



Office and Phone Conferences

An office conference or a phone conference is an informal meeting or dialogue between you and District staff to discuss the facts of the case. The conference provides you with an opportunity to present and discuss any information you think may be important for the District to consider.

The meeting also allows for AQMD staff to review the MSP and penalty determination with you and clarify AQMD rules, regulations, and permit requirements. It is your responsibility to contact the District to arrange a phone or an office conference within 30 days of receiving a settlement proposal letter.

During the office or phone conference you may present documentation showing mitigation of the violation that may be taken into consideration when calculating the penalty. However, any information presented must be true and correct to the best of your knowledge. Be advised that California Health and Safety Code § 42400.3.5 and § 42402.4 establish separate criminal and civil penalties for any person who, knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any rule, regulation, permit, or order of the District.

SACRAMENTO METROPOLITAN



777 – 12th Street, 3rd Floor
Sacramento, CA 95814-1908

(916) 874-4800

(800) 880-9025

www.AirQuality.org

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Resolving Violations

Mutual Settlement Program & Civil Penalties

SACRAMENTO METROPOLITAN
AIR QUALITY MANAGEMENT DISTRICT

About the AQMD

The Sacramento Metropolitan Air Quality Management District (AQMD) is the local government agency responsible for regulating stationary, non-vehicular sources of air pollution in Sacramento County. The AQMD works to ensure that Sacramento County's air quality meets state and federal health standards.

Its jurisdiction includes all unincorporated areas of Sacramento County, as well as the cities of Citrus Heights, Elk Grove, Folsom, Galt, Isleton, Rancho Cordova and Sacramento.

Air Quality Regulations

Under both state and federal law, the AQMD is under a legal obligation to adopt and enforce air quality regulations. These regulations are intended to protect the public health and ensure that the air we breathe in Sacramento meets state and federal standards.

Violations of air quality regulations are subject to criminal or civil penalties, pursuant to California Health & Safety Code (CH&SC) § 42400 through § 42402. The AQMD is empowered by the CH&SC to enforce its rules and regulations and to settle civil violations.

Violation Notices

If you or your business receive a Notice of Violation (NOV) from a representative of the AQMD, you should take all reasonable and prudent steps necessary to bring your facility back into immediate compliance with AQMD rules.

Once your facility is back in compliance, your case will be reviewed by the AQMD to determine if the facts of the case support further enforcement action. Certain criminal cases will be referred to the District Attorney for further action.

After your case is reviewed, you will be notified, in writing, of the AQMD's decision to either:

- Offer you the opportunity to resolve the violation under the Mutual Settlement Program.
- Refer the case to District Counsel.
- Refer the case to the District Attorney.

The Mutual Settlement Program

The AQMD's Mutual Settlement Program (MSP) is a voluntary program adopted by the AQMD Board of Directors. It is designed to settle violations without the time and expense of litigation. A majority of violations are settled using the MSP. In settling violations under the MSP, a penalty typically is specified as part of the proposed settlement.

An objective formula is used to determine the amount of the penalty. This formula is called the Monetary Component Formula (MCF). It is based on (1) the civil penalty categories as specified in CH&SC § 42402, (2) aggravating and mitigating factors to be considered in recovering civil penalties as specified in CH&SC § 42403(b), and (3) the number of days in violation.

Monetary Component Formula

Civil Penalty Categories

Any violation of an AQMD rule or permit condition may be subject to civil penalties. The appropriate civil penalty category for your violation will be used in the MCF to determine the maximum daily penalty amount. The following is a summary of the maximum daily liabilities for various categories of violations:

\$1,000 per day is the maximum liability for air quality violations with "strict liability." This includes violation of any provision of the CH&SC, any AQMD rule, order, or permit. It does not matter if there were emissions or any intent to violate the law.

\$10,000 per day is the maximum liability for any strict liability violation, unless the violator can establish that the violation was not the result of intentional or negligent conduct.

\$25,000 per day is the maximum liability for the negligent emission of an air contaminant. This covers any violation due to careless, inattentive, or inadvertent release of air pollutants.

\$40,000 per day is the maximum liability for a violation involving an emission of an air contaminant when the violator knew of the emission, but failed to take corrective action.

\$75,000 per day is the maximum liability for an intentional and willful emission of an air contaminant.

Aggravating and Mitigating Factors

Five aggravating and five mitigating factors are considered in the MCF to assure the penalty determination is balanced. Each factor is assessed at either a low, medium, or high level using standardized definitions. The final penalty amount is affected by the level assessed for each factor.

Aggravating factors:

1. Extent of harm caused by the violation;
2. Nature & persistence of the violation;
3. Length of time the violation occurred;
4. Past violations; and
5. Economic benefit of noncompliance.

Mitigating factors:

1. Degree and record of maintenance;
2. Innovative control equipment;
3. Action taken to mitigate the violation;
4. Good faith effort to comply; and
5. Financial burden to the violator.

Once a penalty has been calculated using the MCF, the amount is NOT NEGOTIABLE. The only way that proposed penalties can be reduced, within the framework of the MSP, is for new, mitigating information to be produced that affects the MCF factors listed above.

Settlement Proposal Letters

Once the penalty has been calculated a settlement proposal letter will be mailed to you. The letter will outline certain facts associated with the case, advise you of the penalties as prescribed by law, and propose the terms under which the AQMD would be willing to settle the violation. One term usually involves payment of a civil penalty. You must respond to the settlement offer within 30 days.

Options at this point:

- Sign the settlement proposal and return it to the AQMD with a check in the amount of the penalty assessed or pay by credit card using our online payment service (see www.AirQuality.org for payment information).
- Request an office or phone conference to discuss the settlement offer and present any additional information.
- Fail to respond—this will result in the case being referred to District Counsel for evaluation of further enforcement action. Your case will no longer be governed by the MSP. Any penalties will be established through litigation.