

Southwest Clean Air Agency

Board of Directors Minutes

February 3, 2022

The regular meeting of the Southwest Clean Air Agency Board of Directors was held in the Southwest Clean Air Agency office, Vancouver, Washington on February 3, 2022.

Those present were: Bob Hamlin, Chair, Skamania County
Dr. Alan Melnick, Director, Clark County
Ruth Kendall, Director, City of Longview
Lee Tischer, Director, Wahkiakum County
Ben Shumaker, Director, City of Stevenson
Arne Mortensen, Director, Cowlitz County
Max Vogt, Director, City of Centralia
Kim Harless, Director, City of Vancouver
Robert Stowe, Director, Town of Cathlamet

Excused: Ryan Smith, Vice-Chair, Member at Large
Sean Swope, Director, Lewis County

Also Present: Staff: Uri Papish, Executive Director
Traci Arnold, Office Administrator

Guests: None

Call to Order

Mr. Hamlin called the meeting to order. A quorum was confirmed to exist.

Board of Directors Minutes

Mr. Hamlin asked for consideration of the January 6, 2022 minutes. Dr. Melnick moved and Mr. Shumaker seconded that the minutes for the January 6, 2022 Board meeting be approved. Motion passed.

Consent Agenda

Mr. Hamlin asked for approval of the Consent Agenda including voucher numbers 190 through 229 and 231 in the amount of \$41,884.01 which have been approved for payment by the Executive Director, and voucher number 230 in the amount of \$21,188.00. Mr. Mortensen moved and Dr. Melnick seconded approval of the Consent Agenda. Motion passed.

Changes to Agenda

Mr. Papish said the agency's attorney, Jeff Meyers, is unable to attend the meeting so the Executive Session is cancelled.

Info Items & Public Comment

None

Public Hearing

None

Executive Session

None

Unfinished Business/New Business

Mr. Papish reported Mr. Meyers sent an update on the lawsuit, 350 Seattle et.al v. PSCAA, et.al. A request for summary judgment was filed and oral arguments were heard on January 14, 2022. The judge decided to dismiss the case on two grounds. The first reason for dismissal was the plaintiff did not have clear standing and secondly, they did not have justiciable cause. Mr. Papish said the plaintiff has filed for reconsideration and may appeal in the future.

Mr. Hamlin opened discussion on the fee Change proposals and recognized Mr. Papish. Mr. Papish said SWCAA is recommending two fee change proposals.

Mr. Papish explained the current billing process to include an emission unit and the emissions from each emission unit. The emission fee varies depending on if it's a criteria or toxic pollutant. Mr. Papish said there are six criteria pollutants under the Clean Air Act which are: particulate matter, ozone, NOx emissions, sulfur dioxide emissions, lead and carbon dioxide. Mr. Mortensen pointed out these pollutants are also toxic. Mr. Papish agreed and said the list of toxic pollutants has over 500 entries in Washington regulations.

The first proposal, a small source fee reduction, would exempt small sources from the requirement to pay emission fees if their combined potential to emit (criteria and toxic air pollutants) is less than 10 tons per year. This change would result in a fee reduction for affected sources and would reduce SWCAA's workload associated with emission billing. Mr. Papish said the change would apply to 52% of the registered sources that combined contribute 7% of criteria pollutants and 10% of toxic air pollutants. The reduction would be about 9% fee reduction for those sources and about \$9,000 in reduced registration revenue.

Mr. Vogt asked for more detail on the staff load reduction. Mr. Papish estimated over 100 hours of time which would be used instead for field work, inspections, compliance and other duties.

Mr. Mortensen wanted to confirm how the small sources are being determined. Mr. Papish said it is based on their potential to emit calculation from the permit, not the actual emissions. Mr. Mortensen asked if sources could try and drop into this category to avoid fees. Mr. Papish said the use of potential to emit will prevent this unless a source changes their actual equipment through the permitting process. Mr. Mortensen expressed concern over the loss of revenue. Mr. Papish said the offsetting work hours, increased compliance inspections and potential CPI fee adjustments will recover the lost revenue over time.

Ms. Harless asked how this fee structure compares to other air agencies. Mr. Papish responded this is how Olympic Regional Clean Air Agency does their billing.

Mr. Shumaker asked if there was a discussion about increasing the emission unit cost for small sources to offset the revenue loss. Mr. Papish said this was considered, however, there are some limitations to the current billing system and could be challenges associated with changing it. Increasing the emission unit cost for small sources can still be considered.

The second proposal, a gas station fee restructuring, would restructure gas station registration fees from an emission unit and emission fee model to a base fee and gasoline throughput fee model. The fees would be set at a level that would be revenue neutral to SWCAA and minimize the impact of the fee changes on individual gas stations. This change would result in a fee increase for some high throughput gas stations and a fee decrease for other low and medium throughput stations. This change is needed to maintain consistency in fees from one facility to another and maintain program funding as SWCAA updates permits and phases in new emission factors with the removal of Stage II Vapor Recovery equipment.

Mr. Shumaker wanted to confirm there are two different proposals, not an either-or situation. Mr. Papish confirmed there are two different proposals. Mr. Shumaker said he would prefer a revenue neutral option for proposal number one. Mr. Papish said this can be further investigated and he can come back to the board with the information on the billing system. Mr. Papish added the board can amend the current proposal to include this modification for public notice purposes.

Mr. Stowe also expressed concern about the reduction of revenue and wanted to confirm the environmental impact remains the same. Mr. Papish said in the current proposal there is no offsetting fee for the revenue reductions. The reduction will be made up in staff hours, increased compliance inspections and potential CPI fee increases. There are no changes to the environmental impact by these proposals.

Mr. Hamlin asked if the agency has gone to public comment in the past regarding fee increases and if so did the public comment change the proposal. Mr. Papish responded a prior fee increase was phased in over time rather than all at once based on public comment.

Ms. Harless also expressed concern over the reduced revenue associated with the first proposal, however, she is supportive of more field presence. An increase to the emission unit for the small sources to remain revenue neutral should be considered.

Mr. Mortensen asked for clarification around the registration fee being used to cover the cost of the agency's program rather than as a deterrent to pollution creating activities. Mr. Papish confirmed the fees are designed to cover the agency's program costs and are not set up to deter business activities. The agency has a compliance enforcement process for activities done outside of permit conditions.

Ms. Kendall also expressed support of increasing the emission unit cost for the small sources.

Dr. Melnick thought the proposal as presented was fine since it is based on the program cost.

Mr. Shumaker asked is the agency has considered a tier approach to registration fees. Mr. Papish said that option has not been investigated. Dr. Melnick added this might be a good conversation for the board at a later date to recover the costs associated with increased pollution. Mr. Papish said the agency is bound to charge fees based on cost, so if the costs were increased to the larger sources then costs would lower for smaller sources.

Mr. Hamlin asked for a motion to approve SWCCA to public notice and gather public comment on the above described SWCAA's fee change proposals. A decision on adoption of the proposals would occur at a future Board meeting.

Ms. Harless made a motion to amend the proposal to include a revenue neutral option for the small source fee reduction. Ms. Kendall seconded the motion. Motion passed.

Mr. Mortensen made a motion to approve SWCAA to public notice and gather public comment on the described SWCAA fee change proposals with the amendment. Dr. Melnick seconded the motion. Motion passed.

Control Officer Report

Mr. Papish summarized the information provided in the Control Officer Report and offered to answer any questions.

Group Maps “Staggering” Adverse Health and Economic Impacts of Transportation-Related Diesel Emissions in U.S. (January 20, 2022) – The Clean Air Task Force (CATF) announced an interactive tool that maps the “staggering damage” caused in the U.S. by transportation-related diesel emissions. The CATF mapping tool – called Deaths by Dirty Diesel – is “Intended for use by local community members, advocates, health and environmental professionals, and reporters who are interested in identifying and quantifying the impacts of diesel on their community’s well-being.” According to CATF, the tool tracks EPA data by mapping the reported 8,800 deaths, 3,700 heart attacks, hundreds of thousands of respiratory illnesses and almost \$1 trillion in monetized health damages per year across the country, February 3, 2022

nationally as well as by state (among the 48 contiguous states), county and metropolitan area. For further information: <https://www.catf.us/deathsbydiesel/> and <https://www.catf.us/2022/01/new-catf-toolmaps-staggering-health-economic-damages-caused-diesel-emissions/>

OIG Recommends EPA Address Declining Title V Fee Revenues and Improve Oversight

(January 12, 2021) – Declining Clean Air Act Title V fee revenues, as well as the misuse of Title V funds, pose a “significant challenge” to EPA and Title V permitting authorities, according to a new report published by EPA’s Office of Inspector General (OIG). The report, titled “EPA’s Title V Program Needs to Address Ongoing Fee Issues and Improve Oversight,” summarizes the results of a two-year audit of EPA’s evaluation of state and local Title V programs and its identification of insufficient collection or misuse of Title V fees. According to OIG, nine out of ten EPA regions have cited declining fee revenues as a key challenge faced by agencies in their jurisdiction. This is largely attributable to permitting authorities’ reliance on emissions-based fees, as emissions of criteria pollutants dropped 73 percent between 1980 and 2020. EPA regions have also determined that at least three permitting authorities have improperly used non-Title V revenue to help fund their Title V programs, and a number of states have spent Title V funds for non-Title V purposes, in violation of Clean Air Act requirements. OIG recommended that EPA’s Office of Air and Radiation take several steps to address the issues of declining Title V fee which are outlined in the report. In response to the report OAR has agreed to most of the recommendations and committed to convening a workgroup and developing strategies to address declining Title V fee revenues. For further information: <https://www.epa.gov/office-inspector-general/report-epas-title-v-program-needs-address-ongoing-fee-issues-and-improve>

EPA Publishes Final Findings of Failure to Submit SSM SIP Revisions (January 12, 2022)

– EPA published in the Federal Register (87 Fed. Reg. 1,680) a final action making findings of failure to submit State Implementation Plan (SIP) revisions to appropriately address excess emissions that occur during periods of startup, shutdown and malfunction (SSM). On September 30, 2021, EPA issued a memorandum withdrawing an October 2020 memorandum that superseded a 2015 policy and SIP call (thereby reinstating the 2015 policy and SIP call). Under the September 2021 memo, EPA determined that SIP provisions that exempt emission limits during SSM or that provide affirmative defense provisions are inconsistent with the Clean Air Act and, generally, not approvable. With the 2015 policy reinstated, enforceable emission limits are back in place under all modes of source operation. There are 12 jurisdictions to which the findings of failure to submit apply: Alabama; Arkansas; San Joaquin Valley (CA) Air Pollution Control District; District of Columbia; Illinois; Forsyth County (NC); Ohio; Rhode Island; South Dakota; Shelby County (TN); Washington – Energy Facility Site Evaluation; and Southwest Clean Air Agency (WA). The findings set a 24-month deadline for EPA to either approve submitted SIPs or finalize Federal Implementation Plans (FIPs) to apply in jurisdictions that do not submit an approvable SSM SIP. The findings also initiate two mandatory sanctions “clocks.” Under the first, a 2:1 offset ratio for the nonattainment New Source Review (NSR) program goes into effect in areas that have not submitted complete SSM SIPs within 18 months after the final findings take effect. Under the second, federal highway funding may be withheld if complete SIPs are still not submitted within 6 months following the imposition of the NSR offset

sanctions. The final findings of failure to submit take effect February 11, 2022. For further information: <https://www.govinfo.gov/content/pkg/FR-2022-01-12/pdf/2022-00138.pdf>

EPA Strengthens Light-Duty Vehicle GHG Emission Standards (December 30, 2021) – EPA published in the Federal Register (86 Fed. Reg. 74,434) a final rule strengthening the greenhouse gas (GHG) emission standards for model year (MY) 2023 through 2026 light-duty vehicles (LDV) set by the previous administration in April 2020 under the “SAFE 2” Rule (the “Safer Affordable Fuel-Efficient Vehicles” Rule). The “SAFE 2” Rule rolled back LDV GHG emission standards established in 2012. The final rule, which EPA originally announced on December 21, 2021, increases the stringency of the “SAFE 2” GHG standards year over year from MY 2023 through MY 2026. According to EPA, “The standards finalized for MYs 2025 and 2026 are the most stringent option considered in the proposed rule and the MY 2026 requirements establish the most stringent GHG standards ever set for the light-duty vehicle sector. The final rule significantly accelerates the rate of stringency increases to between 5 and 10 percent each year from 2023 through 2026. Under the previous standards stringency increased at a rate of roughly 1.5 percent per year. The final standards are expected to result in average fuel economy label values of 40 mpg, while the standards they replace (the SAFE rule standards) would achieve only 32 mpg in MY 2026.” This final rule takes effect on February 28, 2022. For further information: <https://www.govinfo.gov/content/pkg/FR-2021-12-30/pdf/2021-27854.pdf>, <https://www.youtube.com/watch?v=sxFhkh-p6-4>

NHTSA Repeals “SAFE 1” Rule Preempting Light-Duty Vehicle Standards (December 29, 2021) – The U.S. Department of Transportation’s National Highway Traffic Safety Administration (NHTSA) published in the Federal Register (86 Fed. Reg. 74,236) a final rule repealing in full the September 2019 “SAFE 1” Rule (the “Safer Affordable Fuel-Efficient Vehicles Rule Part One: One National Program”), in which NHTSA codified regulatory text and made additional pronouncements relative to the preemption of state and local laws related to Corporate Average Fuel Economy standards; this final rule was first announced on December 21, 2021. The purpose of the “SAFE 1” Rule was to preempt the federal waiver for the greenhouse gas (GHG) emission standards and Zero Emission Vehicle (ZEV) standards under California’s Advanced Clean Cars (ACC) program. NHTSA proposed to repeal the “SAFE 1” Rule in May 2021 and has now finalized that proposal stating, “In doing so, the Agency underscores that any positions announced in preambulatory statements of prior NHTSA rulemakings, including in the SAFE 1 Rule, which purported to define the scope of preemption under the Energy Policy and Conservation Act (EPCA), do not reflect the Agency’s reconsidered understanding of its proper role in matters of EPCA preemption. Through this final rule, NHTSA makes clear that no prior regulations or positions of the Agency reflect ongoing NHTSA views on the scope of preemption of states or local jurisdictions under EPCA.” This final rule takes effect on January 28, 2022. EPA must still take action to reinstate the GHG and ZEV components of California’s ACC waiver, which will also allow other states that adopted these standards under Clean Air Act Section 177 to implement them for their respective state clean cars programs. For further information: <https://www.govinfo.gov/content/pkg/FR-2021-12-29/pdf/2021-28115.pdf> and <https://www.nhtsa.gov/press-releases/cape-preemption-final-rule>

Board Policy Discussion Issues

None.

Issues for Next Meeting

A. Public Hearing.

1. As Necessary.

B. New Business/Unfinished Business.

1. Fee Restructuring
2. Cost of Living Adjustments
3. Merit Pool
4. Budget

C. Board Policy Discussion Issues.

1. As Necessary.

D. Meeting Date and Location.

1. March 3, 2022 at 3:00 p.m. Southwest Clean Air Agency, 11815 NE 99th Street, Vancouver, Washington.

The next Board of Directors meeting will be held on March 3, 2022 at 3:00 p.m., Southwest Clean Air Agency, Vancouver, Washington.

Board Meeting Attendance:

JURISDICTION	J 2022	F 2021	M 2021	A 2021	M 2021	J 2021	J 2021	A 2021	S 2021	O 2021	N 2021	D 2021
Clark County	+	+	+	+	+	+	C	+	+	+	+	C
Cowlitz County	+	+	+	+	+	+	C	+	+	0	0	C
Lewis County	0	+	+	+	0	+	C	+	+	0	+	C
Skamania County	+	+	+	0	+	+	C	+	+	A	+	C
Wahkiakum County	+	A	+	+	+	+	C	0	0	+	+	C
Cathlamet	+	0	+	+	+	+	C	+	+	+	+	C
Centralia	+	+	0	+	+	0	C	0	+	+	0	C
Longview	+	+	+	+	+	+	C	+	+	+	+	C
Stevenson	+	+	+	+	A	+	C	A	0	0	+	C
Vancouver	+	+	+	0	+	+	C	+	0	0	+	C
Member-At-Large	0	+	+	+	+	+	C	0	+	+	+	C

+ = regular member present; 0 = unrepresented; A = alternate present; C = cancelled meeting

Mr. Hamilton adjourned the meeting without objection at 4:16 p.m.

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Bob Hamlin
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Chair

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Uri Papish
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Executive Director