

Southwest Clean Air Agency

Board of Directors Minutes

June 1, 2023

The regular meeting of the Southwest Clean Air Agency Board of Directors was held in the Southwest Clean Air Agency office, Vancouver, Washington on June 1, 2023.

Those present were: Dr. Alan Melnick, Chair, Clark County
Ryan Smith, Vice-Chair, Member at Large
Ben Shumaker, Director, City of Stevenson
Lee Tisher, Director, Wahkiakum County
Robert Stowe, Director, Town of Cathlamet
Ruth Kendall, Director, City of Longview
Max Vogt, Director, City of Centralia
Arne Mortensen, Director, Cowlitz County
Richard Mahar, Director, Skamania County

Excused: Kim Harless, Director, City of Vancouver
Sean Swope, Director, Lewis County

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

Guests: None

Call to Order

Dr. Melnick called the meeting to order. A quorum was confirmed to exist.

Board of Directors Minutes

Dr. Melnick asked for consideration of the May 4, 2023 minutes. Mr. Mortensen moved and Mr. Vogt seconded that the minutes for the May 4, 2023, Board meeting be approved. Motion passed.

Consent Agenda

Mr. Smith asked for approval of the Consent Agenda including voucher numbers 415 through 434 and 436 through 446 and 448 through 453 in the amount of \$46,424.25 which have been approved for payment by the Executive Director, voucher 435 and 447 in the amount of \$21,840.70, April 2023 Salaries and Benefits in the amount of \$154,717.68. Mr. Tisher moved and Mr. Mortensen seconded that the Consent Agency be approved. Motion passed.

June 1, 2023

Changes to Agenda

None

Info Items & Public Comment

None

Public Hearing

None

Unfinished Business/New Business

Dr. Melnick opened discussion on SWCAA's Schedule of Minimum Civil Penalty Assessment which has not been updated since 2012 and recognized Mr. Papish. Mr. Papish said there have been no consumer price index increases in the SWCAA assessment levels since 2012 so the ability of the penalties to encourage compliance without needing to take enforcement action has diminished over the past decade. EPA updates its minimum enforcement levels by the consumer price index at regular intervals and encourages state and local clean air agencies to take similar updating actions. The Western States Consumer Price Index increased by 36% between 2011 and 2022. Attachment A includes the existing minimum penalty schedule and what a 36% adjustment would look like.

Mr. Mortenson asked why Clark County is separate from the other counties. Mr. Papish said historically the civil penalties have always been higher for Clark County due to the difference between urban and rural counties. It's also possible some board members argued for lower penalties within their counties.

Dr. Melnick asked what the breakdown between counties is for penalties being issued. Mr. Papish said that the majority of penalties are issued within Clark County.

Mr. Mortensen questioned why the Consumer Price Index is being used to as the inflator. He said that it is arbitrary and may or may not actually be representative of what the penalty should be. Dr. Melnick added that staff and general expenses have increased over time therefore the violation should be increased to cover costs. Mr. Mortensen felt the penalty should be high enough to encourage compliance. Mr. Papish said the RCW includes language that the maximum penalty can be adjusted by the CPI. Mr. Papish said this RCW date was used in the calculation of the 36%.

Mr. Vogt asked how much money came from penalties last fiscal year. Mr. Papish said approximately \$49,000 came from penalties and the overall budget is \$3,000,000, so about 2% of the agency income comes from penalties. The number of penalties issued varies from year to year and will vary by the type of violation. For example penalties issued for residential outdoor burning will be smaller than penalties for source violations.

Mr. Shumaker asked if the current table is in use or if it is part of the proposal. Mr. Papish said the current table is in use and the request is to update the table as presented. Mr. Shumaker asked if

SWCAA coordinates with Labor and Industries on asbestos violations. Mr. Papish said SWCAA does coordinate with Labor and Industries. Mr. Shumaker wanted to be sure the penalties are reflective of higher penalties for dangerous violations. Mr. Papish said the table will represent the minimum and maximum allowed and there are worksheets to determine escalation factors as appropriate. Mr. Papish said 172 tickets have been issued so far for fiscal year 22/23.

Mr. Papish said there is no record of the penalty schedule being put out on public notice. He said if the Board would like the penalty schedule to be put out on public notice, that will need to be included in the motion.

Mr. Mahar expressed support for updating the penalties as presented. He also expressed support maintaining the separation for Clark to the other counties. Dr. Melnick also expressed support for maintaining the separation for Clark to the other counties.

Mr. Papish added that all penalties can be appealed. The process is at no cost to the person who is appealing unless they choose to hire an attorney.

Mr. Mahar suggested the CPI rounding should be reviewed because it appears inconsistent. Mr. Papish said he would review the calculations but would maintain even dollars and not introduce cents into the calculation.

Dr. Melnick asked for a recommendation. Mr. Shumaker made a motion to request revisions to the minimum civil penalty schedule which includes a CPI increase, appropriate deterrent amounts and that the agency public notice the maximum civil penalty amount. Mr. Smith seconded the motion.

Mr. Mortensen expressed concern again about using the CPI because it may not be an appropriate inflator to encourage compliance.

Dr. Melnick made a motion to amend the motion to include the language from the statute regarding how increases are allowed instead of using the term CPI. Mr. Shumaker second the motion.

Mr. Papish asked for clarification on public noticing the maximum penalty verse the entire penalty schedule. Dr. Melnick said the Board should be as transparent as possible and public notice the entire penalty schedule.

Dr. Melnick asked for a vote on the amendment. Everyone was opposed. The amendment failed.

Dr. Melnick asked for a vote on the motion. Everyone was opposed. The motion failed.

Dr. Melnick called for a motion. Mr. Shumaker made a motion to request proposed increases to SWCAA's minimum and maximum penalties based on deterrence and existing statute language as well as the entire proposed schedule go out on public notice. Mr. Smith seconded the motion. Mr. Tisher, Mr. Stowe, Ms. Kendall, Mr. Vogt, Mr. Mortensen and Mr. Mahar all voted in favor. Motion passed unanimously.

Dr. Melnick opened discussion about SWCAA's Asbestos Penalty Worksheet and
June 1, 2023

recognized Mr. Papish. Mr. Papish said there have been no increases in SWCAA's asbestos penalty worksheet for over a decade and at current levels may not be effective at deterring non-compliance. SWCAA will present a fee comparison and case examples regarding civil penalty amounts. SWCAA is recommending revising the worksheet to add additional categories to the gravity criteria and increasing asbestos penalty amounts particularly for commercial operations as shown in Attachment B.

Mr. Papish said SWCAA is proposing asbestos penalties be different between homeowners and contractors. The proposal is for contractors to pay double the amount of a homeowner because they are in the business of understanding and following the rules as well as deterring them from repeat violations. Violations will be scored based on the criteria within the worksheet. Additional criteria is being proposed which will result in higher scores and higher penalties.

Dr. Melnick asked if Labor and Industries gets involved with fines regarding asbestos exposure. Mr. Papish said asbestos exposure in the workplace is investigated by Labor and Industries and significant fines can be issued. Dr. Melnick also expressed concern about homeowners having any knowledge of asbestos and perhaps the fines for contractors should be more than double. Discussion ensued.

Mr. Mortensen expressed concern that asbestos is being treated as a hazard to this extent when there are many factors to consider in the case of observable exposure. He was concerned about overreaching regulations when there are limited facts to support it.

Mr. Mortensen asked Mr. Papish to explain the multiday violation criteria. Mr. Papish said it is based on the actual days of activity. Dr. Melnick suggested adding clarification when the knowing of the violation begins. Mr. Papish said the rule states testing for asbestos should be done before the project starts. Mr. Shumaker added the difference between the proposed contractor verse homeowner penalty amount will sort itself out through the criteria.

Dr. Melnick asked for a recommendation. Ms. Kendall requested a proposal for revisions to SWCAA's asbestos penalty worksheet be brought to the August Board meeting. Mr. Mortensen seconded the motion. Motion passed.

Mr. Stowe suggested the asbestos penalty worksheet needs to also go out on public notice.

Ms. Kendall made a motion to public notice the asbestos penalty worksheet using the same process as the civil penalty proposal. The motion was seconded by Mr. Shumaker. Motion passed.

Dr. Melnick opened discussion on the cancellation of July and December 2023 Board of Directors Meetings and recognized Mr. Papish. Mr. Papish said the Board is not required to meet every month. As a result, the July and December Board meetings have historically been canceled. The Washington Clean Air Act requires that the Board meet at least 10 times per year. Six meetings have been held through the June Board meeting. The remaining four meetings this year will be held in August, September, October, and November. Vouchers needing payment in July and December may be signed electronically.

Dr. Melnick asked for a motion. Mr. Mahar made a motion to cancel the July and December Board of Directors meetings. Mr. Smith seconded the motion. Motion passed.

Dr. Melnick opened discussion on the board “Member at Large” position and recognized Mr. Papish. Mr. Papish said board members are appointed by their respective governing body at least every four years as dictated by statute.

“RCW 70A.15.2000 (b) In the case of an authority comprised of one county, with a population less than four hundred thousand people, or of more than one county, either a member of the governing body of one of the towns, cities or counties comprising the authority, or a private citizen residing in the authority. (4) The terms of office of board members shall be four years.”

Mr. Papish said Ryan Smith, the “Member at Large” (or private citizen) member was last appointed by the SWCAA Board of Directors in June of 2019 and is therefore up for consideration of renewal.

Mr. Smith indicated he would like to continue to serve on the Board in his capacity as “Member at Large.”

Mr. Stowe reminded the board that best practice is to be fully transparent. He said there is a public notice process and a recruitment should take place. The Board needs to be consistent.

Dr. Melnick asked when Mr. Smith’s term ends. Mr. Papish said technically after this meeting Mr. Smith’s term will be over.

Dr. Melnick asked for a motion. Mr. Shumaker moved to reappoint Mr. Smith as the Member at Large. Mr. Mortensen seconded the motion. Mr. Shumaker, Mr. Vogt, Dr. Melnick and Mr. Tisher voted in favor. Mr. Mortensen, Ms. Kendall, Mr. Mahar and Mr. Stowe voted against. Motion failed.

Dr. Melnick asked for a motion. Mr. Stowe made a motion to public notice and recruit for the Member at Large position on SWCAA’s Board. Mr. Mortensen seconded the motion. Motion passed.

Executive Session

None

Executive Session

None.

Executive Director's Report

Mr. Papish summarized the information provided in the Executive Director's Report and offered to answer any questions.

EPA Proposes Rules Addressing GHG Emissions from Fossil Fueled Power Plants (May 11, 2023) EPA announced proposed new rules addressing greenhouse gas (GHG) emissions from fossil-fueled power plants. The proposal (EPA Docket EPA-HQ-OAR-2023-0072) would set emission limits for new gas-fired combustion turbines, existing coal, oil and gas-fired steam generating units, as well as certain existing gas-fired combustion turbines. The proposal includes four major rulemaking components. The first applies to coal-fired units. It sets the Best System of Emission Reductions (BSER) for coal-fired units, requiring 90% carbon capture and storage (CCS) for units expected to operate in 2040 and beyond, an 88.4 percent reduction. For units committing to retire before 2040, the proposal would require 40% co-firing with gas, a 16% emission reduction. Units retiring by 2035 can accept a utilization limit of 20 percent, and units that commit to cease operations by 2032 can continue business as usual, providing they commit to no emissions backsliding. In the second component of the proposal, existing gas turbines over 300 megawatts (MW) in size are offered two pathways: capturing 90 percent of their emissions by 2035 using CCS, or phasing in 30% low-GHG hydrogen co-combustion by 2032 and 96% co-combustion 2038. The third component of the rule applies to new gas turbines in three operational categories. For units operating less than 20 percent of the time, BSER is to use clean fuels with emissions varying from 120lb CO₂/MMBtu to 160lb CO₂/MMBtu, depending on fuel type. For power plants with capacity factors between 20% and 50%, before 2032, BSER will be 1150 lb CO₂/megawatt hour (MWh), achievable with existing best-in-class turbine technology. Thereafter, BSER for new gas units will include the two pathways described for existing units: hydrogen co-combustion at 30 percent in 2032 (680 lb CO₂/MWh) and 96 percent in 2038 (90 lb CO₂/MWh); or 90 percent CCS in 2035 (90 lb CO₂/MWh). EPA's definition of "low GHG hydrogen" is fuel produced with less than 0.45 kg CO₂ emitted per kg hydrogen from well-to-gate, consistent with definitions included in tax credit language in the 2022 Inflation Reduction Act (IRA). The fourth component of the proposal repeals the Affordable Clean Energy Rule, finalized on June 19, 2019, but never implemented. EPA will be conducting virtual public hearings for its proposal on June 6 and June 7, 2023, and will accept comments from the public for 60 days from the date of publication in the Federal Register. For further information: <https://www.epa.gov/stationary-sources-air-pollution/greenhouse-gas-standards-and-guidelines-fossil-fuel-fired-power> and <https://www.federalregister.gov/documents/2022/12/23/2022-27557/adoption-and-submittal-of-state-plans-for-designated-facilities-implementing-regulations-under-clean>

The ICCT Assesses Charging Infrastructure Needs Through 2030 To Support Transition to Zero-Emission Trucks and Buses (May 11, 2023) - The International Council on Clean Transportation (ICCT) released, "Near-Term Infrastructure Deployment to Support Zero-Emission Medium- and Heavy-Duty Vehicles in the United States," in which the group captures when, where and how much infrastructure the U.S. must deploy to meet the energy needs of zero-emission trucks and buses through 2030. In the 40-page "white paper," ICCT reports its projection of 1.1 million zero-emission trucks and buses on U.S. roads by 2030, of which the vast majority will be battery electric vehicles (not hydrogen) whose energy needs will be met

June 1, 2023

with both slow- and fast-chargers of 50 kilowatts to over 1 MW. ICCT projects that by 2030 electrification of medium- and heavy-duty vehicles will “increase U.S. daily electric energy consumption by 140,000 MWh per day. This equates to around 1% of the total national electricity retail sales in 2021, representing a marginal increase in required electric power generation.” However, “high-energy demand” counties are expected to experience high charging loads of up to 132 MW, concentrated in freight zones (e.g., freight corridors, ports and industrial zones). Based on its modeling results and discussions with stakeholders, ICCT concludes that 1) U.S. heavy-duty charging infrastructure need not be built all at once; 2) medium- and heavy-duty energy needs are likely to materialize in states that have adopted the Advanced Clean Trucks program, but likely constitute upper bounds for other states; 3) setting targets for charging station deployment along key National Highway Freight Network corridors can accommodate up to 85 percent of long-haul charging needs by 2030; 4) electric utilities should plan for the significant loads that will come from electric medium- and heavy-duty vehicles and provide timely interconnections; and 5) there are many options for meeting both near- and long-term charging needs. Among the tables in the appendix to the paper are Tables A6 and A7, on the last three pages, which provide state-level energy needs and county-level energy needs, respectively, for medium- and heavy-duty vehicle charging. For further information:

<https://theicct.org/publication/infrastructure-deployment-mhdv-may23/>

Study Finds Exposure to Hazardous Air Pollution from Consumer Products - (May 3, 2023) - A study published in the journal Environmental Science & Technology found that consumer products are important sources of toxic air pollution through emissions of volatile organic compounds (VOCs). The study examined data from the California Air Resources Board to quantify emissions of VOCs that people would likely be exposed to as individual consumers, in workplaces and at the population level. They found that out of 172 consumer product categories, 105 contained chemicals listed in the California Safe Drinking Water and Toxic Enforcement Act (“Prop 65”). These are in widespread use, even though they include known carcinogens and reproductive/developmental toxicants. Among the chemicals that were most prevalent were methanol, diethanolamine, ethylbenzene, ethylene glycol, toluene, diethanolamine, N-methyl-2-pyrrolidone and formaldehyde. A wide variety of products were included on the list, ranging from shampoos and lotions to household products and cleaners. The researchers recommend that “manufacturers and regulators should prioritize product categories containing Prop 65-listed chemicals for reformulation or redesign to reduce human exposures and associated health risks.”

Mr. Shumaker asked for an update to the Board handbook to discuss the process for the Member at Large position. Dr. Melnick asked if guidance is in the bylaws. Mr. Papish said SWCAA does not have bylaws but that he can update the Board handbook. Dr. Melnick asked Mr. Papish to come up with some guidelines and/or policies around board actions. Mr. Papish said he would research if other air agencies had bylaws. Dr. Melnick said he would pass along the bylaws for the Public Health Board to Mr. Papish.

Board Policy Discussion Issues

None.

June 1, 2023

Issues for Next Meeting

A. Public Hearing.

1. As Necessary.

B. New Business/Unfinished Business.

1. SWCAA Civil Penalty Schedule
2. Documentation of follow-up/implementation of previous Board actions/decisions
3. SWCAA Performance Metrics, including summaries and reports of trends
4. As Necessary.

C. Meeting Date and Location.

1. August 3, 2023 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 August 3, 2023 at 3:00 p.m., Southwest Clean Air Agency, Vancouver, Washington.

Board Meeting Attendance:

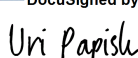
JURISDICTION	J 2023	F 2023	M 2023	A 2023	M 2023	J 2023	J 2023	A 2022	S 2022	O 2022	N 2022	D 2022
Clark County	+	+	0	+	0	+	C	+	+	+	+	C
Cowlitz County	A	+	+	+	+	+	C	0	+	+	0	C
Lewis County	0	+	0	0	+	0	C	+	+	+	0	C
Skamania County	+	+	+	+	+	+	C	+	+	+	+	C
Wahkiakum County	A	+	+	+	+	+	C	A	+	+	+	C
Cathlamet	+	+	+	+	+	+	C	+	+	A	+	C
Centralia	+	+	+	+	+	+	C	0	+	0	+	C
Longview	+	+	+	+	+	+	C	+	+	0	+	C
Stevenson	0	+	+	+	+	+	C	+	+	+	+	C
Vancouver	+	0	+	+	+	0	C	+	+	+	+	C
Member-At-Large	+	+	+	+	+	+	C	+	+	+	+	C

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

Dr. Melnick adjourned the meeting without objection at 4:40 p.m.

DocuSigned by:

 DEB652FC3A604AF...
 Chair

DocuSigned by:

 7A3556CB273B487...
 Executive Director