

**WEBER-MORGAN BOARD OF HEALTH
MINUTES OF MEETING
March 26, 2012**

The Weber-Morgan Board of Health held their regular meeting on March 26, 2012 in the Health Department Auditorium at 477 23rd Street. The meeting was called to order at 4:00 p.m. with Jay Jenkins presiding.

BOARD MEMBERS PRESENT:

Jay Jenkins, Chair	Tina Kelley, Vice-Chair
Frank Brown	Jamie Grandpre
Neil Garner	Rich Harris
Jan Zogmaister	Kerry Gibson
Dave Holmstrom	Craig Dearden

BOARD MEMBERS EXCUSED:

Ken Johnson

STAFF MEMBERS PRESENT:

Gary House	Louis Cooper
Cindy Pitcher	Lori Buttars
Brian Cowan	Michelle Cooke
George Chino	Sondra Mitchell
Scott Braeden	Elaine Wendt
Craig Jorgensen	Glen Kinney
Kelly Holmes	Nan Rogers

OTHERS PRESENT:

Chris Allred	Alan Zundel
Jennifer Zundel	Craig Buttars
Joe DeCaria	Jerry Paskett
Brenda Ackarman-Sioson	Calvin Pack
John Savage	Rod Clendenin
Chuck Gee	Kevin Lott

Welcome – Jay Jenkins

Jay Jenkins calls the meeting to order at 4:00 p.m. He says public comment period will be moved in front of action items to allow for input on the I/M regulation.

Employee of the Quarter – Brian Cowan

Information Only

Brian Cowan introduces Scott Braeden, Elaine Wendt, and Craig Jorgensen as Employees of the Quarter. They have been chosen because of their work on uniform testing, reciprocity agreements, implementation of new testing equipment, training/development, and the new draft regulation. They are presented with gift cards.

Approval of Minutes of February 27, 2012 – Jay Jenkins

Motion Passes

A **MOTION** is made by **Craig Dearden** and **SECONDED** to accept the minutes as written. The **MOTION** passes unanimously.

Public Comment –

Alan Zundel, Ron Zundel Auto Repair, comments on cameras, limiting liability of owner, penalties, and technician responsibilities. He states that changing “certification” to “permitted” is a big thing. There is a cost to certify, documents say “I certify”, and if held liable should be “certified”. He is worried about the placement of cameras, having the shop on screen, and whether someone can turn them on whenever they want. He is in favor if they limit owner liability but not if he is responsible for a tester that is certified by the county. He encourages a change on the penalty schedule for technicians and owners from “and/or” to “or”, and says that after hour phone calls on the equipment can be addressed with one person being on-call. He speaks about the new equipment contract, his years in the automotive industry, and of the respect for the people on the advisory committee; he enjoys being part of program.

Craig Buttars, SPS Car Care, says he doesn't have a problem with the camera, but wishes the health department would have come out in advance to explain the purpose. He talks of the State Implementation Plan (SIP) and the existing maximum penalty cap of \$3,000. The health department still has \$10,000 in their regulation and it can be challenged in court. He references the Air Quality Act fines which are a minimum \$200 and minimum 6 mo suspension; not near \$3,000 or \$10,000. He asks why the program has such huge fines and suggests that they should be not more than a Class B misdemeanor which is a \$1,100 fine. He comments on the hearings and recommends that the Board hold the hearings – not pay someone to do it. He says the black and white of the hearings don't allow for reasons as to what happened and why. He thinks the program has come a long way and doesn't want damage done by complaints or getting off track. He suggests an incentive program to encourage technicians to do it right, to find a positive spin, and get the program back on its feet.

Calvin Pack, Pro-Tech Automotive Service, expresses thanks as a tax payer to state his concerns. He reads several emails he's received regarding the cameras that speak to stations losing trust with the county, why those stations that have never been penalized need them, asking about facts surrounding the cameras, using cameras as a training tool, a station insulted by use of the cameras, and others having no problem with cameras. He mentions simple mistakes leading to violations such as forgetting to test the gas cap and suggests that the regulation be changed to say that stations owners will be not responsible for those types of mistakes. He also says the majority of the stations he has talked to see the need for cameras but want written definitions as to what can and cannot be charged as a violation. He comments on “certified” testers saying programs in Salt Lake and Utah counties have “certified” testers and he thinks the public deserves to know the person doing the work is certified. He talks about by-pass codes and expresses concern when fleets need testing and suggests codes are issued for a 24 hour period. Staff could be on on-call rotating shifts in case codes are needed at night/after hours and codes can be monitored by the fleet being tested. The gas cap testing program, because of the number of vehicles, mean stations will never get 100%; they are afraid of violating that procedure and of the fines imposed. He has asked other stations to write down the date and time they call for a by-pass code or authorization – he called on March 20th at 2:00 p.m. and left a message on the answering machine while the customer waited. He called back at 2:30 to find they had not checked the answering machine. He got authorization but had to wait ½ hour. The regulation needs proper language and he asked that it be sent back to the advisory committee in April so it can be reviewed and changed.

Joe DeCaria, I/M Advisory Committee (IMAC) member, says the last motion made at the last advisory committee meeting resulted in no further comment on the regulation. He states he is not sure why Mr. Pack did not bring up his concerns for discussion there instead of waiting until this board meeting. He says the IMAC is interested in hearing his comments.

Kevin Lott, new chairperson of IMAC from John Watson Chevrolet, says the committee met, didn't come up with any conclusions, and passed the regulation with no changes. Since that meeting he consulted with the past chair and sent out an email with further suggestions. He has since talked with Brian Cowan and states he was concerned that once the regulation was passed there could be no further changes. His main concern with the camera is that there could be a violation because someone didn't like how a tester walked around a car. He asks for something in writing that states the video does not constitute a way to penalize a technician or shop. Shops use cameras for quality control and work in partnership with the county. He says violations can't be just the camera but need other back up. The penalty schedule changes are four counties wide; consent agreements are addressed. He says he is OK with the regulation knowing there is the ability to open the regulation at a later date.

Approval of Motor Vehicle Inspection and Maintenance Program

Regulation – Brian Cowan

Motion Passed

Brian Cowan reminds the Board that they asked he take the regulation back to the IMAC. He explains the confusion by his efforts to expedite the process at the request of the DEQ Division of Air Quality. The IMAC was not given the proper amount of time to discuss the regulation but has now met, reviewed the regulation, and supports the regulation by a vote of 7 in favor, 2 opposed. He explains that 'permitted' and 'certified' are used interchangeably in health department regulation and documents issued to technicians do say 'permitted'. This change was to standardize this regulation with other department regulations by using 'permitted'. He explains that cameras are initiated when the technician enters their user name and password and ends when the test is done; they are not on all the time. One exception is when a station calls either health department staff or Applus who then logs in to troubleshoot an issue with the analyzer or an inspection. Health department staff cannot log onto the camera unless the station/technician has activated the camera first; they must be invited to do so. During initial setup, cameras were on but no data was stored; that ended after implementation on February 1st. **Chuck Gee**, program manager for Applus, explains that the camera comes on when initiated by the technician, or during training mode (unofficial test), or during response to a service call (to Applus). In response to questioning, he says that a third party support vendor can access the camera for service without shop approval. **Brenda Ackarman-Sioson**, Applus Technologies, says it is policy to only access the cameras when requested. There is discussion and it is clarified that if the analyzer is powered up and connected to the network, it can be serviced but not by the health department - only by Applus or third party software. Each county along the Wasatch Front has a choice to use cameras and in different ways. Davis is adopting use of cameras like Weber-Morgan; Salt Lake uses them only in stations under review or under sanction; not sure what Utah is doing. The State of Utah is one of the last states nationally having cameras to come on board. **Brian Cowan** says code of federal regulations states violations in decentralized testing programs means the governing body will take action against the station and

technician. Our regulation says that if a station implements a quality assurance program, the department will review the violation and determine where liability lies then take appropriate action. The cameras are intended to take place of the quality assurance program and take away the liability of the station owner. In Salt Lake, the penalty applies to both station and technician. **Jay Jenkins** refers to a clarification memo sent out that mentions certificate paper and dual control. **Brian Cowan** says implementing the cameras removes the need for both of those and explains that if the cameras were removed those or something else would have to be in place to comply with federal controls. It is an 'either'/'or' situation. It is not the health department's goal to shut down stations. In 2011, excluding covert violations, no suspension or revocation was issued; in 2010, only one of each was issued. **Craig Dearden** relates the story of placing cameras in sheriff vehicles and the reaction of the deputies. He says many station operators he's spoken with don't mind the cameras if they're used properly. The sheriff vehicle cameras supported complaints and counteracted complaints. In this case, it could save the technician by showing distraction or emergency if used positively. **Brian Cowan** reminds the board that health department staff cannot turn a camera on but it will tell the story when there are gaps in the data collected and reviewed. It will allow action to be taken on what the data shows. There is discussion about cameras in multiple bays, input from shop owners via members of the IMAC, how shops were introduced to the program in November, continually tabling action on this regulation, third party software clarification, information to stations on how cameras will be used, after-hours availability, and by-pass code clarification and problems. By-pass codes are needed for less than 1% of all inspections per station. **Neil Garner** asks for a follow up report on how many by-pass codes are actually issued over an extended period of time to determine where the need is. **Brian Cowan** explains need for by-pass codes and the new need for after-hours response which was never before needed. Stations have access to Applus during normal business hours which are beyond what they received with the prior vendor. Service response times are low. Many of the complaints from station owners are from beta testing. **Chuck Gee** responds to questions from board members about Applus accessing the cameras when not required. He says service calls can be taken care of through service calls from remote locations. **Brenda Ackarman-Sioson** says there is tracking for team viewer software - who has access and what point they access the system - and reporting is available. Applus takes it seriously and have fired people for offenses that relate to IT violations. **Brian Cowan** responds to questions on the 9 month changes to the penalty schedule for failure to inspect or substituting a vehicle and falsifying documents - both serious offenses that affect the air pollution control credits. He says that the four counties in conjunction with DAQ approved the motion to change this; it is related to reciprocity. At Weber-Morgan there is still a two-year reset if no violations occur.

Dave Holmstrom, who attended the IMAC meeting, says he would like to see from the committee what they would suggest regarding the cameras. Minutes from prior meetings show communication was limited and the last meeting conversation was limited but it passed. He thinks there should be more written suggestions given to the Board who can then consider them and accept or reject. There is discussion regarding taking this action slow and getting it right. **Brian Cowan** explains that the state is waiting for a document from Weber-Morgan to use in the state implementation plan. If the one paragraph that mentions the cameras is eliminated in order to pass the regulation (9.3), additions are needed regarding quality assurance per federal regulation - 'either'/'or'. There is

discussion about health department policy regarding cameras and staff on-call procedures, improvements with quality assurance programs to address the struggle in years past to identify rogue technicians, how cameras are utilized and define how they're used. A **MOTION** is made by **Craig Dearden** and **SECONDED** to approve the Motor Vehicle I/M Regulation with instructions to health department staff to replace "certified" in relation to the technicians and return with a policy regarding use of the cameras by May. The **MOTION** passes unanimously.

Fee Schedule Change for Maximum Emission Inspection – Brian Cowan

Motion Tabled

Brian Cowan reminds the Board that he was instructed to get input from station owners regarding the maximum fee for emissions testing. A motion was made at the IMAC meeting to remove the cap and place it at open market. The vote passed with 6 in favor and 1 opposed. **Chris Allred** says this fee is not really a health department fee but allows each station to set a fee for the inspection. Typically the department does not have a public hearing when changing fees, but suggests a public hearing since it is really a change related to the regulation. **Brian Cowan** refers to a handout that shows other emission inspection fees in Utah. Weber-Morgan has a \$25 cap and can charge less; the average is \$22.98. Davis County's cap is \$27.50; no average fee was available. Salt Lake has no cap; no minimum fee is available but maximum fee is \$60 and the average is \$27. Utah also has no cap; the minimum is \$15 and maximum is \$35 with average fee at \$24.51. They require the fee be posted on the health department website so residents don't have to shop for the lowest fee. He explains that the cap was initiated many years ago with the state mandated fee being \$17.50. When I/M programs were implemented as government mandated inspections, they were capped at a reasonable cost. There is discussion about changing the fee as part of the regulation it falls under, the need for public input, open market fees being self regulating, and possible legislation from Salt Lake's high maximum fee being excessive. The discussion to prepare language surrounding the fee change, collecting more IMAC and station input, and scheduling a public hearing leads to a motion. A **MOTION** is made by **Neil Garner** and **SECONDED** to table the fee schedule change pending a possible public hearing in May. The **MOTION** passes unanimously.

Information Items

Gary House recommends that, in the interest of time, remaining agenda items be deferred to next month's meeting. He reminds the Board that April is the annual meeting as outlined in the by-laws. An abbreviated meeting will be held followed by annual board training. He asks that board members plan to meet from 4:00 to 6:00.

Other Comments

Neil Garner expresses his thanks for all the efforts made by staff on Kick Butt's Day.

The meeting adjourns at 5:55 pm. Next meeting is scheduled for April 23, 2012 at 4:00 p.m.