

MINUTES

STAPPA AND ALAPCO BOARDS OF DIRECTORS AND COMMITTEE CHAIRS WINTER MEETING

February 7-9, 2004
Kiawah Island, South Carolina

I. Introductions – Saturday, February 7, 2004

ALAPCO President Cory Chadwick (Cincinnati, OH) and STAPPA President Jim Joy (SC) opened the meeting and advised the members of changes to the agenda (a reordering of sessions). Next, Jim welcomed everyone to South Carolina and everyone introduced himself or herself. In addition to Jim, STAPPA Board Members and Committee Chairs present were John Benedict (WV), Mary Boyer (CA), Colleen Cripps (NV), Lloyd Eagan (WI), Shelley Kaderly (NE), Ron Methier (GA), Brock Nicholson (NC), Terry O'Clair (ND), Bill O'Sullivan (NJ), Nancy Seidman (MA), Dave Shaw (NY), Eddie Terrill (OK) and Dick Valentinetti (VT). In addition to Cory, ALAPCO Board Members and Committee Chairs present were Bruce Andersen (Kansas City, KS), Bob Colby (Chattanooga, TN), Norm Covell (Sacramento, CA), Brian Jennison (Lane County, OR), Ursula Kramer (Tucson, AZ), Lynne Liddington (Knoxville, TN), Dennis McLerran (Seattle, WA), John Paul (Dayton, OH), Doug Quetin (Monterey, CA), Eric Skelton (Spokane, WA) and Gary Young (Des Moines, IA). The meeting agenda is attached.

II. Committee Reports on Critical Issues and Related Discussions – Saturday, February 7, 2004

Energy – Ron Methier (GA), STAPPA Chair of the Energy Committee, reminded members that at the 2003 Summer Board Meeting they had agreed to pursue an analysis of the associations' May 2002 multi-pollutant principles to determine what national emission caps and deadlines for NO_x, SO₂ and mercury would result from application of the principles. At the 2003 Fall Membership Meeting the memberships had responded favorably to a discussion draft of the analysis results and had asked that as the Committee completes its analysis, it also develop a written, "plain-English" explanation of the methodology used. Since that time, the Energy Committee has worked hard to develop this written explanation. Ron referred members to the near-final product of the Committee's effort, included in the meeting notebooks, and asked for the Boards and Chairs reaction. There was universal support for the effort and it was agreed that once complete, the Committee should present the analysis to the full memberships via conference call and that the results of the analysis should be used in the associations' comments to EPA on the proposed Interstate Air Quality Rule.

Air Toxics – Lloyd Eagan (WI), STAPPA Chair of the Air Toxics Committee, reported that EPA had proposed regulations to control emissions of mercury from utilities and that STAPPA and ALAPCO planned to testify in the upcoming public hearings and submit written comments. Lloyd summarized several major concerns that STAPPA and ALAPCO would likely address in the testimony and indicated that the Air Toxics

Committee had agreed on those points. They include the following: the deadlines in the proposal are too long; the proposed emission standards are too weak and the associations have concerns about the subcategorization EPA is recommending; the proposed trading scheme does not have adequate safeguards against local impacts; by rescinding the previous regulatory finding that a MACT standard is needed, EPA will not regulate other HAPs besides mercury and nickel; the use of Section 111 for air toxics sources is not what the Clean Air Act intended and will likely be the subject of protracted legal battles and further delays; the use of Section 111, instead of Section 112, also precludes a subsequent residual risk analysis; and STAPPA and ALAPCO representatives spent one and one-half years on EPA's stakeholder process for the utility MACT, which was largely ignored.

Bill O'Sullivan (NJ) provided a more detailed overview of the provisions of the regulatory proposals. The members then discussed issues related to the proposals, including trading of mercury and the concern about hot spots. After a discussion about what statement the associations should include in their testimony with respect to mercury trading and under what circumstances trading should or should not be allowed, the members agreed that STAPPA and ALAPCO should state the associations' opposition to mercury trading.

Criteria Pollutants – Brock Nicholson (NC), STAPPA Chair of the Criteria Pollutants Committee, introduced the new ALAPCO Chair of the Committee, Lynne Liddington (Knoxville, TN). Brock provided an update on EPA's proposal to address interstate transport of ozone and PM_{2.5} precursors, the Interstate Air Quality Rule (IAQR). The IAQR proposal was released on December 17, 2003 and published in the *Federal Register* on January 30, 2004, with 60 days for comments. Public hearings will be held on February 25 and 26, 2004, and the associations intend to testify (as well as submit comments). Brock outlined the concerns expressed by the Group of 9 about the IAQR, which will be the main points covered in the associations' testimony.

Lynne then provided an update on PM_{2.5}, 8-hour ozone and regional haze. State recommendations for PM_{2.5} designations are due February 15, and EPA will be releasing its proposal for implementing the PM_{2.5} standard in May. The associations hired a contractor to develop a menu of options for controlling emissions of PM_{2.5} and its precursors, and this menu should be released this fall. With respect to 8-hour ozone, EPA plans to issue the final rule in two phases: part one will be released in late February and part two in April. Designations will be finalized April 15. The BART provisions of the regional haze rule will be finalized by April 15. Brock closed by providing a report on the Committee's interaction with the American Lung Association (ALA) on its publication, *State of the Air*. ALA will include grades on PM_{2.5} for the first time this year, and the Committee expressed concern with ALA's proposal that it will grade areas on whether they violated the Air Quality Index (AQI), which is set at a lower standard than the 24-hour PM_{2.5} standard, rather than whether an area violated either the annual or 24-hour standard. ALA said it would grade on the AQI, but would consider issuing two grades, one reflecting exceedances of the AQI and the other reflecting exceedances of the annual standard.

Discussion centered on the IAQR and its relationship to Clear Skies and the Energy Committee's analysis of the associations' multi-pollutant principles – in particular, the recommended caps and timelines for reductions of SO₂ and NO_x. It was agreed that the associations' testimony would only cover general points about the IAQR, and that a

general membership call would be held after the hearings to discuss whether the written comments on the IAQR should include recommendations for caps and timelines for SO₂ and NO_x reductions.

Mobile Sources and Fuels – Eric Skelton (Spokane, WA), ALAPCO Mobile Sources and Fuels Committee Chair, stated that three key issues would be highlighted in this report: the 2007 highway diesel rule, the nonroad diesel rule and the transportation bill. Nancy Seidman (MA), STAPPA Mobile Sources and Fuels Committee Chair, reported to the group on a new STAPPA/ALAPCO initiative to facilitate states' efforts to use their Clean Air Act authority to opt in to California's 2007 highway diesel engine standards. Nancy explained that this effort is in response to the efforts of some in the trucking industry to delay or weaken the rule; state opt ins will provide certainty that the standards will take effect on time. On a January 23, 2003 membership conference call, there had been widespread support for and interest in this effort. Nancy also noted that the associations' Presidents had recently sent a letter to the American Trucking Association apprising them of this effort. Bill Becker (STAPPA/ALAPCO) further noted that this effort is a friendly action toward EPA and that the associations had been encouraged by agency staff to pursue state opt ins.

Next, Eric provided members with highlights of EPA's proposed nonroad rule and key elements of the associations' comments and recommendations on the proposal. He reported that on December 22, 2003, the associations had co-signed a letter with other stakeholders urging EPA Administrator Leavitt to adopt the rule, in fact, by early spring. Eric also noted that on February 12, 2004, the associations would take part in a meeting with Leavitt, during which we would compliment the agency on its nonroad effort thus far and also strongly urge action on locomotive and marine diesel engines and fuels.

Finally, Nancy Kruger (STAPPA/ALAPCO) provided an overview of congressional action on reauthorization of the transportation bill and, in particular, STAPPA and ALAPCO's activities and key issues of focus. Nancy reported that in November, majority and minority leaders of the Senate Environment and Public Works Committee had reached agreement on a bill that included provisions to significantly weaken transportation conformity and dilute the Congestion Mitigation and Air Quality Improvement (CMAQ) program. The previous week, the associations provided comments to Senate staff, based upon STAPPA and ALAPCO's October 2002 principles. Among other things, the bill draws out the current timeframes for conducting conformity analyses, shortens from 20 years to 10 the horizon over which conformity must be demonstrated and expands the scope of projects eligible for CMAQ to include ones unrelated to air quality. Missing from the bill is a concurrence role for state and local air agencies in the evaluation and selection of CMAQ projects, a provision advocated by the associations. Nancy also reported that, the previous week, STAPPA and ALAPCO had taken part in two briefings for congressional staff; the House has yet to draft environmental provisions for its bill. Members were encouraged to contact their delegations to urge against weakening changes to transportation conformity and CMAQ.

Program Funding – Bruce Andersen (Kansas City, KS), ALAPCO Chair of the Program Funding Committee, provided information about the final FY 2004 appropriations legislation, activities the Environmental Council of the States is undertaking to seek additional environmental grants, and the President's FY 2005 budget request for air grants and EPA's overall budget. The members discussed grants for PM_{2.5} monitoring, the fact that air grants have decreased by 25 percent in purchasing power over the past

decade and the importance of additional funding for the environmental problems presenting the greatest risk (i.e., air pollution).

III. Critical Reports on Critical Issues and Related Discussions – Sunday, February 8, 2004

New Source Review – John Paul (Dayton, Ohio), ALAPCO Chair of the New Source Review (NSR) Subcommittee of the Permitting Committee, discussed the current status of the NSR rules, the specifics of the final December 31, 2002 rule and the August 27, 2003 rule, and the NSR court cases. John noted that the fact that both rules have been challenged by numerous states has led to a new era of uncertainty. In particular, there is uncertainty about continuing enforcement of the EPA NSR cases and there are questions about the latitude states will have to promulgate their own regulations.

John went on to summarize some of the main differences between the old and new NSR rules with regard to applicability, the clean unit test, the pollution control project exclusion, and plantwide applicability limits. He noted as well the main differences between the rules and the STAPPA/ALAPCO principles. The *Menu of Options* developed by STAPPA and ALAPCO includes options that are based on these principles. John went on to say that the Routine Maintenance, Repair and Replacement Rule was stayed by the D.C. Court of Appeals on December 24, 2003 because petitioners demonstrated the irreparable harm and likelihood of success on the merits required for the issuance of a stay pending review.

These NSR court cases were summarized by John: *TVA, Duke Energy, Commonwealth Edison, and Alaska v. EPA*. John also summarized a GAO report, released in January, that demonstrated that the majority of states believe that EPA's NSR reforms will result in increases in emissions. He noted as well a National Academy of Sciences study that has been commissioned by Senators Jeffords and Lieberman for the purpose of determining the impact on emissions of the NSR reforms as well as the effect of the reforms on public health.

Monitoring – Dennis McLerran (Seattle, WA), ALAPCO Chair of the Monitoring Committee, updated the members on the national monitoring strategy, which, he said, is already being implemented by the EPA regional offices despite the fact that it has not been finally approved by EPA headquarters. He noted that STAPPA and ALAPCO circulated a data transfer survey in October that indicated that approximately two-thirds of the respondents need funding to update their data transfer systems. Dennis noted as well that the \$42.5-million grant program for PM_{2.5} monitoring under section 103 has been closed out. An appropriation of approximately the same amount will be made for another five-year period. It will be up to the state and local agencies to negotiate with the regions on how to use this money as we switch over to continuous monitors.

Dick Valentinetti (VT), STAPPA Chair of the Monitoring Committee, described in summary form the Air Toxics Monitoring Strategy document that has been developed by EPA. He noted that STAPPA and ALAPCO continue to work on convincing EPA to allocate under section 105 of the Act the \$7 million for air toxics monitoring that is presently allocated under section 103. Dick emphasized that funding under section 105 would enable the state and local agencies to have more control over this amount.

Finally discussion ensued about the future of the SAMWG, SAEWG, and SASWG joint EPA/STAPPA/ALAPCO workgroups.

External Relations – Norm Covell (Sacramento, CA), ALAPCO Chair of the External Relations Committee, updated the members on the efforts to redesign both the Clean Air World and the STAPPA/ALAPCO public websites. He indicated that a contractor has been selected to do the work – ERG – and that Secretariat staff have begun to work with them on updating the site, both with respect to design and content. He noted that the redesign should be completed within the next several months.

Norm reported that efforts continue to collect used air quality and laboratory equipment to be sent to Panama. Used equipment is being sent to his office, where a contractor is making it ready for shipment and use.

Finally, Norm suggested that the members consider whether they want the External Relations Committee to once again take on tribal issues. There had been a subcommittee several years ago that was disbanded, but there may be renewed interest in those issues.

Training – Mary Boyer (CA), STAPPA Chair of the Training Committee, provided an update on recent committee projects, including the training needs assessment survey, the upcoming Joint Training Committee meeting, and the Training Statistics Subcommittee. State and local air agencies were asked to reply to a survey to gauge their upcoming training needs; the results will be released at the next Joint Training Committee meeting, March 2-4, 2004, in San Diego, California. The Training Statistics Subcommittee is collecting statistics from all the training providers and using a common format to allow for comparison.

With respect to funding, training providers continue to face a shortfall of \$325,000 to fund minimal training needs of state and local air agencies. Last year, EPA and the associations agreed to each fund half of this amount, but the Committee had been unsuccessful in its request to EPA to strike the same arrangement this year. Mary provided a history of training funding and explained why the current off-the-top funding of \$1.8 million, combined with EPA's allotment of \$1 million for its own training efforts, was insufficient. She and Brian Jennison (Lane County, OR), ALAPCO Chair of the Training Committee, then presented three alternatives for consideration: provide a permanent increase in off-the-top section 105 funding of 1) \$325,000; 2) \$231,500, which would eliminate new course development; or 3) \$138,500, which would also exclude cost-of-living increases, as well as new course development. After some discussion, Dick Valentinetti (VT) presented a motion for vote: a one-time increase of \$325,000 for Fiscal Year 2004, with the Committee continuing to press EPA to increase its share of funding and to seek additional funding from EPA's Office of Transportation and Air Quality for mobile sources training. The motion was seconded. There was some discussion of whether only Board members or the entire Funding Committee (which includes Committee chairs) would vote, and the two Presidents agreed that the full Funding Committee would vote. The motion was carried by a vote of 20 to 4, with no abstentions.

Enforcement – Mary Stewart Douglas (STAPPA/ALAPCO) provided an update on the activities and issues relating to the Enforcement and Compliance Committee. She noted that EPA was in the process of arriving at national priorities for enforcement for 2005-

2007. She said that STAPPA and ALAPCO had commented on EPA's possible priorities, advocating retention of MACT and NSR enforcement as top priorities and supporting the addition of a CAFO air emissions priority. Mary continued by summarizing EPA's decision to exempt all MACT area source categories from Title V permitting with the exception of the secondary lead smelter category. She added a few points to John Paul's earlier comments about the *Alaska v. EPA* case and ended by summarizing the sufficiency monitoring issue.

Public Education and Communications – Colleen Cripps (NV), STAPPA Chair of the Public Education and Communications Committee, provided an update on recent committee activities, including the “Communicating Air Quality” conference that was held in Orlando, Florida in December 2003, the “Demonstrating the Benefits” project on which the Committee and EPA are collaborating, the launch of the Year-Round Air Quality Index in October 2003, and EPA's upcoming National Air Quality Conference in Baltimore, which will include discussions about fine particles and ozone mapping. Finally, Colleen indicated that the committee is working with the Monitoring Committee on materials to explain the national monitoring strategy to the public.

Cory Chadwick (Cincinnati, OH), ALAPCO Chair of the Public Education and Communications Committee, distributed several possible graphic designs of a logo for STAPPA and ALAPCO. The members discussed the possibility of first changing the associations' name to something that is less cumbersome than the current one. Development of a logo could follow. There was agreement that the associations should pursue changing their names, keeping in mind the need to retain both the state and local agency identities. Bill Becker suggested that the associations use the services of public relations professionals to develop possible names. He recommended that an announcement be made at the spring membership meeting that the associations are investigating their options for a name change.

Stratospheric Ozone and Global Warming – Amy Royden (STAPPA/ALAPCO) provided an update on the science of global warming, and international, federal, regional and state efforts to address global warming. She noted that scientific developments continue to underscore the need to take action to reduce GHG emissions. She provided a report on the last international negotiations and noted that the Kyoto Protocol still has not yet entered into force. She provided an update on the administration's climate change-related activities and noted the historic vote in the Senate in late October on the McCain-Lieberman climate bill. She reviewed regional activity: the regional GHG initiative, the Western states' initiative, NESCAUM's GHG registry, and discussions by the midwestern states to adopt a renewable portfolio standard. She also briefly reviewed Connecticut's and California's efforts. Other attendees noted that Washington has passed a CO₂ mitigation bill, Wisconsin has a multi-pollutant bill, and North Carolina's governor is eager to set up a GHG registry. She closed by providing an update on STAPPA/ALAPCO's Clean Air and Climate Protection Software – 30 members have downloaded the software to date.

Agriculture – Shelley Kaderly (NE), STAPPA Chair of the Agriculture Committee, introduced the new ALAPCO Committee Chair, Doug Quetin (Monterey Bay, CA). Shelley then provided an update on EPA's proposal to enter into a safe harbor agreement with the animal feeding operation (AFO) industry, under which the industry would fund monitoring of air emissions from selected farms in exchange for EPA waiving enforcement of certain Clean Air Act requirements during the agreement. She said that

the Committee was planning on sending a letter to EPA outlining its concerns with the Agreement, and summarized some of the main points of the letter. Amy Royden (STAPPA/ALAPCO) then described a proposal the associations had submitted to EPA, requesting \$75,000 to hire a contractor to locate and compile air emission factor and air emissions data for AFOs, as well as information about best management practices for controlling air emissions from AFOs. Doug Quetin provided an update on California's implementation of SB 700, a California law that removed the permitting exemption for agricultural activities, which provides that local permit applications for existing sources are due by July 1, 2004 and new sources must obtain construction permits. The law also contains some requirements for action: for example, by July 2005, CARB is required to define "large" AFOs, and then by July 2005, districts are required to adopt permitting and mitigation rules for large AFOs.

IV. Development of the Spring Membership Meeting Agenda – Monday, February 9, 2004

The members discussed a list of suggested session topics for the STAPPA/ALAPCO 2004 Spring Membership Meeting, which will take place in Point Clear, Alabama in May 2004. They discussed the value of each of the recommended sessions and how much time should be allocated for each. They agreed to add a session on mercury in lieu of a session on the role of the environment in the 2004 elections. They agreed to add a session on innovative funding initiatives in lieu of a session on Title V issues. They approved the amended list of sessions for the meeting.

V. Miscellaneous – Monday, February 9, 2004

Financial Statements and Audit Results – Bill Becker (STAPPA/ALAPCO) distributed the auditors' printed report on the audit of STAPPA and ALAPCO, and reported that the associations had received a clean audit: 1) there are no material weaknesses in internal controls over financial reporting and operation and 2) STAPPA and ALAPCO have complied, in all material respects, with federal accounting requirements. He noted that the audit had found that although STAPPA and ALAPCO currently have an indirect cost rate calculation, that calculation should be consistent with EPA's "Preparing an Indirect Cost Rate Proposals for Grants and Contracts." Therefore, STAPPA and ALAPCO have agreed to prepare a formal indirect cost rate proposal that will be consistent with EPA's format. Bill then reviewed STAPPA's and ALAPCO's respective financial statements and answered questions. Finally, he reviewed the financial statement for the GHG Software Tool Project.

Future Meeting Locations and Dates – Bill Becker (STAPPA/ALAPCO) reviewed future meeting locations and dates. The 2004 Spring Membership Meeting will be in Point Clear, Alabama, May 15-19, 2004. The 2004 Fall Membership Meeting will take place in Coeur d'Alene, Idaho, October 23-27, 2004. The 2004 Summer Board Meeting will be held July 23-26, 2004, in Portland, Oregon.

VI. New Business – Monday February 9, 2004

The members discussed a suggestion that the STAPPA/ALAPCO Boards of Directors and Committee Chairs meet with the EPA office directors to discuss a range of

issues. The members agreed that such a meeting would be useful and recommended that Bill Becker talk with appropriate EPA staff to arrange a meeting.

The meeting was adjourned.

AGENDA

STAPPA AND ALAPCO BOARDS OF DIRECTORS AND COMMITTEE CHAIRS WINTER MEETING

February 7-9, 2004
Kiawah Island Resort
12 Kiawah Beach Drive
Kiawah Island, SC 29455
(843) 768-2121

Saturday, February 7, 2004

- | | |
|-------------------------|--|
| 7:00 a.m. – 8:00 a.m. | Registration and Breakfast |
| 8:00 a.m. – 8:30 a.m. | Introductions and Review of Agenda |
| 8:30 a.m. – 10:00 p.m. | <u>Committee Reports on Critical Issues and Related Discussion</u> <ul style="list-style-type: none">• Energy (45 minutes)• Air Toxics (20 minutes) |
| 10:00 a.m. – 10:30 a.m. | Break |
| 10:30 a.m. – 12:30 p.m. | <u>Committee Reports on Critical Issues and Related Discussion</u> <ul style="list-style-type: none">• Criteria Pollutants (60 minutes)• Mobile Sources and Fuels (30 minutes)• Program Funding (30 minutes) |

Sunday, February 8, 2004

- | | |
|-------------------------|--|
| 7:00 a.m. – 8:00 a.m. | Breakfast |
| 8:00 a.m. – 10:00 a.m. | <u>Committee Reports on Critical Issues and Related Discussion</u> <ul style="list-style-type: none">• Agriculture (25 minutes)• Monitoring (45 minutes)• Public Education and Communications (30 minutes)• Stratospheric Ozone and Global Warming (20 minutes) |
| 10:00 a.m. – 10:30 a.m. | Break |

Sunday, February 8, 2004 (continued)

10:30 a.m. – 12:30 p.m.

Committee Reports on Critical Issues and Related Discussion

- New Source Review (60 minutes)
- External Relations (15 minutes)
- Enforcement (15 minutes)
- Training (30 minutes)

Monday, February 9, 2004

7:00 a.m. – 8:00 a.m.

Breakfast

8:00 a.m. – 9:00 a.m.

Development of Spring Membership Meeting Agenda

9:00 a.m. – 10:00 a.m.

Miscellaneous

- Financial Statements and Audit Results
- Future Meeting Locations and Dates

10:00 a.m. – 11:00 a.m.

New Business

11:00 a.m.

Adjourn