

MINUTES

STAPPA AND ALAPCO BOARDS OF DIRECTORS AND COMMITTEE CHAIRS WINTER MEETING

**February 5-7, 2000
The Sundial
Sanibel Island, Florida**

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

I. MOBILE SOURCES AND FUELS – Saturday, February 5, 2000

Eric Skelton (Spokane, WA) apprised members of the upcoming Mobile Source Air Toxics Workshop, to be convened by the Health Effects Institute on behalf of EPA, and of STAPPA and ALAPCO's role in that workshop. The purpose of the workshop is for state and local air agencies to discuss with EPA the direction in which the agency is heading with respect to the control of mobile source air toxics under section 202(l) of the Clean Air Act; EPA is under court order to issue a proposal in April 2000 and a final rule in December 2000. Eric reported that the associations' message – to be delivered by a panel of state and local air agency representatives – will be that EPA is not going far enough in taking action to address toxic emissions from mobile sources. The key recommendations will be that EPA should 1) establish a national fuel benzene cap that is more aggressive than the current 1-percent cap that exists in Federal reformulated gasoline areas; 2) clearly identify under Section 202(l) of the Clean Air Act the reduction potential for mobile source air toxics and particulate; 3) develop a clear, comprehensive mobile source air toxics control plan; 4) consider a shift in historical policy development practices; and 5) develop a stakeholder process to refine and enhance existing tools for risk assessment. Members agreed that the issue of mobile source air toxics is an extremely critical one and that EPA's lack of adequate response is a significant problem, as is the lack of integration of air pollution control programs, including air toxics.

Dick Baldwin (Ventura, CA), ALAPCO Chair of the Mobile Sources and Fuels Committee, next updated members on EPA's efforts regarding onroad heavy-duty diesel engines and sulfur in onroad diesel fuel. Dick noted that, notwithstanding these EPA onroad efforts – which appear to be heading in the right direction – the issue of nonroad heavy-duty diesels and nonroad diesel fuel quality must also be addressed by the agency this year; advocating for the effective regulation of onroad and nonroad heavy-duty diesels and fuels will be a top priority of the associations this year. John Elston (NJ), STAPPA Chair of the Mobile Sources and Fuels Committee, added that it is imperative that state and local air agencies send letters to EPA urging the agency to move ahead with a systems approach for both onroad and nonroad heavy-duty diesels and fuel; John advised that STAPPA and ALAPCO had transmitted such a letter to the agency in January, which could be used as a model by states and localities.

II. CRITERIA POLLUTANTS – Saturday, February 5, 2000

Brock Nicholson (NC), STAPPA Chair of the Criteria Pollutants Committee, explained that STAPPA and ALAPCO are seeking a partnership role in working with EPA to develop a strategy and guidance for designating areas under the eight-hour ozone standard; the most current information indicates that EPA is planning to propose designations this summer and finalize the designations in December 2000. Brock noted that given this timing and the current lack of guidance, states and localities are growing increasingly concerned. Among the issues to be resolved are nonattainment area boundaries and, moreover, the implications of designation, including when and how New Source Review and conformity will apply.

The group agreed that the Court decision on the eight-hour ozone standard did not overturn the health-basis for the ozone standard and did not take issue with the fact that ozone poses a threat to public health that must be addressed. Accordingly, there was full agreement that action must be taken now to move forward with designations and with such efforts as the operation of monitoring sites, the analysis of monitoring data, the preparation of emission inventories, the initiation of public education and communications efforts, the evaluation of potential control options and the pursuit of harmonized strategies. However, there was concern expressed with the immediate imposition upon designation of certain designation-related requirements, including NSR and transportation conformity. The group also engaged in a discussion of the critical importance of establishing a process to work in close partnership with EPA on this and other NAAQS and regional haze issues and the need to communicate to EPA that they must engage STAPPA and ALAPCO not only on eight-hour designations, but on the full range of Title I issues, as well.

III. NEW SOURCE REVIEW – Saturday, February 5, 2000

John Paul (Dayton, OH), ALAPCO Chair of the New Source Review (NSR) Subcommittee, briefly described the history of NSR and EPA's current efforts to reform the program. John also reminded members of STAPPA and ALAPCO's adopted

principles for NSR reform, which favor granting sources timeliness and certainty in exchange for a commitment from sources to install good pollution control devices. Next, John updated members on EPA's recent stakeholder meetings, held on December 16, 1999 and January 13, 2000 respectively, which focused on the utility sector-based off-ramp proposal. Representatives of STAPPA and ALAPCO's NSR subcommittee attended both meetings and used the opportunity to stress the associations' top priorities for NSR reform, chief of which are the elimination of netting and a commitment to strengthen the BACT/LAER Clearinghouse. John then briefed members on the associations' specific recommendations regarding the utility proposal and updated them on STAPPA and ALAPCO's November 22, 1999 stakeholder meeting with industry. Finally, John informed members that EPA will probably finalize the "normal" NSR proposal and the plant-wide applicability off-ramp, and propose the utility-based off-ramp, by spring 2000. Bill Becker concluded the session by informing members of a letter from the Senate Environment and Public Works Committee requesting information from the associations regarding NSR applicability determinations.

IV. PERMITTING – Saturday, February 5, 2000

Dick Valentinetti (VT) informed members that the purpose of this discussion was to prepare for the next day's National State and Local Air Roundtable Meeting with EPA. The goal of that discussion would be to identify obstacles that might prevent states and localities from meeting the January 1, 2001 deadline established by Assistant Administrator Bob Perciasepe for issuing Title V permits and to develop solutions to overcome those obstacles. Dick briefed members on a number of obstacles, identified by a STAPPA and ALAPCO Title V Workgroup, that are hindering state and local agencies' ability to issue Title V permits, including the permit application shield, synthetic minors permitting, nonattainment initiatives, Title V fees and the difficulty of writing permits for sources that are subject to MACT standards. Next, Dick asked members what they thought EPA could do to help state and local agencies overcome these obstacles and increase their Title V permit issuance rate. Board members suggested the following initiatives: changing the Phase II transition policy baseline to reduce the volume of permits; increasing funding for staffing needs; increasing permit fees; and working with the EPA regional offices on a permit issuance strategy. In conclusion, members agreed that the associations needed to stress the importance of federal, state and local agencies working together to increase Title V permit issuance rates.

V. AIR TOXICS – Saturday, February 5, 2000

Bliss Higgins (LA), STAPPA Chair of the Air Toxics Committee, provided a status report on EPA's National Air Toxics Assessment (NATA). She indicated that EPA would soon provide state and local agencies with the results of a modeling exercise (the ASPEN model), which will include information on the ambient concentrations of 33 hazardous air pollutants nationwide. After a state/local review period, the information will be made available to the public in April 2000. The second phase of the assessment will include a modeling exercise to estimate exposure levels for the 33 pollutants. This

would be released in August 2000, following a state/local review period. Bliss urged members to review the two sets of information when they are made available.

Bliss reported that STAPPA and ALAPCO will be working with EPA on the development of a plan for implementing the Urban Air Toxics Strategy (UATS). Specifically, state and local representatives will participate in a working group with other stakeholders under the auspices of a subcommittee of the Clean Air Act Advisory Committee. Bliss identified the state and local participants and provided a schedule for the working group's activities.

The members discussed the fact that, while EPA is going to be working on the UATS, the agency does not seem to have an overall national air toxics strategy. Additionally, Bill Becker informed the members that EPA had cancelled the annual Air Toxics Implementation Workshop, which was held each August. They agreed that EPA was sending the wrong message by canceling the workshop.

VI. POLLUTION PREVENTION AND SUSTAINABILITY – Saturday, February 5, 2000

Chris James (CT), STAPPA Chair of the Pollution Prevention and Sustainability Committee, briefed the group on the latest efforts to revise EPA's "Once In, Always In" MACT policy. The Pollution Prevention and Sustainability Committee has, since February 1998, sought revisions to the policy that would enable sources to avoid MACT if they implement pollution prevention options that result in superior emission reductions compared to the reductions obtained using applicable MACT. Chris noted that EPA has recently backed away from its earlier support for revising the policy, due to legal and enforcement concerns related to allowing sources to escape application of MACT standards by implementing pollution prevention approaches. Chris reported that the committee will ask EPA to put its latest position on revisions to the policy in a letter to STAPPA and ALAPCO. Marcia Willhite (Lincoln, NE), ALAPCO Chair of the Pollution Prevention and Sustainability Committee, expressed frustration with EPA's changing position on whether to revise the policy and said that the committee would work with other organizations to build support for appropriate revisions to the policy and continue to pursue dialogue with EPA.

VII. PREPARATION FOR NATIONAL STATE AND LOCAL AIR ROUNDTABLE MEETING – Saturday, February 5, 2000

Bill Becker provided the members with background information about the Roundtable meeting with EPA, which would take place the following day. He noted that Bob Perciasepe, the EPA Assistant Administrator for the Office of Air and Radiation, viewed the STAPPA/ALAPCO and ECOS members attending the meeting as his "Board of Directors," who would provide him with feedback on how the national air program is proceeding. Bill noted that there were three primary agenda topics for the meeting, each of which had an EPA and a STAPPA/ALAPCO lead: NAAQS, air toxics and permitting/NSR.

The members discussed some of the overarching issues that should be addressed during the meeting, as well, including such things as the meaning of “partnership” and the need for early involvement. They also agreed on the need to focus on management and policy issues, rather than on technical details of the various programs. Bill emphasized that the group was not expected to provide solutions to problems, but, rather, to identify issues of concern and agree to a follow up process, including to whom each issue should be referred for further discussion and resolution (i.e., which STAPPA/ALAPCO committee and EPA staff).

The members discussed some of the specific issues that should be raised on the following day and additional points they believed they should make to the Assistant Administrator and the other EPA attendees.

The STAPPA/ALAPCO Boards of Directors and Committee Chairs meeting was adjourned until Monday morning, February 7, 2000.

VIII. PROGRAM FUNDING – Monday, February 7, 2000

Bruce Andersen (Kansas City, KS), ALAPCO Chair of the Program Funding Committee, informed the members that he and Darryl Tyler (DE), the STAPPA Chair of the Program Funding Committee, have been serving on the steering committee that is working with EPA to create a 10-year vision and set of goals for the national air quality program. Others on the steering committee include representatives of ECOS and tribes. This activity included a meeting last September in Chicago and the development of a “Joint Statement on Vision and Goals,” which is currently in draft form. Bruce indicated that the leaders of each of the participating groups (including the Presidents of STAPPA and ALAPCO) would soon be having a conference call to determine how to proceed with the approval of the document and its implementation.

Darryl Tyler reported that the next steps include the adoption of the “Vision and Goals” document by the participating groups and implementation of the recommendations contained in it. Among the key principles in the document are the importance of EPA leadership, partnership, collaboration, continual reevaluation and the need to take advantage of the partners’ strengths. The steering committee members have proposed possible implementation options, which Darryl summarized for the members.

Bruce reported that President Clinton’s FY 2001 budget would be released later that day. Advance informal reports were that Section 105 funding would equal the amount appropriated in FY 2000.

IX. MONITORING – Monday, February 7, 2000

Mel Zeldin (Los Angeles, CA), ALAPCO Chair of the Monitoring Committee, briefly reviewed EPA’s national air toxics monitoring plan. Mel informed members the associations had a number of concerns with EPA’s original air toxics monitoring strategy,

specifically the lack of recognition of state and local monitoring efforts. Mel noted that in response to STAPPA and ALAPCO's concerns with EPA's original air toxics plan, EPA and the associations established a partnership agreement on evolving air toxics monitoring, including the formation of a joint steering committee and technical working groups to oversee development of the plan. Next, Mel highlighted some of the major changes to the monitoring strategy that EPA made to address STAPPA and ALAPCO's concerns, including the design and roll out of a monitoring network that takes current state and local monitoring efforts into account. Finally, Mel outlined the Air Toxics Steering Committee's proposed new funding recommendation for use of the \$3 million Congress allocated for air toxics monitoring in FY 2000. Mel explained that the new funding strategy is based on the premise that strategic monitoring is necessary in order to develop an accurate understanding of what should be monitored. Towards this end, 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. Mel pointed out that the actual monitoring would take place in the first year, with the next two years reserved for data analysis. The data from this pilot network would then be used to assist in crafting the elements of a national air toxics monitoring network (phase II). The Steering Committee's recommendations for funding of the pilot network was for \$0.5 million for assessment of data (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 asked the Boards to approve the Steering Committee's recommendation. During the discussion of this issue, members expressed concern about STAPPA and ALAPCO acting as steward for air toxics assessment funds, and, in particular about the STAPPA/ALAPCO Secretariat's role in administering this effort. In addition, the group discussed the selection of sites. The Board members then unanimously approved the recommendation, provided that the STAPPA/ALAPCO Secretariat would not be responsible for managing the contract for this effort. Mel concluded by informing members of the upcoming PAMS Workshop in Nevada.

X. ENFORCEMENT AND COMPLIANCE – Monday, February 7, 2000

Geri O'Sullivan of the STAPPA/ALAPCO Secretariat updated members on a number of initiatives the Committee is working on. The first initiative involves the NSR/PSD enforcement actions of EPA's Office of Enforcement and Compliance Assurance. Geri noted that one of the main issues that has arisen out of the enforcement actions is the question of what constitutes "routine maintenance" versus "major modifications." Therefore, in an effort to provide guidance to state and local permitting authorities, the Committee drafted and made available to members a list of questions based on the criteria set out in the WEPCO case to help in determining whether or not a planned modification at a facility would be considered a routine repair, replacement or maintenance project, and therefore qualify for an exemption from NSR review.

Next, Geri informed members about Committee's federal, state and local "Rules of Engagement" initiative, to facilitate communication between federal, state and local agencies and to improve the overall relationship. The "Rules of Engagement" language

is intended to serve as a guideline for future federal, state and local interactions and to clearly articulate state and local agencies' goals, roles and objectives regarding interaction with their federal counterparts. Moreover, the rules are designed to facilitate communication and foster trust between federal, state and local agencies; use of the rules by state or local agencies would be on a voluntary basis. Geri encouraged member to review and comment on the draft copy of the draft "Rules of Engagement Language included in the meeting book.

Geri concluded by calling members' attention to an announcement and agenda for EPA's Initial NSR/PSD Case Development Workshops in California.

XI. EMISSIONS AND MODELING – Monday, February 7, 2000

Roger Westman (Pittsburgh, PA), ALAPCO Chair of the Emissions and Modeling Committee, updated members on the Emission Inventory Improvement Program (EIIP)-Phase 2 Plan developed by SAEWG. The proposed EIIP-Phase 2 plan is an extension of the EIIP effort, designed to help state and local agencies address challenges they will face during the next few years by providing the tools necessary to meet new demands. Members expressed strong support for the program and identified a number of new initiatives that the EIIP should address. However, Roger noted that while the demand for EIIP products will increase, EPA funding for this effort has been cut, and the program faces an uncertain future without a strong commitment from STAPPA and ALAPCO. Therefore, Roger asked Board members to approve a motion to use Section 105 funds to support the EIIP-Phase 2 program. Roger estimated that the program would require \$675,000 over the next three years, which would be devoted primarily to contractor support for several working committees. Members expressed concerns about the repeated use of Section 105 funds for the EIIP, and the precedence this was setting with EPA for future funding. Although the group strongly objected to the use of 105 funds for this work, because of their support for this effort and EPA's lack of willingness to fund it, the Boards voted - STAPPA five to one in favor and ALAPCO voted four to one in favor – to authorize the use of \$675,000 in Section 105 funds. The group also agreed that the associations should reiterate to EPA, in writing, their objection to the use of Section 105 funds for the EIIP and urge that the agency fully fund this important effort with its own resources, however, if agency resources for EIIP are not available for FY 2001, STAPPA and ALAPCO would consent to the use of 105 funds for that year and thereafter, EPA must fund the program itself.

XII. INTERNATIONAL – Monday, February 7, 2000

Norm Covell (Sacramento, CA), ALAPCO Chair of the External Relations Committee, highlighted committee activities over the past three months, including trips by various STAPPA and ALAPCO members to air quality meetings in Romania, Brazil, Belgium and Mexico. Next, Bill Becker highlighted the latest on the development of a STAPPA/ALAPCO international air quality web site. Bill noted that the associations entered into a formal contract with the University of California-Riverside to develop a world-class web site that will provide a simple, user-friendly site where anyone can easily

and quickly find air quality and agency contact information of interest. Bill also clarified that the associations' existing public web site would be folded into the new site, which will enhance and increase STAPPA/ALAPCO's domestic and international web presence. Norm concluded his update by highlighting the latest plan, in coordination with the Commission for Environmental Cooperation, to have sessions on North American air quality issues at the Spring 2000 STAPPA/ALAPCO Membership Meeting with the participation of delegations of air quality officials from Canada and Mexico.

XIII. CLIMATE CHANGE – Monday, February 7, 2000

Ken Colburn (NH), STAPPA Chair of the Stratospheric Ozone and Global Warming Committee, reported on his and ALAPCO Co-Chair Art Williams' (Louisville, KY) participation on behalf of the associations at the Fifth Conference of the Parties (COP5) in Bonn, Germany in November 1999. Ken noted the emergence of opposition to the Kyoto Protocol from OPEC nations at COP5, but clarified that support for this opposition was not expected to thwart progress to date. Ken and Art also participated in several events during the conference in which they distributed and highlighted the associations' final report, *Reducing Greenhouse Gases and Air Pollution: A Menu of Harmonized Options*, which was well received.

Ken next briefed the group on follow-up activities related to the final report, including a meeting with EPA representatives at which the agency confirmed its ongoing support for the associations' plan to refine the model for assessing the benefits of harmonized strategies and provide training to state and local agencies on the use of the model. Ken also noted STAPPA and ALAPCO's cosponsorship of meetings, along with the National Association of State Energy Officials, the National Association of Regulatory Utility Commissioners and the Environmental Council of the States, to jointly explore and integrate environmental, energy and utility policies, programs and regulations.

XIV. SPRING MEMBERSHIP MEETING – Monday, February 7, 2000

Bill updated the members on the plans for the Spring 2000 Membership Meeting. He noted that, as agreed by the Boards at their fall meeting, STAPPA and ALAPCO would host the First Annual Conference of North American Air Quality Management Officials during the spring meeting. The sessions for this portion of the meeting – to begin after lunch on Monday, April 3 and conclude after lunch on Tuesday, April 4 – were being developed by a trinational steering committee and coordinated by the Commission for Environmental Cooperation.

The members then discussed other proposed session topics for the regular sessions of the STAPPA/ALAPCO Spring Membership Meeting. Topics selected included critical air pollution issues (including, among others, program funding and reports by SAMWG, SAEWG and SASWG); a reprise of the "Face the Directors" session with Bob Perciasepe; an overview of air quality issues facing North Carolina (the host state); the latest on the ozone and PM NAAQS and regional haze; high-priority

strategies for controlling emissions from mobile sources; regulation of mercury emissions; a discussion with Bruce Buckheit on timely enforcement issues; and a discussion of New Source Review. In addition, a joint business session of the associations, as well as a Boards of Directors meeting would be held.

XV. FINANCIAL UPDATE – Monday, February 7, 2000

Bill Becker provided a summary of the associations' financial activities. First, he reviewed the status of STAPPA/ALAPCO's grants (for the Secretariat and the greenhouse gas document), which were extended until December 31, 1999. He then discussed expenditures under the two new grants, which began on October 1, 1999 and reviewed the treasurers' reports for both STAPPA and ALAPCO.

Bill also distributed to Board members and reviewed the report of the annual audit of the associations' finances and financial management system and noted that the auditors found that there were no material weaknesses in any facet of the associations' accounting practices. This amounts to a clean audit. Bill noted that the two outstanding items from last year's audit – the development of a conflict of interest policy and a statement to the effect that members of the associations and their Boards do not enjoy any unfair or excessive benefits from their membership in the associations – have been referred to the auditors for their assistance drafting appropriate language. Bill also reported that for the present year, the auditors recommended that the associations' management look at the nature of their investments, as those investments are safe but conservative ones in the present economy. The Boards asked Bill to seek information from similar organizations regarding their investment vehicles. They also agreed that Bill should inquire about the real estate market in Washington, DC and about pertinent ownership issues and responsibilities to determine the feasibility of the associations' purchasing office space for the Secretariat.

XVI. OTHER BUSINESS – Monday, February 7, 2000

Bill Becker apprised the group of several initiatives that the associations have undertaken for which the University of Maryland Environmental Law Clinic is providing assistance. Student attorneys, under the supervision of the Clinic's director, assisted in drafting STAPPA and ALAPCO's comments on EPA's proposed economic incentive program, provided legal assistance to the associations in their intervention in litigation regarding EPA's architectural and industrial maintenance (AIM) coatings rule and are currently involved in the associations' efforts to draft a model AIM rule and to monitor implementation of the Consent Decrees between the U.S. government and seven manufacturers of heavy-duty diesel engines.

Finally, Eric Skelton (Spokane, WA), ALAPCO President, reintroduced the discussion of guidelines for ALAPCO travel funds. He noted that the Board had made it clear that they were interested in establishing a guideline, but not a formal policy. He hoped that the document he had developed since the fall Board of Directors' meeting

would meet these needs. The ALAPCO members in attendance approved the guidelines as developed.

XVII. ADJOURNMENT – Monday, February 7, 2000

The STAPPA and ALAPCO Boards of Directors and Committee Chairs Winter Meeting adjourned at 12:45 p.m.