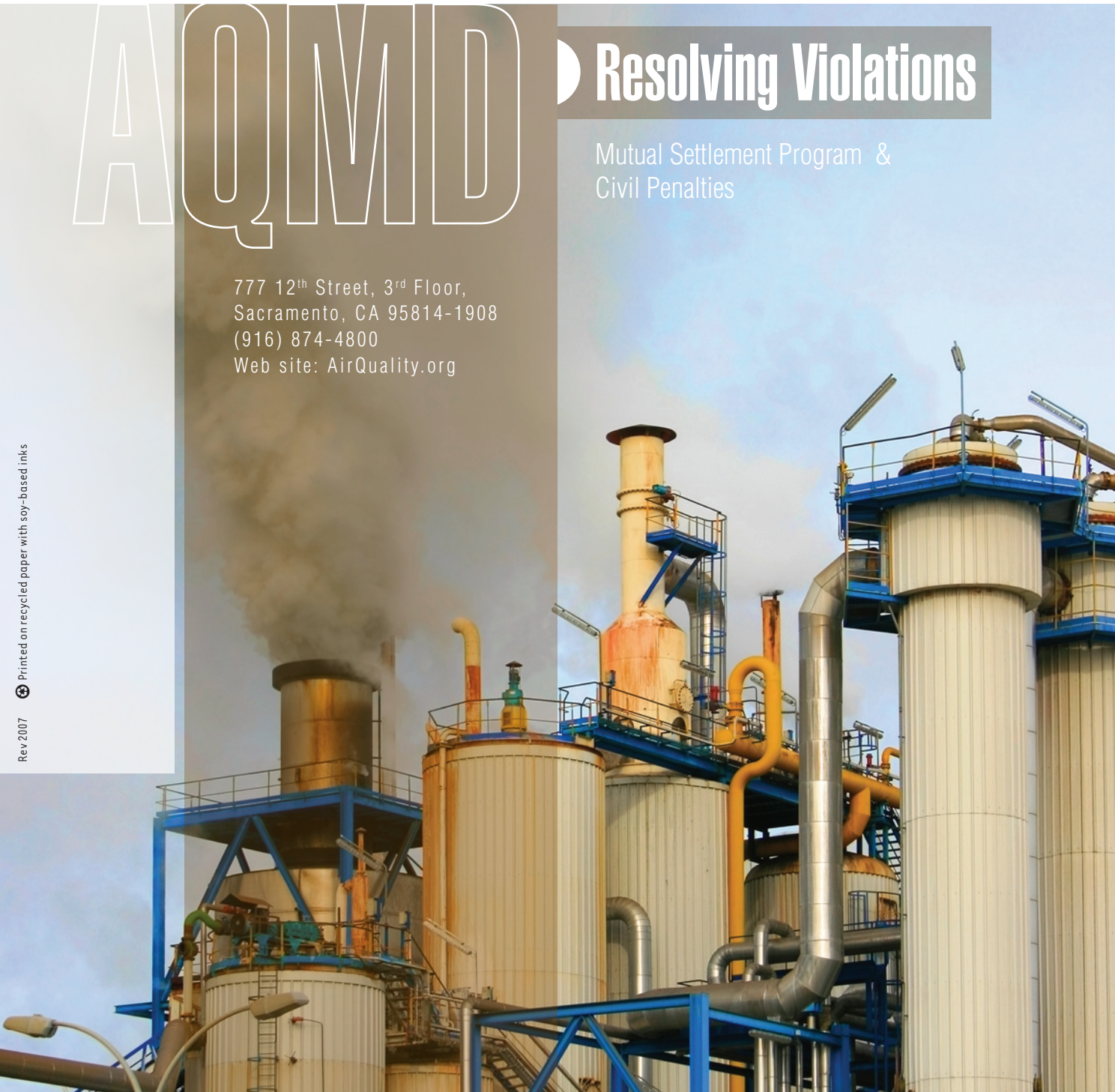


AQMD

Resolving Violations

Mutual Settlement Program &
Civil Penalties

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(916) 874-4800
Web site: AirQuality.org



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.

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 the air we breathe in Sacramento County 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.

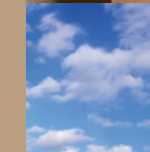
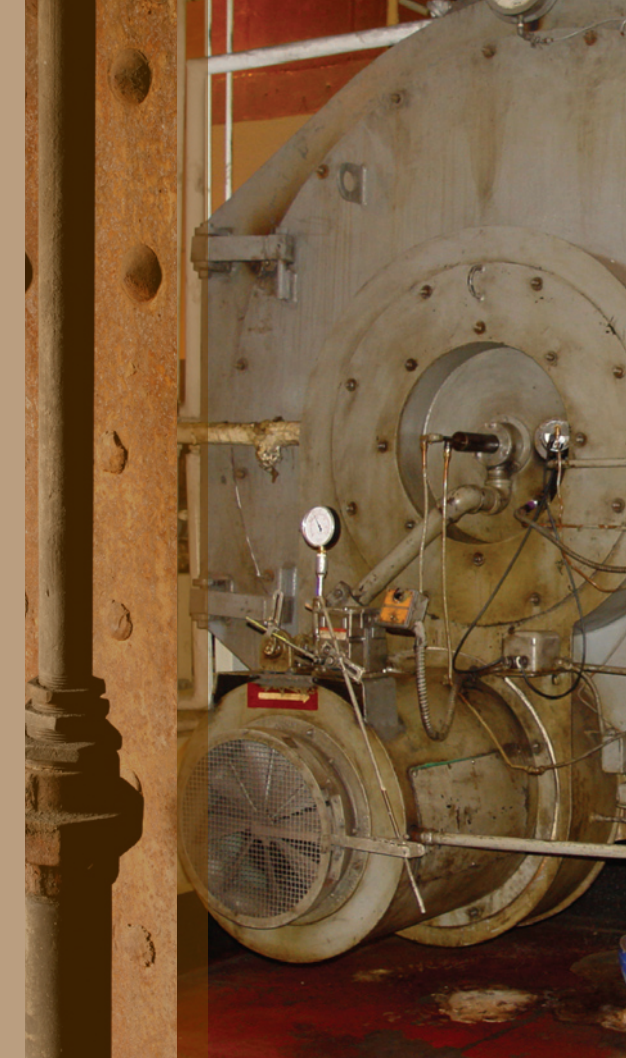
Violation Notices

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 District to determine if the facts of the case support further enforcement action.

After your case is reviewed, you will be notified, in writing, of the District'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



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AQMD mission statement

Achieve clean air goals by leading the region in protecting public health and the environment through innovative and effective programs, dedicated staff, community involvement and public education.



The Mutual Settlement Program

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

A formula is used to determine the amount of the penalty. This formula is called the Monetary Component Formula (MCF). It is based on factors to be considered in recovering civil penalties as specified in CH&SC § 42403(b).

Monetary Component Formula

The MCF is a balanced penalty formula that uses five "aggravating" and five "mitigating" factors.

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.

Routine Violations

If a Notice of Violation (NOV) was issued for an air quality violation the AQMD routinely handles, 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 offer within 30 days.

Options at this point:

- Sign the settlement agreement and return it to the AQMD with a check in the amount of the penalty assessed
- Request an office conference to present additional, mitigating 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.

Other Violations

If the AQMD determines additional facts need to be considered prior to assessing a penalty, or if the proposed penalty for a case is significant, a letter will be mailed to you requesting your presence at an office conference.

The letter will outline certain facts associated with the case, advise you of the penalties as prescribed by law, and invite you to call and arrange for an office conference. You must respond to the offer to meet within 30 days.

Options at this point:

- Call and arrange for an office conference
- 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.

After the office conference, a settlement proposal letter will be mailed to you. You will have 15 days to respond to the settlement proposal.

Options at this point:

- Sign the settlement agreement and return it to the AQMD with a check to cover the monetary penalty
- 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.

Office Conferences

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

You may present documentation showing mitigation of the violation that will be taken into consideration, together with all the known facts, when calculating a 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.

Civil Penalties

Any violation of an AQMD rule or permit condition may be subject to civil penalties. The following is a summary of the maximum 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.