in the past.

It was noted that the “Vision and Goals Statement” calls on EPA to issue a directive stating that all new EPA initiatives or rules must include a well-developed process for communicating with and responding to stakeholders. Attendees felt that this well-developed process for communicating with stakeholders might encourage EPA to improve relations under the current federal and state partnership. STAPPA and ALAPCO agreed to encourage EPA to follow through on issuing this directive, thereby improving communications between the agency and its stakeholders.

The group then turned to an in-depth discussion of funding. The Directors appeared to approve of the fact that EPA had taken the House Report language on “off-the-top” funding as an opportunity to look more closely at the overall EPA operating budget, and they found the information provided by EPA to be helpful. This information reinforced the associations’ position that additional funding is needed for EPA, for both the operating budget and Section 105. The group did, however, express some disappointment that no compromise on “off-the-top” expenditures was reached at this meeting. In fact, EPA noted that it intends to respond to Congress on the issues raised in the appropriations language. No details on the nature of that response were provided at the meeting.

The Directors also recognized that the associations should continue to press Congress on the “off-the-top” funding issue as incorporated in the House Report language. As it stands right now, state and local agencies have finally caught the attention of the agency on “off-the-top” funding of programs, and they should continue to assert their position that EPA must consult with state and local agencies prior to allocating Section 105 funds. The Boards have agreed to work with EPA to develop a procedure for consulting with state and local agencies to determine concurrence on funding specific programs and initiatives.

In conclusion, the Directors felt that, generally, big changes in federal-state relationships should be expected under the next administration and that STAPPA and ALAPCO should be positioned to capitalize on these changes. One way to do this would be to redefine the goals of the partnership with EPA and to present this document to the new Assistant Administrator under the next administration. The group reiterated its support for additional funding for EPA’s operating budget and Section 105 and enthusiastically supported working with Rob Brenner and Beth Craig of EPA’s Office of Air and Radiation through the Program Funding Committee on ongoing funding issues.

II. ASSOCIATION RELATIONS – Sunday, July 16, 2000

STAPPA President Ron Methier (GA) began by outlining the broad objectives of this discussion. He hoped that this would be an opportunity to discuss how the associations are working, what changes, if any, might be considered, and how to improve communication with member agencies. By way of background, Ron noted that recently, with respect to STAPPA, there have been some instances when an individual agency has felt that the association has not accurately represented its position on a certain issue. It was the intention of this discussion to determine if these recent examples were isolated instances or reflected more fundamental problems with the decision-making process. Finally, Ron said he hoped the discussion would offer information on how best to ensure that STAPPA and ALAPCO continue to be responsive to their members.

The Directors discussed the role of the associations in addressing technical and policy issues relative to air pollution and agreed that the STAPPA/ALAPCO committee structure is the appropriate vehicle for addressing such issues. The group also discussed STAPPA's role relative to that of the Environmental Council of the States (ECOS) and the National Governors' Association (NGA), noting that ECOS and NGA regularly consult with STAPPA on clean air issues and that in taking positions, it is STAPPA's practice not to conflict with existing ECOS or NGA policy.

The Directors also discussed the decision-making process by which the associations develop positions on specific issues and reaffirmed the long-standing practice of striving for consensus in decision-making, but not depending on unanimous endorsement.

The Directors agreed that the existing STAPPA and ALAPCO decision-making process was particularly effective because the dissemination of information on issues and the committee structure for developing positions both work well. But, they also conceded that there are three levels of members in STAPPA and ALAPCO – those who actively participate in the activities of the associations and get a lot out of their involvement; those who are not particularly involved, but appreciate the information the associations provide to them; and those who are focused on their own work. Therefore, the level of involvement by any particular agency may effect participation in and support for the decision-making process.

III. CRITERIA POLLUTANTS – Monday, July 17, 2000

John Paul (Dayton, OH), ALAPCO Chair of the Criteria Pollutants Committee, began by informing members that the purpose of the session was to discuss the pending Linder-Collins amendment and determine whether or not the associations should take a position on the amendment. Next, Bill Becker, Executive Director of STAPPA and ALAPCO, provided members with a brief background on the amendment. Bill informed members that the amendment, which was being offered for inclusion in EPA's FY 2002 appropriations bill, would prohibit EPA from spending any EPA monies, including

Section 105 monies, on the eight-hour ozone designation process. Since the definition of “designation process” is unclear, the concern is that the amendment would also prohibit state and local air agencies from continuing to conduct activities in anticipation of designation, such as stakeholder meetings and public education. Bill informed the members that the U.S. House of Representatives passed the amendment, but the Senate has not yet acted.

Board members then discussed the merits of the amendment. In light of the recent Supreme Court case on the National Ambient Air Quality Standards, some members agreed with the amendment in principle, but argued that the associations should remain neutral on this issue, while other members strongly disagreed with the amendment and felt that the associations should take a position. After much discussion, a compromise position was reached. The group agreed that the associations should not take a position at this point in time other than the view that regardless of the status of designations by EPA, the associations believe that state and local agencies still have the authority to conduct activities that address health and safety concerns in potential nonattainment areas and that nothing in the Linder-Collins amendment interferes with that authority. The group also agreed to discuss this issue with the Board members, Committee Chairs and Criteria Pollutant Committee members who were not present before taking any further action.

IV. AIR TOXICS – Monday, July 17, 2000

Bliss Higgins (LA), STAPPA Chair of the Air Toxics Committee, provided a status report on EPA’s FACA process regarding toxic air pollution. Bliss began by explaining that the charge to the FACA subcommittee workgroup is to offer guidance to EPA on how to design a risk-based air toxics program, if the agency were to undertake one. This is necessary because unlike national programs, such as air toxics from mobile sources, a risk-based urban air toxics program is, by definition, a community-level undertaking, based on a local assessment and evaluation of the risks present.

Bliss noted that there is consensus among workgroup members that the plan should be community-based. She indicated that the workgroup planned to make recommendations to EPA regarding the integrated air toxics program, but that no timetable had been set for when this would be done.

Next, Bliss informed members of a recent EPA civil rights initiative that could have implications for both air toxics and permitting. On July 13, 2000, EPA published two civil rights documents, entitled *Draft Title VI Guidance Document for EPA Assistance Recipients Administering Environmental Permitting Programs* and *Draft Revised Guidance for Investigating Title VI Administrative Complaints Challenging Permits*. The draft guidance, which was revised to address comments that 1998 interim guidance was too vague, is comprised of two components, one on the procedure EPA will follow in investigating civil rights complaints, and the other to help state and local environmental agencies fulfill their responsibilities under Title VI.

Bliss noted that while the purpose of the guidance was to educate states on what types of factors are to be considered when evaluating whether a Title VI violation has occurred, there are a number of concerns with the draft guidance. She urged members to give it careful review. Bliss also recommended that the STAPPA/ALAPCO Air Toxics and Permitting Committees coordinate the associations' comments to EPA on the draft guidance. Bliss concluded by informing members that comments on the guidance are due to EPA by not later than August 28, 2000.

V. MONITORING – Monday, July 17, 2000

Mel Zeldin (Los Angeles, CA), ALAPCO Chair of the Monitoring Committee, provided an update on monitoring developments since the February 7, 2000 Air Roundtable meeting. First, Mel provided a status report on recent developments regarding EPA's national air toxics monitoring plan. Specifically, he addressed the proposed new funding recommendation by the Air Toxics Steering Committee for the \$3 million Congress allocated for air toxics monitoring in FY 2000, which was approved by the STAPPA and ALAPCO Boards at the Winter 2000 Meeting in February. Mel reminded members that the Steering Committee recommended a bifurcated strategy. The first three years (pilot network) would constitute a learning period, with strategic monitoring at selected urban, small city and rural sites. Funding for the pilot network would be as follows: \$0.5 million for assessment of data (conducted by the Lake Michigan Air Directors Consortium with oversight by STAPPA and ALAPCO); \$1.5 million to fund the urban area sites; and \$1 million to fund the smaller community and rural area sites. Mel informed members that the pilot project was moving forward in four cities and at six rural sites. Mel also noted that since the Science Advisory Board had tentatively approved the approach, the release of funding was imminent. Mel concluded by informing members that the Steering Committee was developing recommendations for the allocation of the next \$3 million in FY 2002 and, specifically, that funding should be used for the procurement of the necessary equipment. After a brief discussion, members approved the Steering Committee's recommendation.

VI. ENFORCEMENT – Monday, July 17, 2000

Curt Marshall (Dayton, OH), ALAPCO Chair of the Enforcement and Compliance Committee, began by informing members of recent developments regarding EPA's March 29, 2000 draft Compliance Monitoring Strategy. Curt reminded members that this particular strategy was revised as a result of a 1998 Inspector General report indicating that state and local air agencies were not inspecting sources for compliance on a routine basis. According to Curt, the draft policy is a national inspection protocol that contains a number of good features, including EPA's recognition and acceptance of alternative compliance tools. However, the draft policy also contains a number of provisions that were very contentious, and while the Committee has successfully negotiated compromises on a number of those issues with EPA, there is one major issue – a requirement in the draft policy for a national minimum inspection frequency for Title V Sources (every two years for a major source and every five years for a synthetic minor) – that remains unresolved. Curt informed members that the Permitting Committee had

voiced strong objections to this requirement because it appeared to undermine the current Performance Partnership Agreement (PPA) process. In anticipation of an August meeting with EPA to continue negotiations on this new policy, Curt asked the Board members for direction on how to proceed. Of the two alternatives Curt presented to the Boards – continue to seek consensus on an inspection frequency minimum that would satisfy all members or push for a continuation of the current PPA process to define annual inspection frequencies – the Boards unanimously chose the second option. Curt concluded by informing the group that the Committee was in the process of scheduling the August meeting with EPA and that he would apprise members of the outcome of those discussions.

VII. PERMITTING – Monday, July 17, 2000

Wendy Barrott (Detroit, MI), ALAPCO Chair of the Permitting Committee, updated members on the status of Title V action items from the February 7, 2000 Air Roundtable meeting. Wendy reminded members that during the meeting, Bob Perciasepe agreed to send a memo to the EPA regional air directors informing them that the Title V deadline was a top priority for him and directing them to reach out to state and local agencies in their respective regions regarding the status of agencies' ability to comply with the deadline. In addition, the memo would also instruct regions to inquire as to what they could do to help state and local permitting agencies meet the deadline. Following the February Roundtable meeting, the STAPPA and ALAPCO Chairs of the Permitting Committee worked with EPA to draft the memo, which was finally transmitted in early June. Wendy informed members that the regions are now in the process of contacting state and local agencies. Wendy also informed members that copies of the memo, as well as a STAPPA and ALAPCO survey to determine how many state and local agencies have been contacted to date, were in the meeting books.

Next, Wendy informed members of some recent developments that could affect Title V deadline issuance rates. Such developments include a lawsuit initiated by Earth Justice, along with the New York Public Interest Research Group, challenging EPA's latest extension of the interim approval date. Wendy indicated that if the lawsuit is successful, the time frame for state and local agencies to get their "fixes" in could be considerably shorter. Wendy reminded members that failure to meet the deadline would result in EPA takeover of state and local programs. Wendy explained that the Permitting Committee had conducted an informal survey of affected agencies to determine the impact of a shorter time frame and that the survey results were in the meeting book. Finally, Wendy briefly mentioned other recent developments that could affect Title V permit issuance rates, including the periodic monitoring guidance decision, EPA's White Paper #3 and EPA's draft civil rights guidance.

At the conclusion of Wendy's presentation, members suggested that the Permitting Committee Chairs schedule a conference call with Earth Justice representatives to convey the associations' concerns about the lawsuit.

VIII. TRAINING – Monday, July 17, 2000

Brian Jennison (Eugene, OR), ALAPCO Chair of the Training Committee, began by informing members of some recent concerns that the Training Committee has raised about funding issues. Specifically, the Committee is concerned about the possible implications of “off-the-top” language that was included in the FY 2001 EPA appropriations bill, which prohibits EPA from using Section 105 funds to support activities, like training, that have historically been funded through EPA’s own budget. According to Brian, the Committee is concerned that such language would decimate a number of training initiatives that were recently identified by members as a priority, such as the toxics risk communication tool kit.

A brief discussion followed, during which Bill Becker clarified that the budget language was not intended to be “anti-training,” but rather to prevent EPA from inappropriately setting aside Section 105 funds to perform activities that are EPA’s responsibility. Bill pointed out that nothing in the language prevented state and local agencies from pooling Section 105 monies for training activities. Members agreed, and also expressed the need for consistency on this issue, specifically the need to re-evaluate the associations’ recent decision to fund the Emissions Inventory Improvement Program out of Section 105 funds. Brian concluded his report by asking the Boards for an opportunity to raise this issue at the Fall Membership Meeting, and also suggested that members of the Program Funding Committee participate in the next monthly Training Committee conference call to fully explain this issue to Committee members.

IX. DISCUSSION OF FALL MEMBERSHIP MEETING AGENDA – Monday, July 17, 2000

Bill Becker updated members on the plans for the Fall 2000 Membership Meeting, to take place October 21-25, 2000 in Washington, DC, noting that this fall would mark the 20th anniversary of the establishment of a Secretariat for the associations. The group agreed that the agenda for the meeting would include a panel discussion among association alumni, as well as opportunities for members to hear from and interact with Congressional staff. In addition, after discussing other topics, the group selected the following additional session topics: critical air pollution issues, “Face the Air Directors” with Bob Perciasepe, rebuilding and retrofitting existing trucks and buses, timely enforcement issues, innovative initiatives, energy deregulation and multi-pollutant strategies for improving air quality, and the latest on the ozone and PM NAAQS and regional haze.

The members also noted that time should be allowed for a STAPPA/ALAPCO joint business meeting, as well as a meeting of the Boards of Directors.

X. FINANCIAL UPDATE – Monday, July 17, 2000

Bill Becker provided a summary of the associations' financial activities. First, he reviewed the status of grants to STAPPA/ALAPCO (for the Secretariat and the greenhouse gas document) for the period of March 16, 2000 to June 30, 2000. The group then reviewed the Treasurers' reports for both STAPPA and ALAPCO. Copies of the financial information discussed are attached.

XI. ADJOURNMENT – Monday, July 17, 2000

The STAPPA and ALAPCO Boards of Directors and Committee Chairs 2000 Summer Meeting adjourned at 11:30 a.m.