

SOUTHWEST CLEAN AIR AGENCY

Board of Directors Meeting
August 3rd, 2023, at 3:00 PM
Southwest Clean Air Agency
11815 NE 99th St. Suite 1294
Vancouver, Washington

This meeting will be held by video conference using Zoom:

<https://us02web.zoom.us/j/82154159897>

Meeting ID: 821 5415 9897

Or call in by phone (669) 900-9128

AGENDA

- I. Call to Order
SWCAA Chair Alan Melnick or
Alternate
- II. Roll Call/Determination of Quorum
SWCAA Chair Alan Melnick or Alternate
- III. Board of Directors Minutes
Board of Directors Minutes - June Meeting
- IV. Changes to the Agenda
SWCAA Chair Alan Melnick or Alternate
- V. Consent Agenda
 - A. Approval of Vouchers
 - B. Financial Report
 - C. Monthly Activity Report
- V. Info Items & Public Comment
None
- VII. Public Hearing
None

VIII. Unfinished Business/New Business

A. Appointment of “Member at Large” Board Position

Summary - 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.”

Ryan Smith, SWCAA’s “Member at Large” (or private citizen) member was last appointed by the SWCAA Board of Directors in June of 2019 and therefore his term is up. Ryan Smith was elected Vice Chair this year and has indicated he would like to be reappointed to the Member at Large position for another term. SWCAA posted a job announcement for the position in newspapers in each of the five jurisdictions represented by SWCAA to provide an opportunity for other applicants. SWCAA received no applications.

Recommendation - Appoint Ryan Smith to the Member at Large position for an additional term.

B. Proposed Revisions to SWCAA’s Schedule of Minimum Civil Penalty and Enforcement Worksheets

Issue - SWCAA’s Schedule of Minimum Civil Penalty Assessment Levels has not been updated since 2012.

Summary - 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 a proposed approximate 36% to 38% increase along with additional changes to SWCAA’s penalty worksheets. On June 20th, 2023, SWCAA posted this proposal to increase the civil penalties and revise SWCAA’s enforcement worksheets. SWCAA posted the public notice on SWCAA’s website and sent out public notification mailings to approximately 1,500 affected businesses. SWCAA also sent digital notifications to interested parties who have signed up on SWCAA’s website to receive such notifications. SWCAA held a public hearing on the evening of July 20th. No one attended the public hearing, and no public comments on the proposal were received. The Public Hearing Officer Report can be found in Attachment B.

Recommendation – Adopt SWCAA’s proposed increases to the civil penalties and revised SWCAA penalty determination worksheets found in Attachment A.

IX. Executive Director's Report

- A. EPA Publishes Proposed Phase Out of Perc Use for Dry Cleaning and Other Purposes (June 16, 2023)** - EPA has published in the *Federal Register* a proposed a 10-year phase out of perchloroethylene (PCE) for most dry cleaning; industrial and commercial uses, including the manufacture, processing and distribution of PCE in commerce for certain prohibited uses; and consumer use (88 Fed. Reg. 39,652). The proposal (announced on June 8, 2023), which is under the Toxic Substances and Control Act, also calls for a workplace chemical protection program for PCE, that includes an inhalation exposure concentration limit and prevention of direct dermal contact. For further information: <https://www.federalregister.gov/documents/2023/06/16/2023-12495/perchloroethylene-pce-regulation-under-the-toxic-substances-control-act-tsca>
- B. Biden Administration's Hydrogen Plan Released (June 5, 2023)** - The U.S. Department of Energy (DOE) has released its "U.S. National Clean Hydrogen Strategy and Roadmap", a framework for accelerating the production, processing, delivery, storage, and use of hydrogen. DOE described hydrogen as "a versatile and flexible energy carrier that can be produced with low or zero carbon emissions." The Strategy and Roadmap examines three future demand scenarios, including 10 million metric tonnes (MMT) of clean hydrogen annually by 2030, 20 MMT annually by 2040, and 50 MMT annually by 2050. The report recommends three strategies: targeting strategic, high-impact uses for clean hydrogen, which will ensure that clean hydrogen will be utilized in the highest benefit applications, where limited alternatives exist (such as the industrial sector, heavy-duty transportation, and long-duration energy storage to enable a clean grid); reducing the cost of clean hydrogen by catalyzing innovation and scale, stimulating private sector investments, and developing the clean hydrogen supply chain; and focusing on regional networks with large-scale clean hydrogen production and end-use in close proximity. DOE said it plans to update the report every three years to keep pace with rapidly changing market and deployment conditions. For further information: https://www.hydrogen.energy.gov/clean-hydrogen-strategy-roadmap.html?utm_medium=print&utm_source=hydrogen-doe&utm_campaign=strategy
- C. ALA Publishes Report on Health Benefits of Zero-Emission Cars and Electricity (June 7, 2023)** - The American Lung Association (ALA) released "Driving to Clean Air: Health Benefits of Zero-Emission Cars and Electricity." Among the findings presented in the report are that achieving 100 percent new zero-emission passenger car sales and clean, non-combustion electricity generation by 2035 could result in national cumulative benefits by 2050 of 89,300 fewer premature deaths, 2.2 million fewer asthma attacks, 10.7 million fewer lost workdays, with monetized health benefits of \$978 billion. ALA also provides state-by-state benefits and policy recommendations. For further information: <https://on.lung.org/3qptDRf>
- D. Bloomberg Report Predicts 28% of US New Car Sales Will be BEVs in 2026 (June 6, 2023)** - A new report by the consultancy Bloomberg New Energy Finance has found that global sales of non-hybrid internal combustion engine cars may have peaked in 2017, with oil use for vehicles already declining in the U.S. and Europe and expected to peak globally by 2027. The report predicts that global sales of new electric passenger cars will grow

from 14 percent of vehicles sales in 2022 to 30 percent in 2030. The authors also estimate that battery electric vehicles (BEVs) will make up 28 percent of U.S. passenger car sales in 2026, up from 7.6 percent in 2022, largely driven by the Inflation Reduction Act (IRA) tax credit up to \$7,500 for new BEVs and \$4,000 for used BEVs. The report also finds that electric trucks will become more prevalent, becoming “as cheap as diesel equivalents even for long-haul applications” before 2030. Still, “Heavy trucks in particular are far behind the net-zero trajectory and should be a priority focus for policy makers,” the report says. For further information: <https://www.4cleanair.org/wp-content/uploads/2023-electric-vehicle-outlook.pdf>

X. Board Policy Discussion Issues

As Necessary

XI. Issues for Upcoming Meetings

- CPI fee increase proposal;
- Documentation of follow-up/implementation of Board actions/decisions; and
- SWCAA Performance Metrics, including summaries and reports of trends.

XII. Adjourn

Notes:

(1) Served by C-TRAN Routes: 7, 72 and 76.

(2) Accommodation of the needs for disabled persons can be made upon request. For more information, please call (360) 574-3058 extension 110.

ATTACHMENT A

SCHEDULE OF MINIMUM CIVIL PENALTY ASSESSMENT LEVELS-ANNOTATED

Southwest Clean Air Agency

Effective: ~~Sept. 13, 2018~~

<u>TYPE OF VIOLATION</u>	<u>FIRST CONTACT*</u>	<u>SECOND CONTACT OR REPEAT VIOLATION**</u>	
	Clark, Cowlitz, Lewis, Skamania, Wahkiakum	Clark	Cowlitz, Lewis Skamania, Wahkiakum
1. WAC 173-425, RCW 70.94.743 THRU 780, SWCAA 425 AND/OR Ag Burning	Treat as a Notice of Correction	See Outdoor Burning Worksheet	
2. WAC 173-433 (opacity from wood heating) Residential/Commercial	Treat as a Notice of Correction	\$170 ²⁵	\$90 ⁶⁵
3. WAC 173-433-120 (burning prohibited materials in a wood heating or other space heating device)	Treat as a Notice of Correction	\$170 ²⁵	\$90 ⁶⁵
4. WAC 173-433 (use of wood heating device during an air pollution episode)	Treat as a Notice of Correction	\$170 ²⁵	\$90 ⁶⁵
5. WAC 173-433 (use of wood heating device during an air quality burn ban)	Treat as a Notice of Correction	\$170 ²⁵	\$90 ⁶⁵
6. RCW 70.94.460/463/467 (sale of unapproved woodstove)	Treat as a Notice of Correction	\$1,700 ^{1,250}	\$1,700 ^{1,250}
7. SWCAA 400-040-2&3 (fallout of particulate matter and/or fugitive emissions) Commercial/Municipal/Industrial	Treat as a Notice of Correction	\$850 ⁶²⁵ Major source double	\$410 ³⁰⁰ Major source double
8. SWCAA 400-040-4 (excessive odors) Commercial/Municipal/Industrial	Treat as a Notice of Correction	\$410 ³⁰⁰ Major source double	\$410 ³⁰⁰ Major source double
9. SWCAA 476 (asbestos violations) Residential/Commercial/Municipal/Industrial	See Asbestos Worksheet		
10. SWCAA 400-100 (failure to register) Commercial/Municipal/Industrial	Treat as a Notice of Correction	\$1,700 ^{1,250} Major source double	\$1,700 ^{1,250} Major source double
11. SWCAA 400-100 (failure to pay registration fees) Commercial/Municipal/Industrial	Treat as a Notice of Correction	Three times the original fee owed	Three times the original fee owed
12. SWCAA 400-105 (failure to submit annual emissions) Commercial/Municipal/Industrial	Treat as a Notice of Correction	\$410 ³⁰⁰ Major source double	\$410 ³⁰⁰ Major source double
13. SWCAA 400-072 (installation without SUN Application/Approval) Commercial/Municipal/Industrial	Treat as a Notice of Correction	Benefit value received from non-compliance plus \$410 ³⁰⁰ per small unit. Normal SUN fees are still payable upon submittal. Major source double	

14. SWCAA 400-109 /110 (installation without ADP Application/Approval) Commercial/Municipal/Industrial	Treat as a Notice of Correction	Benefit value received from non-compliance plus \$1,700+250 or estimated NSR fee. Normal NSR fees are still payable upon submittal. Major source double	
15. SWCAA 400-230-6 (compliance or correction order violation) Commercial/Municipal/Industrial	\$300/day Major source double	\$850625 /day Major source double	\$850625 /day Major source double
16. SWCAA 400-230 (permit violation – missed test, emissions, control device) Commercial/Municipal/Industrial	Treat as a Notice of Correction	\$850625 criteria \$1,290950 TAP/HAP Major source double	\$850625 criteria \$1,290950 TAP/HAP Major source double
17. SWCAA 400-230 (permit violation – late test, parameter monitoring, work practice, recordkeeping, reporting) Commercial/Municipal/Industrial	Treat as a Notice of Correction	\$410300 Major source double	\$410300 Major source double
18. WAC 173-491 (failure to install Stage I/II)	Treat as a Notice of Correction	\$850625	\$850625
19. WAC 173-491-040 (improperly maintained Stage I/II equipment, testing, i.e. leaking hoses, etc.)	Treat as a Notice of Correction	\$410300	\$410300
20. WAC 173-491-040 (failure to conduct and/or report Stage I/II testing)	Treat as a Notice of Correction	\$410300	\$410300
21. SWCAA 400-040-1 (excessive visual emissions) Industrial Commercial/Municipal	Treat as a Notice of Correction Treat as a Notice of Correction	\$850625 Major source double \$680500	\$850625 Major source double \$410300
22. Federal Regulations 40 CFR 60 – 63 Notification/reporting requirements	Treat as a Notice of Correction	\$1,700+250	\$1,700+250
23. Installation of equipment, source test 24. failures and expansions	Treat as a Notice of Correction	\$1,700+250	\$1,700+250
<u>24. Other violations not listed</u>	<u>Treat as a Notice of Correction</u>	<u>\$170</u>	<u>\$90</u>
25. RCW 70.94.431 (maximum civil penalty amount per day of violation for any Washington Clean Air Act violation)	\$12,500/day/violation	\$17,000+2,500 /day/violation	\$17,000+2,500 /day/violation

* “First Contact” pertains to the source’s knowledge of the regulations. In most cases if no prior notices, warnings or contact has been made on the particular topic of the violation, then this portion of the civil penalty schedule should be used.

** SWCAA’s Annual Compliance Assurance Agreement with EPA and WDOE for major sources includes the expectation that violations should incur penalty assessments of a magnitude that discourages reoccurring non-compliance. Therefore, repeat violations for the same offense should incur progressively higher penalty assessments. Consequently, after the second offense, the minimum penalty should be significantly increased and possibly doubled from the previous amount each time it reoccurs. The above table should be considered MINIMUM assessments. In some cases, the level of penalty may be greater when special circumstances warrant such action.

SWCAA'S PENALTY ASSESSMENT POLICY STATEMENT

It is the recommendation of the U.S. Environmental Protection Agency and the Washington State Environmental Hearings Board that penalty levels should exceed the cost of alternate methods of disposal and prevent a violator from receiving economic benefit from violation of rules and regulations.

It is SWCAA's desire to use whatever enforcement tools are available in order to encourage compliance to the regulations. It is not the desire of SWCAA management or the Board of Directors to utilize the assessment of civil penalties as solely a means of providing revenue for the Agency. Any enforcement measures taken, including but not limited to, the assessment of civil penalties are intended to: 1) eliminate any derived economic benefit obtained by a violator from circumventing or violating any air quality rule or regulation; 2) discourage repeat or continuing violations; and 3) provide a uniform and fair method of assessing punitive actions.

In the case of outdoor burning violations and violations of the asbestos removal/encapsulation regulations, multi-tiered assessment worksheets are provided. This method of penalty level determination takes into account many facets of the violation to arrive at a uniform, fair and equal assessment amount.

For other types of violations, penalties are established by using the "Schedule of Minimum Civil Penalty Assessment Levels" table. Factors considered within the table are: 1) location of the violation, 2) type of violation and 3) whether it is a first relative contact or a repeat violation. The amounts in this table are considered "minimum amounts" and depending upon circumstances may be escalated as needed on a case by case basis.

In the event of multiple or repeat violations, it is the intent and desire of SWCAA to continue to escalate the punitive enforcement action in order to discourage recalcitrant or repeat violations. The schedule table includes first offense and "repeat violations" with no attempt made to escalate the assessment after the second offense. It is felt that upon the third similar offense that the punitive assessment should be handled on a case by case basis, utilizing the guidance previously established in this document. In most all cases this will involve escalation of the enforcement from the previous assessments. This could however take the form of a criminal penalty, administrative order, civil penalty assessment, or a combination of several of these actions. The factors to be considered in these situations, but not necessarily limited to, include: 1) degree or amount of knowledge of the regulations and requirements; 2) degree of emergency involvement and public expense; 3) magnitude of the violation; 4) cooperation of the violator; 5) degree of confidence that this will not reoccur; 6) potential public health effects associated with the violation; and 7) uniformity of assessment.

Penalty Determination for Title 5 and Synthetic Minor-80 Sources

Facility		NOV	
Violation		Base Pen.	

Note:

Gravity Criteria (gravity criteria for Title 5 and SM80 sources are multiplied by 1/2 the base penalty and added to the base penalty)

Impact on Population and Environment 0: No human or environmental impact or ambient air quality standard violation as a result of the violation 1: Potential human or environmental impact as a result of the violation 2: Likely human or environmental impact as a result of the violation 3: Ambient air quality standards violation	Score	-

Note:

Quantity of Emissions Exceedance (violation of numerical emission standard) 0: < 120% of numerical emission standard 1: 120 to 150% of numerical emission standard 2: 150 to 200% of numerical emission standard 3: > 200% of numerical emission standard	Score	-

Note:

Violation of Control Equipment or Work Practice Requirement 0: Violation of non-control equipment or work practice requirement 1: Violation of control equipment or work practice requirement	Score	-

Note:

Prior Knowledge of Violation 0: No reason to believe the violator was aware of the requirement or the requirement was paperwork related 1: The violator should have been aware of the requirement 2: The violators conduct was negligent 3: The violators conduct was reckless, flagrant, or intentional	Score	-

Note:

Efforts to Correct or Mitigate Current Violation 0: Made extraordinary effects to correct or minimize effects of the violation 1: Made reasonable efforts to correct or minimize the effects of the violation 2: Did not address emission, equipment or work practice violation	Score	-

Note:

Penalty Determination for Title 5 and Synthetic Minor-80 Sources

Facility		NOV	
Violation		Base Pen.	

Effectiveness of Correction or Mitigation of Violations 0: Correction or mitigation of violation was timely and effective 1: Correction or mitigation of violation was not entirely timely and/or effective 2: Correction or mitigation of violation was not timely and/or effective	Score	-

Note:

Efforts to Prevent Future Violations 0: Appropriate measures taken to prevent future violations 1: Appropriate measures taken to minimize future violations 2: Appropriate measures not taken to minimize or prevent future violations	Score	-

Note:

Repeat Violation Multiplier

History of Non-Compliance 1: < 2 penalties in 5 year period for similar violations 2: 2 to 3 penalties in 5 year period for similar violations 3: > 3 penalties in 5 year period for similar violations	Score	-

Note:

Multiday Multiplier

Multi-day (if violation of emission, control equipment or work practice related standard) 1: < 1 day violation 2: 1 to 7 day violation 3: 8 to 28 day violation 4: 29 day - 6 month violation 5: > 6 month - 1 year violation 6: > 1 year violation	Duration	N/A
	Score	1.0

Note:

Penalty Determination for Title 5 and Synthetic Minor-80 Sources

Facility		NOV	
Violation		Base Pen.	

Base Penalty \$ -

Gravity criteria

I	Impact on Population and Environment	0
Q	Quantity of Emissions Exceedance (violation of numerical emission standard)	0
C	Compliance with from Equipment or Work Practice Standard	0
K	Prior Knowledge of Violation of Emission, Equipment, or Work Practice Violation	0
M	Efforts to Correct or Mitigate Current Emission, Equipment or Work Practice Violation	0
E	Effectiveness of Correction or Mitigation Current Emission, Equipment or Work Practice Violations	0
P	Efforts to Prevent Future Emission, Equipment or Work Practice Violations	0

Total 0

Scaled Base Penalty $SBP = BP + [BP \times 0.5 \times (I + Q + C + K + M + E + P)]$ \$ -

Repeat violator multiplier (RVM) 0

Scaled Base Penalty with Repeat Violator Multiplier $RVSBP = SBP \times RVM$ \$ -

Multiday multiplier (MDM) 1

Penalty with Multiday Multiplier $PMDM = AP \times MDM$ \$ -

Economic Benefit (From BenMap or other method) (EB) \$ -

Note:

Total Civil Penalty $TCP = PMDM + EB$ \$ -

Days of violation 1

Penalty Per Day \$ -

Adjusted Penalty (max. ~~\$12,500~~\$17,000/day) (AP) \$ -

Penalty Determination for ADP Sources

Facility		NOV	
Violation		Base Pen.	

Note:

Gravity Criteria (gravity criteria for non-Title 5 and SM80 sources are multiplied by 1/4 the base penalty and added to the base penalty)

Impact on Population and Environment	Score	-
0: No human or environmental impact or ambient air quality standard violation as a result of the violation 1: Potential human or environmental impact as a result of the violation 2: Likely human or environmental impact as a result of the violation 3: Ambient air quality standards violation		

Note:

Quantity of Emissions Exceedance (violation of numerical emission standard)	Score	-
0: < 150% of numerical emission standard 1: 150-200% of numerical emission standard 2: > 200% of numerical emission standard		

Note:

Compliance with Equipment or Work Practice Standard	Score	-
0: Violation of non-equipment or non-work practice requirement 1: Violation of equipment or work practice requirement		

Note:

Prior Knowledge of Violation	Score	-
0: No reason to believe the violator was aware of the requirement or the requirement was paperwork related 1: The violator should have been aware of the requirement 2: The violators conduct was negligent 3: The violators conduct was reckless, flagrant, or intentional		

Note:

Efforts to Correct or Mitigate Current Violation	Score	-
0: Made extraordinary efforts to correct or minimize effects of the violation or violation was paperwork related 1: Made reasonable efforts to correct or minimize the effects of the violation 2: Did not address violation		

Note:

Penalty Determination for ADP Sources

Facility		NOV	
Violation		Base Pen.	

Effectiveness of Correction or Mitigation of Current Violation 0: Correction or mitigation of violation was effective and timely or violation was paperwork related 1: Correction or mitigation of violation was partially effective or partially timely 2: Correction or mitigation of violation was not effective or not timely	Score	-
	Note: 	

Efforts to Prevent Future Violations 0: Appropriate measures taken to prevent future violations or violation was paperwork related 1: Appropriate measures taken to minimize future violations 2: Appropriate measures not taken to minimize or prevent future violations	Score	-
	Note: 	

History of Non-Compliance 1: <2 penalties in 5 year period for a similar violation 2: 2 to 3 penalties in 5 year period for a similar violation 3: > 3 penalties in 2 year period for a similar violation	Score	1.0
	Notes: 	

Multiplier

Multi-day (if violation of emission, equipment or work practice related standard) 1: 1 to 6 month violation 1.5: 6 to 12 month violation 2: > 12 month violation	Duration	
	Score	1.0
Notes: 		

Penalty Determination for ADP Sources

Facility		NOV	
Violation		Base Pen.	

Base Penalty \$ -

Gravity criteria

I	Impact of Violation	0
Q	Quantity of Emissions Exceedance (violation of numerical emission standard)	0
C	Compliance with Equipment or Work Practice Standard	0
K	Prior Knowledge of Violation	0
M	Efforts to Correct or Mitigate Current Violation	0
E	Effectiveness of Correction or Mitigation of Current Violations	0
P	Efforts to Prevent Future Violations	0

Total 0

Scaled Base Penalty $SBP = BP + [BP \times 0.25 \times (I + Q + C + K + M + E + P)]$ \$ -

Repeat violator multiplier (RVM) 1

Scaled Base Penalty with Repeat Violator Multiplier $RVSBP = SBP \times RVM$ \$ -

Multiday multiplier (MDM) 1

Base Penalty with Multiday Multiplier $PMDM = AP \times MDM$ \$ -

Economic Benefit (From BenMap or other method) (EB) \$ -

Notes:

Final Civil Penalty $FCP = PMDM + EB$ \$ -

Days of violation 1

Penalty Per Day \$ -

Adjusted Penalty (max. ~~\$12,500~~\$17,000/day) \$ -

Southwest Clean Air Agency

Asbestos Civil Penalty Worksheet and Recommendation

NOV No.: _____ Date of Violation: _____

Facility/Name: _____ Prop. Owner? (Yes, No) _____

Property Address: _____

Mailing Address: _____

The following procedure shall be employed in making a recommendation for assessment of civil penalties for violations of Agency asbestos regulations and/or breaches of a removal/encapsulation permit. Each violation shall include a gravity component to the civil penalty, as determined from the table below. Violations involving demonstrable economic benefit to the violator shall include a benefit component also. A component for records violations shall be determined from the table on the back of this form and added to the gravity and benefit components to determine the total civil penalty assessment.

Gravity Criteria

	No (0)	Possibly (1)	Probably (2)	Definitely (3)
1. Did the violation result in a public health risk or property damage?				
<u>2. Was the work performed at a public, commercial or institutional building?</u>				
<u>3. Was this a willful or knowing violation?</u>				
<u>4. Was the material known to contain asbestos or a common suspected asbestos containing material?</u>				
<u>5. Did the violator not unresponsive correct the violation or take corrective actions?</u>				
<u>6. Were corrections not timely or effective?</u>				
<u>7. Did the violator have a history of similar violations? Was this a repeat violation?</u>				
<u>8. Was this a multiday violation?</u>				
<u>9. Did the violator benefit economically from non-compliance?</u>				

Total Gravity Criteria Rating: _____

Gravity Component Penalty

Rating:	1-3	4-6	7-8	9-10	11-12	13+
Penalty:	\$65	\$125	\$315	\$625	\$1,250	\$3,125

Homeowner/Contractor or Business:

Rating:	1-3	4-6	7-9	10-13	13-16	17+
Penalty:	\$65/\$130	\$125/\$250	\$315/\$630	\$625/\$1,250	\$1,250/\$2,500	\$3,125/\$6,300

Gravity Component Penalty: _____

Benefit Component Penalty

If the answer to question #98 in the Table "Gravity Criteria" is "definitely", the dollar amount of economic benefit estimated from the current inspection/abatement/disposal charges is \$0.00. Were the necessary permit fees avoided? No If yes, how much? \$0.00

Comments:

Records Violations Component Penalty

Type	Residential by Owner	Commercial or Asbestos Contractor
1. No notification	\$35.50	\$315 <u>\$630</u>
2. Other recordkeeping violation	\$35.50	\$190 <u>\$380</u>

Previous NOV's:

NOV No.	NOV Date	Violation	Civil Penalty

Penalty Components

Gravity Penalty Component:	<u>\$0.00</u>
Benefit Penalty Component:	<u>\$0.00</u>
Records Violations Component:	<u>\$0.00</u>
Civil Penalty Recommendation:	<u>\$0.00</u>

Evaluator: _____
 Date: _____

Southwest Clean Air Agency

Outdoor Burning Minimum Civil Penalty Worksheet and Recommendation

NOV No.: _____ Date of Violation _____

Facility/Name: _____ Prop. Owner? (y,n) _____

If "no", Prop. Owner Name/Address _____

The following procedure shall be employed in making a recommendation for assessment of minimum civil penalties for violations of Agency outdoor burning regulations or permits. Violations involving demonstrable economic benefit to the violator shall include both a gravity and a benefit component. The total civil penalty assessment will be determined by adding these dollar amounts.

Gravity Criteria

	No (0)	Possibly (1)	Probably (2)	Definitely (3)
1. Were emergency personnel called to respond?				
2. Was it a willful or knowing violation, or should the violator have known the rules?				
3. Was the violator unresponsive to correcting the violation or taking corrective actions?				
4. Did the violator have a history of similar violations?				
5. Did the violator benefit economically from non-compliance?				
6. Did the fire spread in an uncontrolled manner?				
7. Was this violation a non-residential offense?				
8. Were prohibited materials being burned?				
9. Burning in a no-burn area or, burning in a burn area without the necessary permit?				
10. If a permit was obtained, did they fail to abide by the permit conditions?				

Total Gravity Criteria Rating: _____

Gravity Component Minimum Penalty

Rating:	1-6	7-8	9-10	11-12	13+
Penalty:	\$ <u>9065</u>	\$ <u>170425</u>	\$ <u>340250</u>	\$ <u>850625</u>	\$ <u>1290950</u>

Benefit Component Penalty

If the answer to question #5 in the Table "Gravity Criteria" is "definitely", the estimated dollar amount of economic benefit determined from the current disposal charges and any other costs avoided by non-compliance is \$_____ (show or attach calculations*).

Comments:

Previous NOVs (last 5 years):

NOV No.	NOV Date	Violation	Civil Penalty

Penalty Components

Gravity Penalty Component: _____

Benefit Penalty Component: _____

Evaluator _____ Date: _____ Civil Penalty Recommendation: _____

Evaluator Signature: _____

Executive Director Civil Penalty Assessment: _____ Signature: _____

ATTACHMENT B

**SOUTHWEST CLEAN AIR AGENCY
PUBLIC HEARING**

for

**PROPOSED CHANGES TO SWCAA'S SCHEDULE OF MINIMUM CIVIL PENALTY
ASSESSMENT AND PENALTY DETERMINATION WORKSHEETS**

HEARING OFFICER REPORT

Date: 07/25/2023 - Prepared by Uri Papish

The Southwest Clean Air Agency (SWCAA) held a public comment period on proposed changes to SWCAA's Schedule of Minimum Civil Penalty Assessment and penalty determination worksheets. SWCAA's proposal was available for review and comment at <https://www.swcleanair.gov/agency/public.asp>.

The minimum penalty amounts in the Schedule of Minimum Civil Penalty Assessment have not been amended since August 2012. The amendments to the asbestos worksheet would increase the number of gravity criteria from five to nine and double the gravity and records component penalties for commercial and asbestos contractors. The amendments to the outdoor burning worksheet and Schedule of Minimum Civil Penalty Assessment would increase the penalty amounts by 36 to 38 percent based on the increases in the Western Region CPI-U between June 2012 and May 2023. The other worksheets incorporate changes proposed in the schedule.

SWCAA held a public informational meeting regarding these proposals via a conference phone line on July 20th at 6 pm.

Comments were due to SWCAA by the end of the day on July 21, 2023. All comments will be provided to SWCAA's Board of Directors before a final decision is made. The proposed revisions to the Consolidated Fee Schedule will be considered for adoption at a hearing at SWCAA's August 3rd Board of Director's meeting. The August Board meeting will be held via a Zoom meeting <https://us02web.zoom.us/j/81677716119> at 3:00 p.m.

Summary:

- No one from the public attended the public hearing.
- No comments were received during the public notice process.