



County of El Dorado Air Quality Management District

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Dave Johnston
Air Pollution Control Officer

HEALTH AND SAFETY CODE AIR QUALITY VIOLATIONS SECTIONS, PENALTY AMOUNTS AND AQMD MUTUAL SETTLEMENT PROGRAM

Violations of air pollution laws—including State statutes, State regulations, federal statutes and federal regulations, and all Air Quality Management District (District) Rules and Regulations, permit conditions, and District Hearing Board orders—are subject to criminal or civil penalties. The California Health and Safety (H&S) Code specifies maximum penalties (and in a few cases minimum penalties) for violations of State and District laws, Rules and Regulations, and permits conditions. Generally, the penalties are specified in H&S Code § 42400 et seq. In addition, criminal or civil penalties for violations may be sought by the District Attorney, the State Air Resources Board, the Attorney General, the U.S. Attorney, or the U.S. Environmental Protection Agency. The District may only seek penalties in civil actions pursuant to the Health and Safety Code, but the non-District agencies can prosecute in either criminal or civil actions, and may be able to seek penalties other than those specified in the Health and Safety Code.

The following summarizes criminal and civil penalties that may be assessed pursuant to the California Health and Safety Code for violations of air quality laws and regulations.

1.0 CRIMINAL PENALTIES

H&S Code § 42400: Criminal Penalty for Violations

- (a) Any person who violates air pollution laws (see above—this includes state statutes, state regulations, District rules and permits, District Hearing Board orders) is guilty of a misdemeanor and is subject to a fine up to \$5,000, or up to six months in the County jail, or both.
- (b) An employee or independent contractor who operates a vapor recovery system on a gasoline cargo tank in violation of air pollution laws is subject to the above penalties, but the employer or person who retains the independent contractor is not unless they violate separately.
- (c) An owner or operator of a source that causes public nuisance and actual injury is subject to increased penalties: up to \$15,000, and up to nine months in jail, or both.
- (d) As used in this section “actual injury” means any physical injury that, in the opinion of a licensed physician and surgeon, requires medical treatment involving more than a physical evaluation.
- (e) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42400.1: Negligent emission of air contaminants; Operation of source of air contaminants which causes actual injury; Criminal sanctions

- (a) Any person who negligently emits an air contaminant in violation of air pollution laws is guilty of a misdemeanor and is subject to a fine up to \$25,000, or nine months in the County jail, or both.
- (b) If the negligent emission causes public nuisance and great bodily injury, the maximum penalty rises to \$100,000, and up to one year in jail, or both.
- (c) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42400.2 *Failure to Take Corrective Action; Falsification of documents; Criminal sanctions*

- (a) Any person who knowingly emits an air contaminant in violation of air pollution laws and fails to take corrective action within a reasonable time is guilty of a misdemeanor and is subject to a fine up to \$40,000, or one year in the County jail, or both.
- (b) (Defines “corrective action.”)
- (c) If the knowing emission causes public nuisance and great bodily injury, and the person failed to take corrective action within a reasonable time, the maximum penalty rises to \$250,000, and up to one year in jail, or both.
- (d) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42400.3 *Willful and Intentional Emittance*

- (a) Any person who willfully and intentionally emits an air contaminant in violation of air pollution laws is guilty of a misdemeanor and is subject to a fine up to \$75,000, or one year in the County jail, or both.
- (b) If any person willfully and intentionally, or with reckless disregard for the risk of great bodily injury, emits an air contaminant causing public nuisance and unreasonable risk of great bodily injury or death, the maximum fine rises to \$125,000, or one year in the County jail, or both. If the violator is a corporation, the maximum fine is \$500,000.
- (c) If in addition great bodily injury or death is actually caused, the maximum penalty rises to \$250,000, and up to one year in jail, or both. The maximum fine for a corporation rises to \$1,000,000.
- (d) Each day in which a violation occurs is a separate offense that is subject to the above penalties.
- (e) This section does not preclude punishment under 189 or 192 of the Penal Code or any other provision of law that provides a more severe punishment.
- (f) For the purpose of this section:
 - (1) “Great bodily injury” means great bodily injury as defined in Section 12022.7 of the Penal Code.
 - (2) “Imprisonment in state prison” means imprisonment in the state prison for 16 months, or two or three years
 - (3) “Unreasonable risk of great bodily injury or death” means substantial probability of great bodily injury or death

H&S Code § 42400.3.5 *Knowing violations; Penalties*

(a) Knowing violation of any air pollution law adopted for control of federal hazardous air pollutants (including fee or filing requirements) is a misdemeanor subject to a fine up to \$10,000 and six months in jail, or both.

(b) Knowingly making a false statement or certification in any form or notice or report required for federal hazardous air pollutants, or knowingly rendering inaccurate any monitoring device required for federal hazardous air pollutants, is subject to a fine up to \$35,000 or up to nine months in jail, or both.

(c) Falsifying any document required by air pollution laws, and with intent to deceive, is subject to the penalties just above.

(d) Subdivisions (a) and (b) shall apply only to those violations that are not otherwise subject to a fine of ten thousand dollars (\$10,000) or more pursuant to Section 42400.1, 42400.2, or 42400.3.

H&S Code § 42400.4 *Knowing violation of federally enforceable permit condition, fee, or filing requirement*

(a) Knowing violation of federally enforceable conditions or requirements applicable to federal Title V (major source) facilities is subject to a fine up to \$10,000.

(b) Knowingly making a false statement or certification in any form or notice or report required for federal Title V sources, or knowingly rendering inaccurate any monitoring device required for federal Title V sources, is a misdemeanor and is subject to a fine up to \$10,000.

(c) The recovery of civil penalties pursuant to Section 42402, 42402.1, 42402.2, or 42402.3 precludes prosecution pursuant to this section for the same offense.

(d) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42400.5 *Unauthorized Outdoor Fires*

The cost of putting out any unauthorized outdoor fire used for burning waste or for metal salvage, or for agricultural burning without a permit, may be imposed in addition to other penalties.

H&S Code § 42408 *Tampering with Ambient Air Monitoring Equipment*

(a) Tampering with any ambient air monitoring equipment operated by the state or the District is a misdemeanor.

(b) “Tampering” means any unauthorized, intentional, touching or other conduct affecting the operational status of monitoring equipment which has the potential to invalidate the data collected from the monitoring activity.

2.0 CIVIL PENALTIES

H&S Code § 41865: *Connelly-Areias-Chandler Rice Straw Burning Reduction Act*

(q)(2) Any person who negligently or intentionally violates any provision of this article is liable for a civil penalty of not more than ten thousand dollars (\$10,000).

H&S Code § 42400.6 *Collection of Fines or Monetary Penalties*

Fines or penalties may be imposed under § 17200 of the Business and Professions Code, which prohibits unfair competition.

H&S Code § 42401 *Violating Order of Abatement*

Any person who intentionally or negligently violates any order of abatement issued by the District Hearing Board or by the state Air Resources Board is subject to a penalty of up to \$25,000 per day of violation.

H&S Code § 42402 *General Violations*

(a) Any person who violates air pollution laws is strictly liable for a penalty up to \$5,000. But see (b).

(b) Any person who violates air pollution laws is strictly liable for a penalty up to \$10,000, unless the person (except at a Title V source) establishes by affirmative defense that the violation was not the result of intentional or negligent conduct. (See also the similar penalties for violations concerning toxic air contaminants, in Health and Safety Code § 39674. Violations there also involve fee requirements, filing requirements, duty to allow entry or to allow or carry out inspection or monitoring activities; District permits or rules may also contain such requirements, and penalties in Health and Safety Code § 42400 et. seq. apply to violations of District permits and rules.)

(c) An owner or operator of a source that causes public nuisance and actual injury to the health and safety of a considerable number of persons is subject to increased penalties: up to \$15,000.

(d) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42402.1 *Negligence or Great Bodily Injury*

(a) Any person who negligently emits an air contaminant in violation of air pollution laws is subject to a penalty up to \$25,000.

(b) If the negligent emission causes public nuisance and great bodily injury, the maximum penalty rises to \$100,000.

(c) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42402.2 *Knowing Emittance or Failure to Take Corrective Action*

(a) Any person who knowingly emits an air contaminant in violation of air pollution laws and fails to take corrective action within a reasonable time is subject to a penalty up to \$40,000.

(b) If the knowing emission causes public nuisance and great bodily injury, and the person failed to take corrective action within a reasonable time, the maximum penalty rises to \$250,000.

(c) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42402.3 *Willful and Intentional Emittance*

(a) Any person who willfully and intentionally emits an air contaminant in violation of air pollution laws is subject to a penalty up to \$75,000.

(b) If any person willfully and intentionally, or with reckless disregard for the risk of great

bodily injury, emits an air contaminant causing public nuisance and unreasonable risk of great bodily injury or death, the maximum penalty rises to \$125,000. If the violator is a corporation, the maximum penalty is \$500,000.

(c) If in addition, great bodily injury or death is actually caused, the maximum penalty rises to \$250,000. The maximum penalty for a corporation rises to \$1,000,000.

(d) Each day in which a violation occurs is a separate offense that is subject to the above penalties.

H&S Code § 42402.4 *Document Falsification*

Any person who knowingly, and with intent to deceive, falsifies any document required by air pollution laws to be kept is subject to a penalty up to \$35,000.

H&S Code § 42403.5 *Bus Idling*

Public nuisance resulting from idling a diesel-powered bus engine is subject to the civil penalties above; however, no penalty applies if the violator establishes by affirmative defense that the extent of the harm caused does not exceed the benefit accrued to bus passengers as a result of idling the engine.

H&S Code § 44381 *Civil Penalties for False Statement*

Failure to submit any information, reports or statements required by the Air Toxics “Hot Spots” Information and Assessment Act, H&S Code § 44300 et. seq., or failure to comply with requirements of that Act, is subject to a penalty of not less than \$500 or more than \$10,000 for each day the violation continues. Knowingly submitting any false statement or representation in any document filed or maintained for that Act is subject to a penalty of not less than \$1,000 or more than \$25,000 for each day the information remains uncorrected.

H&S Code § 44394 *Failure to Submit/Implement Plan*

Failure to submit or implement a risk reduction plan when required by the Air Toxics “Hot Spots” Information and Assessment Act, is subject to a penalty of not less than \$500 or more than \$10,000 for each day the violation continues.

3.0 CONSIDERATIONS IN DETERMINING PENALTIES

H&S Code § 42400.8 and § 42403 *Determination of Fines and Recovery of Civil Penalties*

Maximum penalties are limited as described above. There are no minimum penalties for violations except violations of the Air Toxics “Hot Spots” Information and Assessment Act, as described just above. In determining the amount of a fine or civil penalty to be assessed, the court (or the District, in the case of a civil settlement) shall consider all relevant circumstances, including but not limited to:

- (1) The extent of harm caused by the violation.
- (2) The nature and persistence of the violation.
- (3) The length of time over which the violation occurs.
- (4) The frequency of past violations.
- (5) The record of maintenance.
- (6) The unproven or innovative nature of the control equipment.
- (7) Any action taken by the defendant, including the nature, extent, and time of

response of the cleanup and construction undertaken, to mitigate the violation.

(8) The financial burden to the defendant.

(9) Any other circumstances that the court (or the District, in the case of a civil settlement,) deems relevant.

4.0 THE DISTRICT'S MUTUAL SETTLEMENT PROGRAM

1. BACKGROUND

For air quality violations the Air Quality Management District (District) issues either Notices to Comply (NTC) or Notices of Violation (NOV). Notices to Comply are issued for Minor Violations in accordance with District Rule 517. Notices of Violation are issued for all other, typically more serious violations.

The majority of NOV's are issued for violations that are not efficiently or appropriately handled by the immediate filing of a civil or criminal action. Such violations are better handled by educating the violator, ensuring the violation is corrected, allowing the violator the opportunity to have an office conference to discuss the violation, and mutually agreeing upon a penalty. Penalties may be monetary, successful completion of a compliance training course, or a combination of both. This process achieves compliance without the necessity of litigation.

2. ADMINISTRATION

The El Dorado County Air Quality Management District Mutual Settlement Program Procedures and Guidelines (Procedures and Guidelines) are administered by the District under the direction of the Air Pollution Control Officer (APCO). In accordance with these Procedures and Guidelines, the District may reach settlements with persons served with NOV's.

3. AUTHORITY

This document establishes Procedures and Guidelines for the settlement of NOV's issued pursuant to California Health and Safety Code ("CH&SC") Sections 42400 et seq., or El Dorado County District Rules and Regulations, or both. District authority for Violation compromise and settlement is contained in the following:

- a. **Enforcement Authority:** The District and the APCO are required to enforce District orders, regulations, rules, variances, standards, permit conditions and other requirements, as set forth in CH&SC Sections 39002, 40000, 40001, 40702 and 40752.
- b. **Settlement Authority:** The District is empowered to settle Violations under CH&SC Section 42402.5 and 42403(b) and Resolution No. 053-2000 adopted by the District's Board of Directors on February 15, 2000, (Attachment 1).
- c. **Enforcement Action Referral Authority:** The District is empowered under the authority contained in CH&SC Section 42403 and Resolution No. 053-2000, to refer for legal proceedings all enforcement actions to the County Counsel or the agencies named in Section 4 of these Procedures and Guidelines.

4. VIOLATION REVIEW

All NOV's shall be reviewed by the APCO to determine the appropriate course of action. When appropriate and to the extent required by law, the District shall consult with other affected government agencies concerning each NOV. Courses of action include:

- a. **No Further Action:** If the APCO determines there is not sufficient basis to reasonably conclude a Violation has occurred, no further action shall be taken and the Owner or Operator

shall be notified. A “no further action” determination shall be based upon a review of the field report, any other supporting documentation and discussion with staff. If the Violation(s) fall(s) within the applicable range of error of measurement, the APCO shall determine no further action is warranted.

- b. **Notice to Comply (NTC):** If the APCO determines the Violation was a Minor Violation, the NOV shall be rescinded and the Owner or Operator shall be issued a Notice to Comply in accordance with District Rule 517. In accordance with Rule 517, failure to comply with a NTC may result in one of the following courses of action, as set forth in Sections c. through h. below.
- c. **Notice of Violation (NOV):** If the APCO determines a Violation occurred, the Violation was not minor, an NOV is warranted and a Penalty to deter future Violation is in the best interest of the public, then the Violation shall either be processed through the Mutual Settlement Procedure and a Penalty imposed or be referred to County Counsel or one of the agencies listed below for further enforcement proceedings.
- d. **Mutual Settlement Procedure:** If the APCO determines the case would not be efficiently or appropriately handled by the immediate filing of a civil or criminal action and compliance may be achieved without the necessity of litigation, the Violation may be resolved in its entirety through the Mutual Settlement Procedure.
- e. **Referral to County Counsel:** If the APCO determines the Violation is recurring, continuing, or intentional, the Violation resulted from conduct described in CH&SC Sections 42400 et seq., additional action is necessary to deter future Violations and/or the Violation is not suitable for the Mutual Settlement Program, then the Violation may be referred to the County Counsel.
- f. **Referral to District Attorney (DA):** If the APCO determines that the Violation is recurring, continuing, or intentional, the Violation resulted from conduct described in CH&SC Sections 42400 et seq., additional action is necessary to deter future Violations and/or the Violation is not suitable for the Mutual Settlement Program, then the violation may be referred to the District Attorney.
- g. **Referral to California Attorney General (CAG):** An NOV shall be referred to the California Attorney General’s Office when it is determined by the APCO that such action is appropriate or required under State law and/or for multijurisdictional cases against Violators operating in multiple California Air Districts.
- h. **Referral to U.S. Environmental Protection Agency (EPA):** An NOV shall be referred to the EPA when it is determined by the APCO that such action is appropriate or required under federal law.

To the extent practicable, each NOV referred to the County Counsel, DA, CAG or EPA shall contain the following documentation:

- i. The NOV,
- j. A staff report of the investigation including witness statements, laboratory reports, photographs, and staff assessments,
- k. The name, address and telephone number of each witness,
- l. The name, title, and telephone number of all consultants/experts who have reviewed this matter for either the District or Owner or Operator with an indication on whose behalf they participated,
- m. Copies of all reports issued by such consultants/experts,
- n. Copies of all correspondence between the District and the Owner or Operator,
- o. An analysis of the Penalty deemed appropriate by the District to be assessed against the Owner or Operator, and
- p. A detailed summary of any and all settlement efforts involving the District.

5. MUTUAL SETTLEMENT PROCEDURES

If after reviewing the Violation, the APCO determines an NOV was appropriate and the Violation should proceed through the Mutual Settlement Program, then the following procedures shall be followed:

a. **Penalty Determination:** The Air Quality staff having issued the NOV shall determine the monetary Penalty pursuant to Section 6. Penalty Determination Guidelines and Attachment 2 the Penalty Determination Formula. The APCO shall review each Penalty determination and confirm or revise the amount. For first time Violations for which the District has developed or approved a Compliance Training Course, the Owner or Operator may elect to complete the Compliance Training Course in lieu of all or a portion of the penalty amount, in accordance with limits established by the APCO. For example, a Compliance Training Course for Violations of District Rule 300 Open Burning is included as Attachment 3, for demonstration purposes only. Similar Compliance Training Courses for other program areas (such as gasoline dispensing facilities) may also be developed or approved by the District and utilized.

b. **Settlement Proposal Letter:** The Air Quality staff having issued the NOV shall draft a settlement proposal letter. The purpose of the Settlement Proposal Letter is to: (1) inform the Owner or Operator of the facts associated with the NOV, (2) specify the terms upon which the District would be willing to resolve the violation, and (3) invite the Owner or Operator to discuss the proposed settlement at an office conference, at the Owner or Operator's option.

The Settlement Proposal Letter shall be in a form substantially similar to the Sample Settlement Proposal Letter (Attachment 4). The Settlement Proposal Letter must be reviewed, approved, and signed by the APCO. The Settlement Proposal Letter shall be sent to the Owner or Operator, at his/her/its last known address.

The Settlement Proposal Letter shall specify that the Owner or Operator consider the proposed settlement and either accept the proposed settlement, reject the proposed settlement, or request an office conference by a specified date. If after the specified date no response is received from the Owner or Operator, the settlement proposal shall be deemed rejected and the matter shall be referred to County Counsel or other appropriate agency for further enforcement proceedings. Upon request, extensions to the specified response date may be granted in writing, at the discretion of the APCO.

c. **Office Conference:** If the Owner or Operator requests an Office Conference prior to the compliance date listed in the settlement proposal letter, an office conference shall be scheduled at a time acceptable to the District and the Owner or Operator. The Office Conference shall be an informal meeting between the District and the Owner or Operator. The purpose of the Office Conference is to openly share with the Owner or Operator documentary and other support for the NOV in an effort to mutually resolve the Violation. The Owner or Operator may, but is not required to, present evidence in defense or mitigation. The District shall take into consideration all evidence presented during the course of the Office Conference in evaluating the terms of its proposed settlement and attempt to develop a basis upon which the case can be settled. Office Conferences shall not be used to negotiate reductions to the Penalty, but may, where appropriate, discuss how the amount of the Penalty was calculated.

Information produced during the Office Conference may be used as a basis for the District to revise the Settlement Proposal Letter or to extend the deadline for satisfying

the Penalty. If the District determines that a revision to the Settlement Proposal Letter is appropriate, the letter shall be revised and sent to the Owner or Operator. The Owner or Operator shall have until the compliance date stated on the revised letter to accept or reject the revised proposed settlement.

Information produced during the Office Conference may cause the District to suggest that one or more additional Office Conference sessions be held at mutually agreeable times. Office Conference sessions may take place so long as they are mutually agreed to, and are deemed productive by the APCO. If the APCO determines additional Office Conference sessions would not be productive and/or the Owner or Operator does not accept the settlement proposal, the District shall notify the Owner or Operator that the matter is being referred to County Counsel or other appropriate agency for further enforcement action.

d. **Resolution:** In the event a mutual settlement is reached and the Owner or Operator agrees with the terms of the original or revised Settlement Proposal Letter, the letter shall become binding on both when: 1) the letter is signed by the Owner or Operator and the APCO; and , 2) the violation is brought into compliance/corrected. Resolution of the NOV through a Mutual Settlement Agreement shall not be deemed an admission of liability by the Owner or Operator. Further enforcement proceedings shall be waived if the Owner or Operator complies with all of the terms of the Settlement Agreement. In the event the settlement is rejected by the Owner or Operator, directly or by nonresponse, the NOV shall be referred by the APCO to County Counsel or other appropriate agency for further enforcement action.

e. **Compliance:** An Owner or Operator shall be in compliance with the Settlement Agreement once all violations have been corrected, any required monetary penalty has been paid, and/or required Compliance Training Course has been successfully completed and/or Supplemental Environmental Project has been successfully completed. In the event of non-compliance with the terms of the Settlement Agreement, the Violation shall be referred to County Counsel or other appropriate agency for further enforcement proceedings. County Counsel may take direct enforcement action, recommend referral to another agency or recommend the District take the case to Small Claims Court.

6. PENALTY DETERMINATION GUIDELINES

The District shall calculate a separate penalty amount for each separate act or omission that constitutes a Violation and for each day of Violation. Violations of multiple rules or regulations which occur as a result of a single act shall not be calculated separately, nor be additive, in establishing the Penalty for such act. Rather, the Violation resulting in the most severe consequence shall be utilized for the purpose herein. The Penalty shall not exceed the statutory maximum liability for a single rule. Aggravation and mitigation factors may include consideration that multiple rules were violated by the same act or occurrence.

Penalties shall be based upon the aggravation and mitigation factors listed in California Health and Safety Code Section 42403. The Penalty calculation considerations include the Violation Category (C) and the weighted aggravation (AGG) and mitigation factors (MIT), as appropriate. Attachment 2 describes the Penalty determination calculation process. The Penalty determination considerations are as follow:

a. **Violation Category:** The Violation Category shall be determined by the District based upon categories as defined in the CH&SC Sections:

C1: 42401 Violation of Abatement Order

- C2: 42402 (a) Violation of Emission Limitations
- C3: 42402 (b) Violation of Emission Limitations
- C4: 42402.1 Negligent Emissions Causing Bodily Injury or Death
- C5: 42402.2 Failure to take Corrective Actions
- C6: 42402.3 Willful and Intentional Emissions
- C7: 42402.4 Falsifications of Documents
- C8: 42410 Administrative Penalty
- b. **Aggravation Factors:** Factors that may increase the severity of the Violation (i.e. gravity), may include: (1) the extent of harm caused by the Violation, (2) the nature and persistence of the Violation, (3) the length of time over which the Violation occurs, (4) the frequency of past Violations
- c. **Mitigation Factors:** Factors that may decrease the severity of the Violation may include (1) the record of maintenance, (2) the unproven or innovative nature of the control equipment, (3) any action taken by the Owner or Operator to mitigate the Violation, and (4) any unreasonable financial burden to the Owner or Operator.
- d. **Severity of Violation:** Aggravation and mitigation factors shall be weighted based upon gravity considerations “Low”, “Moderate”, “High” and “Not Applicable.” For purposes of this section: Low means of relatively little consequence, small or few. Moderate means significant, medium, average or several. High means actions resulting in consequences which are momentous, serious or many. Not Applicable means indeterminable or no discernable effect.
- e. **Total Factor:** The total factor (TF) shall be the difference of aggravation factors (AGG) minus the mitigation factors (MIT).

The total Penalty is the sum of all the penalties determined in this manner. California Health and Safety Code Section 42421 requires Air Districts with populations of one million or more to establish a compliance program that includes procedures whereby persons who are in violation of statutes and Districts Rules and Regulations may agree to take actions to improve air quality in lieu of paying penalties. Owner and Operators may agree to pay the Penalty, conduct a Supplemental Environmental Project or complete a compliance training course as part of the Settlement Agreement. First time violators of Rules or Regulations for which the District has developed or approved a compliance training course, may successfully complete such a course in lieu of all or a portion of the Penalty in accordance with limits established by the APCO.

7. DEFINITIONS

- a. **Air Pollution Control Officer (APCO):** The Air Pollution Control Officer of the El Dorado County AQMD.
- b. **Air Quality Management District (AQMD):** The El Dorado County Air Quality Management District.
- c. **Board of Directors:** The El Dorado County Air Quality Management District Board of Directors.
- d. **Case:** The facts involved and parties responsible for Violation(s) charged in an NOV.
- e. **Compliance Training Course:** A program specific compliance training course developed or approved by the District that may be taken by an Owner or Operator in lieu of paying all or a portion of a monetary penalty, in accordance with limits established by the APCO.
- f. **County Counsel:** The Office of the El Dorado County Counsel.
- g. **De Minimis Amount:** The release of an insignificant or very small amount of air contaminants as determined by the APCO on a case-by case basis.
- h. **District Attorney (DA):** The Office of the El Dorado County District Attorney.
- i. **U.S. Environmental Protection Agency (EPA):** The United States Environmental Protection Agency.

- j. **Major Violation:** Any Violation which is not a Minor Violation.
- k. **Minor Violation:** The failure of any person to comply with administrative or procedural requirements of applicable state requirements, District Rules or Regulations, administrative or procedural plan or permit conditions, or requests for information or records by the District which meets the following criteria:
- i. Does not result in an increase of emissions of any air contaminant by more than a De Minimis Amount;
 - ii. Does not endanger the health, safety, or welfare of any person or persons;
 - iii. Does not endanger the environment;
 - iv. Does not cause or contribute to the violation of any State or National Ambient Air Quality Standard;
 - v. Does not preclude or hinder the District's ability to determine compliance with other applicable state or federal requirements, District Rules and Regulations, administrative or procedural plan or permit conditions, or requests for information or records.
- l. **Mutual Settlement Program:** The process by which Violations are informally resolved by the District and the Owner or Operator.
- m. **Notice of Violation (NOV):** A written method of alleging a Major Violation prepared by an authorized representative of the District.
- n. **Notice to Comply (NTC):** A written method of alleging a Minor Violation prepared by an authorized representative of the District.
- o. **Office Conference:** A voluntary meeting between the District and the Owner or Operator for the purpose of discussing the Violation and reaching a mutual settlement to resolve an NOV.
- p. **Owner or Operator:** Any person who owns, leases, operates, controls, or supervises a stationary source.
- q. **Past Violation:** A previous Violation of the same Rule or Regulation for which a NOV is currently outstanding that occurred within the last three years.
- r. **Penalty:** The dollar value of an assessment for a Violation, as calculated under the Mutual Settlement Program.
- s. **Rules and Regulations:** The Rules and Regulations duly adopted by resolution of the District's Board of Directors.
- t. **Settlement Agreement:** The express terms, mutually agreed to in writing, between the recipient of an NOV and the District, resolving the consequences of an NOV.
- u. **Source:** Any recipient of an NOV issued by the District.
- v. **Stationary Source:** A device, equipment, process or facility that emits an air contaminant.
- w. **Supplemental Environmental Project:** An environmentally beneficial project that a respondent agrees to undertake in settlement of an enforcement action but which the respondent is not otherwise legally required to perform. Funds directed to District approved supplemental environmental projects may be used to offset assessed Penalties in enforcement actions
- x. **Violation:** Any breach of a permit, regulation, order, rule or statute enforced by District.

ATTACHMENT 1 – EDC RESOLUTION #053-2000



RESOLUTION NO. 053-2000
OF THE BOARD OF DIRECTORS OF THE
EL DORADO COUNTY AIR POLLUTION CONTROL DISTRICT

WHEREAS, the El Dorado County Air Pollution Control District is required to enforce its Rules and Regulations as set forth in California Health and Safety Code, Sections 40000, 40001, 41010(c) and 40752; and

WHEREAS, the Board of Directors of the El Dorado County Air Pollution Control District supports the use of a Mutual Settlement Program to facilitate the correction of violations and enhance the compliance objective of the District.

NOW, THEREFORE, BE IT RESOLVED THAT THIS BOARD hereby establishes the Mutual Settlement Program Procedures and Guidelines as a procedural policy; and

BE IT ORDERED that the procedural policy be effective immediately.

PASSED AND ADOPTED by the Board of Directors of the El Dorado County Air Pollution Control District at a regular meeting of said Board, held on the 15TH day of FEBRUARY, 2000, by the following vote of said Board:
SUPERVISORS: WILLIAM S. BRADLEY, RAYMOND J. NUTTING, J. MARK NIELSEN, PENNY HUMPHREYS,
Ayes: DAVID A. SOLARO

ATTEST
DIXIE L. FOOTE
Clerk of the Board of Directors

Noes: NONE
Absent: NONE

By Margaret E. Moody William S. Bradley
Deputy Clerk Chairman, Board of Directors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE

DATE _____
ATTEST: DIXIE L. FOOTE, Clerk of the Board of Directors of the El Dorado County Air Pollution Control District, State of California.

By _____
Deputy Clerk

**EL DORADO COUNTY BOARD OF SUPERVISORS
AIR POLLUTION CONTROL DISTRICT
AGENDA TRANSMITTAL
MEETING OF FEBRUARY 15, 2000**

AGENDA TITLE: Adoption of Resolution approving Mutual Settlement Program Procedures and Guidelines for the Air Pollution Control District

DEPARTMENT: Environmental Management/APCD	DATE: 02/02/00	CAO USE ONLY
CONTACT: <i>507</i> Jon Morgan/Dennis Otani	PHONE: 5360/5804	<i>C. [Signature]</i> 7/100

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION: The District staff had been working on establishing a Mutual Settlement Program Procedures and Guidelines policy over the past year. This document establishes procedures and guidelines for the settlement of Notices of Violations issued pursuant to California Health and Safety Code Sections 42400 et seq., or El Dorado County Air Pollution Control District Rules and Regulations, or both.

RECOMMENDATION: That the Board adopt the submitted Resolution approving the Mutual Settlement Program Procedures and Guidelines for the Air Pollution Control District.

CAO RECOMMENDATION:

CAO CONCURS

Financial Impact: () Yes (X) No	Funding Source: () Gen Fund () Other
--	--

BUDGET SUMMARY:

Total Estimated Cost	\$ -0-
Funding	
Budgeted	\$ -0-
New Funding	\$ -0-
Savings*	\$ -0-
Other	\$ -0-
Total Funding Available	\$ -0-
Change in Net County Cost	\$ -0-
*Explanation:	

CAO OFFICE USE ONLY	
4/5's Vote Required	() Yes (X) No
Change in Policy	(X) Yes () No
New Personnel	() Yes (X) No

CONCURRENCES:

Risk Management	
County Counsel	<input checked="" type="checkbox"/>
Other	

BOARD ACTIONS: 2/15/2000 - RESOLUTION NO. 053-2000 ADOPTED.

VOTE: Unanimous _____ or _____ I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors.

Ayes: HUMPHREYS, NIELSEN, BRADLEY, NUTTING, SOLARO

Noes: NONE Date: _____

Abstentions: NONE Attest: DIXIE L. FOOTE, Board of Supervisors Clerk

Absent: NONE By: _____

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ATTACHMENT 2 – PENALTY DETERMINATION FORMULA

1. Select and circle the proper gravity component for each aggravation and mitigation factors 1 through 4.
2. Total each column of aggravation factors and place summation in the AGG box.
3. Total each column of mitigation factors and place summation in the MIT box.
4. Subtract MIT from AGG and place remainder in the total weighting factor (TWF) box.
5. Apply penalty determination formulas: $C (1 \text{ thru } 7) \times \text{TWF} \times N$ (for $N=1$) + $C (1 \text{ thru } 7) \times \text{TWF} \times N / 100$ (for $N>1$) = PENALTY (PER VIOLATION ACT)
where C = CH&SC Section penalty amount and N = Number of days
6. Violation Sections (See CH&SC Sections for respective penalty amounts):
C1: 42401 Violation of Abatement Order
C2: 42402(a) Violation of Emission Limitations
C3: 42402(b) Violation of Emission Limitations
C4: 42402.1 Negligent Emissions
C5: 42402.2 Failure to take Corrective Actions
C6: 42401.3 Willful and Intentional Emissions
C7: 42402.4 Falsification of Documents
7. Repeat for each act resulting in a cited violation and total results.

GRAVITY COMPONENT				
AGGRAVATION FACTORS	N/A	LOW	MODERATE	HIGH
1. EXTENT OF HARM	0	.05	.10	.15
2. NATURE AND PERSISTENCE	0	.05	.10	.15
3. DURATION	0	.05	.10	.15
4. PAST VIOLATIONS	0	.05	.10	.15
AGGRAVATION TOTALS				
SUM OF AGGRAVATION TOTALS (AGG)		<div style="border: 1px solid black; width: 80px; height: 20px;"></div>		
MITIGATION FACTORS	N/A	LOW	MODERATE	HIGH
1. RECORD OF MAINTENANCE	0	.05	.10	.15
2. CONTROL EQUIPMENT FACTORS	0	.05	.10	.15
3. MITIGATION ACTIONS TAKEN	0	.05	.10	.15
4. FINANCIAL BURDEN	0	.05	.10	.15
MITIGATION TOTALS				
SUM OF MITIGATION TOTALS (MIT)		<div style="border: 1px solid black; width: 80px; height: 20px;"></div>		
TOTAL WEIGHTING FACTOR (TWF) = AGG - MIT		<div style="border: 1px solid black; width: 80px; height: 20px;"></div>		
<p style="text-align: center;">C x TWF x N (for N=1) + C (1 thru 7) x TWF x N / 100 (for N>1) = PENALTY (PER VIOALTION ACT)</p> <p style="text-align: center;">\$ _____ X _____ X _____ = \$ _____</p>				

GUILD LINES FOR WEIGHTING THE AGGRAVATION FACTORS

FACTOR	MEANING	GUIDELINES
EXTENT OF HARM	IMPACT TO AIR QUALITY, PROPERTY, OR PERSONS. RESULTING FROM THE EMISSIONS	<p>N/A = NO RELEASE</p> <p>LOW = SMALL EMISSION IN SIZE WITH NO DAMAGE TO PEOPLE OR PROPERTY</p> <p>MEDIUM = MEDIUM EMISSION IN SIZE OR SOME DAMAGE TO PEOPLE OR PROPERTY</p> <p>HIGH = LARGE EMISSION IN SIZE, OR SUBSTANTIAL DAMAGE TO PEOPLE OR PROPERTY</p>
NATURE & PERSISTENCE	NATURE AND TYPE OF POLLUTANT	<p>N/A = NO RELEASE</p> <p>LOW = ANY POLLUTANT NOT LISTED BELOW</p> <p>MEDIUM = PERC AND GASOLINE</p> <p>HIGH = ASBESTOS AND ANY OTHER AIR TOXIC</p>
DURATION	AMOUNT OF TIME IN VIOLATION DURING THE DAY OF THE VIOLATION	<p>LOW = IMMEDIATE SHUTDOWN OF PROCESS OR BATCH ONCE THE VIOLATION OCCURS</p> <p>MEDIUM = PROCESS CONTINUES UP TO 4 HOURS AFTER THE VIOLATION OCCURS</p> <p>HIGH = PROCESS EXCEEDS 4 HOURS AFTER THE VIOLATION OCCURS OR CONTINUES UNABATED</p>
PAST VIOLATIONS	COVERS LAST 3 YEARS. THE PROBLEM MUST BE SIMILAR TO PAST VIOLATIONS TO QUALIFY. IF A PERMITTED SOURCE, THE PROBLEM(S) MUST INVOLVE THE SAME PERMITTED UNIT.	<p>N/A = NO VIOLATIONS</p> <p>LOW = 1 VIOLATION</p> <p>MEDIUM = 2 VIOLATIONS</p> <p>HIGH = > 2 VIOLATIONS</p>

GUIDELINES FOR WEIGHTING THE MITIGATION FACTORS

FACTOR	MEANING	GUIDELINES
RECORD OF MAINTENANCE (PREVENTION)	DOCUMENTED MAINTENANCE RELATED TO AIR POLLUTION CONTROL	<p>N/A = WHAT IS REQUIRED BY THE RULES, NORMAL STANDARD OF CARE, OR PERMIT TO OPERATE.</p> <p>LOW = EXCEEDS WHAT IS REQUIRED BY THE RULES, NORMAL STANDARD OF CARE, OR THE PERMIT TO OPERATE</p> <p>MEDIUM = GREATLY EXCEEDS WHAT IS REQUIRED BY THE RULES, NORMAL STANDARD OF CARE, OR THE PERMIT TO OPERATE</p> <p>HIGH = EXTRAORDINARY MEASURES EMPLOYED TO MAINTAIN COMPLIANCE</p>
CONTROL EQUIPMENT FACTORS	ABOVE WHAT IS NORMAL. USE OF INNOVATIVE OR EXPERIMENTAL EQUIPMENT	<p>N/A = NOT INNOVATIVE</p> <p>LOW = UNPROVEN TECHNOLOGY</p> <p>MEDIUM = INDUSTRY STANDARD</p> <p>HIGH = INNOVATIVE</p>
MITIGATION ACTIONS TAKEN	DILIGENCE OF ACTIONS TAKEN TO CLEAN UP OR IMPROVEMENTS FOR THE PREVENTION OF FUTURE VIOLATIONS	<p>LOW = ACTIONS TAKEN WERE MINIMAL, A RETURN TO COMPLIANCE</p> <p>MEDIUM = ACTIONS BEYOND WHAT IS REQUIRED TO COMPLY. CLEAN UP AT SIGNIFICANT COST, BEYOND WHAT IS REQUIRED AND/OR COMPLETE EQUIPMENT REPLACEMENT, BEYOND THE DAMAGED COMPONENT, FOR THE PURPOSE OF PREVENTING FUTURE VIOLATION</p> <p>HIGH = EXTRAORDINARY EFFORTS BEYOND WHAT IS REQUIRED TO CLEAN UP AFTER THE VIOLATION AND/OR INSTALLING ADDITIONAL CONTROL EQUIPMENT FOR THE PURPOSE OF PREVENTING FUTURE VIOLATIONS OR PERMANENTLY</p>
FINANCIAL BURDEN	BURDEN OF THE PENALTY TO THE VIOLATOR	<p>LOW = LARGE BUSINESS/AGENCY > 50 EMPLOYEES</p> <p>MEDIUM = SMALL BUSINESS/AGENCY < 50 EMPLOYEES</p> <p>HIGH = PRIVATE RESIDENT OR SOLE PROPRIETOR</p>

ATTACHMENT 3 – SAMPLE COMPLIANCE TRAINING COURSE

Welcome to the

El Dorado County Air Quality Management District’s (AQMD)

Burning Violators Online Training Course

AQMD designed this course to provide an educational alternative to first-time violators of the County’s Open Burning Rule 300. Successful completion of this course will remove up to \$150 of the monetary penalty assessed on first-time violators. First-time violators are given the choice of successful completion of this course or payment of the first \$150 of the penalty. This option is not available to repeat violators.

How to Get Started

1. Login online, create account, enter Notice of Violation number
2. Read each Module carefully and view associated video clips
3. Answer the Question at the end of each Module (100% correct answers required to complete Module)
4. Value of successful course completion (\$150)

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MODULE 1

Health and Environmental Effects of Smoke

Burning Household Waste

“The burning of trash negatively affects your health...

Smoke from burning household waste can have both short-term and long-term effects on your health. Trash contains plastics, metals, and synthetic materials creating dangerous chemicals when burned. These chemicals include dioxins, benzene, PCBs (polychlorinated biphenyls), toluene, polycyclic organic matter and other compounds known to cause respiratory ailments, stress human immune systems, and are potentially carcinogenic (i.e., cancer-causing). Short-term effects include burning or itchy eyes, shortness of breath, and asthma attacks. Long-term effects may include respiratory disease, lung or immune system damage, cancer, and premature death. Infants, small children, the elderly, and people with ailments like asthma and emphysema are especially sensitive to the toxic compounds produced by burning household waste.

...and your community’s health.”

Toxic air pollutants in smoke from burning household waste can travel long distances and deposit on soil, plants, and in water. The leftover ash in the burn pile or barrel also contains toxic pollutants, which can spread into the soil and water. Animals and fish can ingest the pollutants and accumulate them in their fatty tissue; plants can also absorb them.¹ When contaminated food is eaten, the pollutants are passed on to people. Therefore, simply avoiding the plume of smoke does not eliminate potential health risks.

Dioxins are the most potent carcinogens identified to date by the California Air Resources Board (ARB) as toxic air contaminants (TACs). While dioxins can be the byproduct of industrial processes, the largest source of dioxin emissions is the uncontrolled burning of household trash.² Breathing TACs may result in substantial health impacts, ranging from headaches, dizziness, rapid heartbeat, liver and kidney damage, to cancer. As mentioned above, dioxins can be deposited on plants, bodies of water, and livestock feed, where they are ingested by animals, stored in their fatty tissue, and are transmitted to humans through consumption of meat, fish and dairy products. Thus, just because you don’t breathe the smoke directly doesn’t mean you aren’t affected by its pollution.

The California Air Resources Board determined the health effects from burning household waste is so great they enacted statewide rules banning household waste burning and burn barrel use in 2004³. District Rule 300 Open Burning Section 300.1.E.5.c also prohibits the burning of household rubbish.

¹ US EPA Website: <http://www.epa.gov/osw/nonhaz/municipal/backyard/health.htm>

² Ibid.

³ CARB Website: <http://www.arb.ca.gov/smp/resburn/factsheets/trifold%20brochure%206-28-10%20english.pdf>

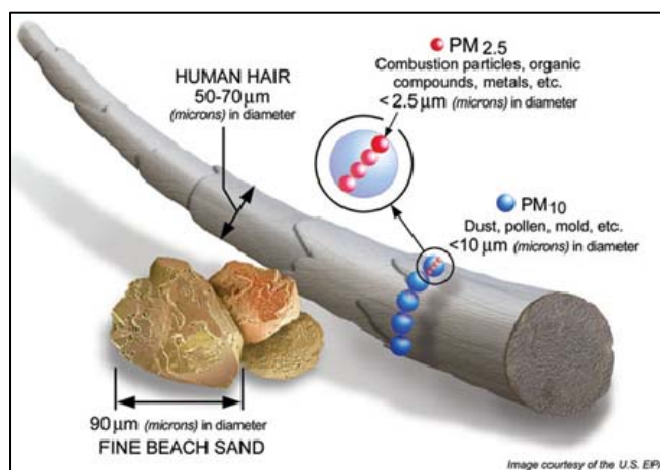


Burning Wood & Vegetation

While trash burning is always prohibited because of these dangers, even smoke from the legal burning of vegetation is dangerous. Wood smoke contains a hazardous mixture of chemical substances such as carbon monoxide (CO), nitrogen oxides (NO_x), volatile organic compounds (VOCs), dioxins, and inhalable particulate matter (PM). Some of the VOCs are irritating, toxic, and/or cancer causing. A group of air toxics known as polycyclic aromatic hydrocarbons or PAHs include potential carcinogens such as benzo(a)pyrene. The chemical makeup and total amounts of these pollutants depend on how the wood is burned. The more completely wood is burned, the more usable energy and less amount of harmful chemicals are emitted.

One of the greatest human health threats from smoke, indoors or outdoors, comes from PM. Wood smoke PM is composed of wood tars, gases, soot, and ashes. Particulate matter is a generic term for particles suspended in the air, typically as a mixture of both solid particles and liquid droplets. The size of particles affects their potential to cause health effects. Small particulate matter with diameters of less than or equal to 10 microns or micrometers (PM₁₀), can cause burning eyes, runny nose, and be inhaled into the deepest recesses of the lungs where they stay for long periods of time. In the lungs, PM₁₀ and PM_{2.5} can lead to bronchitis and other chronic respiratory issues.

Diameter Comparison: Human Hair, Sand, PM₁₀, and PM_{2.5}



Particle exposure can lead to a variety of health effects. For example, numerous studies link particle levels to increased hospital admissions and emergency room visits—and even to death from heart or lung diseases.

Long-term exposures, such as those experienced by people living for many years in areas with high particle levels, have been associated with problems such as reduced lung function and the development of chronic bronchitis—and even premature death.

Short-term exposures to particles (hours or days) can aggravate lung disease, causing asthma attacks and acute bronchitis, and may also increase susceptibility to respiratory infections. To learn more about asthma, visit www.epa.gov/asthma, www.noattacks.org or www.cdc.gov/asthma.



For a more complete discussion of wood smoke health effects research, see the following publication produced by the U.S. Environmental Protection Agency: [Health Effects of Breathing Wood Smoke](#)

Smoke in the “breathable zone”

Smoke does not always travel up and away, dispersing as it goes. Frequently in the evening and morning, and especially in mountain valleys and low-lying areas, temperature inversions trap smoke near the ground. Inversions occur when air near the ground is cooler than the air above, preventing the upward movement of smoke. The lid effect of inversions, coupled with a drop in wind speed and denser wooded areas, cause smoke and pollutant accumulation in the “breathable zone” near the ground. Smoke near the ground can also reduce visibility on roadways increasing safety hazards and has caused severe vehicular accidents.



Photo: Makah Tribe

Illustration of how smoke from a single chimney burning during an inversion can smoke-out nearby residences.





Children, the elderly and people with heart or lung diseases such as asthma, congestive heart disease, chronic obstructive pulmonary disease, emphysema, and chronic bronchitis are most susceptible to the harmful effects of smoke. However, very healthy people can experience sore throats, congestion and coughing, and potential respiratory ailments due to breathing unhealthy air.

How to Minimize Health Effects

To reduce the adverse health effects due to residential burning, observe no-burn days and burn **only** materials allowed, and in the manner described by District Rule 300, Open Burning. Allowed materials include vegetation from trees, vines, brush, leaves, lawn clippings and dry plants originating on the property where the burning will occur. Observe the minimum drying times of three days for green straw and stubble, and a minimum of six weeks for trees, stumps and large branches greater than six inches in diameter. Burning only dry materials and maintaining a hot fire results in fewer toxic air contaminants and less air pollution. Locate your pile as far away from neighbors and residences as possible, and be mindful of the wind patterns and most likely direction and location of the smoke plume. Avoid burning during the morning or early evening to avoid inversion layer conditions. Curtail burning if smoke shifts due to winds and becomes a nuisance, even if it's a permissive Burn Day. Remember, localized weather patterns and topography can create conditions unfavorable to burning, even if it's a designated Burn Day for the larger region.

Questions

1. Health effects from breathing Toxic Air Contaminants potentially include _____.
 - a. kidney damage
 - b. dizziness
 - c. liver damage
 - d. cancer
 - e. headaches
 - f. all of the above
2. _____ coupled with _____ can favor smoke and pollutant accumulation in valleys at night.
 - a. Warm air near the ground
 - b. An increase in wind speed
 - c. Cooler air near the ground
 - d. A drop in wind speed

Answers: 1= f., 2= c. and d.

MODULE 2

Regulatory Standards for Particulate Matter

El Dorado County Exceeds State Particulate Matter (PM) Standard

Particulate Matter (PM)

As discussed in Module 1, PM₁₀ particles are less than 10 microns in diameter, or about 1/7th the thickness of a human hair and include fine particulate matter known as PM_{2.5} (less than 2.5 microns in diameter). In the western United States' urban and rural areas, sources of particulate matter include motor vehicles, wood burning stoves and fireplaces, dust from construction, landfills and agriculture, brush and waste open burning, wildfires, industrial sources, and windblown dust from open land. In addition to its potential harmful human health effects, PM is often responsible for much of the haze described as smog. Airborne PM is a problem in our cities, rural areas and pristine areas such as national parks and forests.

Federal and State Standards

The United States Environmental Protection Agency has set national air quality standards for PM₁₀ and PM_{2.5}, based on health research, identifying acceptable levels of ambient particulate matter. Currently, many parts of the western United States violate these standards. The State of California has established generally more stringent ambient (outdoor) air quality standards for PM₁₀ and PM_{2.5}.⁴ These standards define the maximum amount of particles that can be present in outdoor air without threatening the public's health. The California Air Resources Board (CARB) adopted an annual average standard for PM₁₀ of 20 µg/m³ (micrograms per cubic meter), and 12 µg/m³ for PM_{2.5}. CARB also adopted a 24-hour standard PM₁₀ of 50 µg/m³. PM₁₀ levels in most areas of California exceed current state standards from a few to many times each year. El Dorado County is designated as a Non-Attainment Area for the state PM₁₀ standard and the western portion of the County for the national PM_{2.5} standard.⁵

Monitoring

California's ambient air monitoring network is one of the most extensive in the world, consisting of over 250 sites where air pollution levels are monitored and more than 700 monitors used to measure pollutant levels to demonstrate *Attainment* or *Non-Attainment* of national and state ambient air quality standards.⁶ State area designations for ten criteria pollutants: ozone, suspended particulate matter (PM₁₀), fine suspended particulate matter (PM_{2.5}), carbon monoxide, nitrogen dioxide, sulfur dioxide, sulfates, lead, hydrogen sulfide, and visibility reducing particles are updated annually by CARB. El Dorado County monitors are located at; South Lake Tahoe – Sandy Way, Cool – Hwy 193, Echo Summit, and Placerville – Gold Nugget Way. The 24-hour standard was exceeded in El Dorado County in 2003 and 2008.

⁴ ARB website: <http://www.arb.ca.gov/research/aaqs/pm/pm.htm>

⁵

⁶ ARB websites; <http://www.arb.ca.gov/aaqm/partic.htm>, <http://www.arb.ca.gov/aqd/amnr/amnr2012.pdf>,

Consequences of Non-attainment

Consequences for a region or air basin not showing progress toward achieving attainment might include state- or district-imposed limitations such as strict indoor fireplace/stove burn bans for everyone not using burning as a primary means of comfort heating during winter inversions, suspending residential open burning for greater periods of time, increased penalties for illegal burning, or the development of stricter rules and regulations.

What is being done to reduce PM₁₀ pollution?

Air quality districts are required to develop programmatic strategies and regulations to achieve needed emission reductions required by state and federal statutes or mandates. Data from the ambient monitoring network are used to indicate the success of the strategies and regulations, in terms of the rate of progress towards *attaining* the standards.

Air quality districts have air quality plans to bring PM concentrations down to healthful levels. Plans include:

1. Dust control for roads, construction, and landfills.
2. Programs to reduce emissions from open burning, wood stoves and fireplaces.
3. Cleaner-burning gasoline and diesel fuels.
4. Emissions control devices for motor vehicles.
5. Controls for industrial facilities.

Questions

1. Air quality standards for PM₁₀ are based on _____ research.
 - a. minimal
 - b. animal
 - c. statistical
 - d. health
2. El Dorado County is designated as a(n) _____ area for PM₁₀.
 - a. Attainment
 - b. Non-Attainment
3. Consequences for an air basin not showing progress toward achieving attainment of air quality standards might include _____. (Select all that apply.)
 - a. a law suit or court action.
 - b. increased penalties for illegal burning.
 - c. strict burn bans.
 - d. development of stricter burn rules.

MODULE 3

Alternatives to Burning

Depending on where you burn in El Dorado County, there are several alternatives to burning available.

Chipping

Chipping vegetation is an excellent alternative to burning and the chips can be used in mulch or compost. As a mulch, chips provide moisture retention, temperature moderation, and weed control; while as a compost, the chips return nutrients to the soil. Despite pollution generated by the chipping machine, the emissions are far less than if the material had been burned.

Free or reduced cost residential chipping is available through various agencies in El Dorado County as funding is available. The Fire Safe Council provides free chipping and can be reached at **530-647-1700** or visit <http://www.edcfiresafe.org/index.php>

Meeks Bay Fire Protection District and Lake Valley Fire Protection District periodically fund chipper programs. They can be reached at: Meeks Bay FPD (530) 525-7548, Lake Valley FPD (530) 577-CHIP (2447).

Composting

Compost results when garden debris, kitchen scraps and other organic materials have completely broken down into a rich, dark, crumbly material. You can compost green waste from your yard. Lawn clippings, leaves, hedge clippings and chipped wood all make good additions to a compost bin.

You can learn more about composting from the El Dorado County Master Gardeners by calling **530-621-5512** or visiting http://ucanr.edu/sites/EDC_Master_Gardeners/files/154200.pdf

You can also learn more about composting at the CalRecycle webpage:
<http://www.calrecycle.ca.gov/Organics/CompostMulch/default.htm>

Green Waste Disposal

Residential Pick-up: In many areas of the County green waste pick-up is available. Contact your waste service provider to determine rates and availability.

Green Waste Vouchers: There are green waste vouchers available through the Fire Safe Council in areas throughout the County of El Dorado. You can view the complete list of locations at the El Dorado Fire Safe Council website: http://www.edcfiresafe.org/request_for_green_waste_voucher.htm

Community Clean-up Days: Several areas of El Dorado County have community clean up days,

usually in the Spring and Fall. El Dorado Disposal will post an announcement on their webpage prior to the event.

El Dorado Disposal Materials Recovery Facility (MRF):

4100 Throwita Way
Diamond Springs, CA
530-626-4141 or 530-642-0731
<http://www.eldoradodisposal.com/mrf.htm>

South Tahoe Refuse Transfer Station:

2140 Ruth Avenue South Lake Tahoe
(530) 541-5105
<http://www.southtahoerefuse.com/>

Drop-off Recycling Stations: Free Drop-off Recycling are available at locations throughout El Dorado County. Please refer to El Dorado Disposals recycling webpage:

<http://www.eldoradodisposal.com/recyclingcenters.htm>

You can view a complete list of alternatives, locations and links at the Air Quality Management District webpage.

Questions

1. Which of the following are alternatives to burning?
 - a. Composting
 - b. Chipping
 - c. Disposal through a material recovery facility
 - d. All of the above

Answer: d

Burn Safety

The following are Cal Fire and the U.S. Forest Service's tips for burning safely:

- Choose a safe site.
 - A safe site will be far away from power lines, overhanging limbs, buildings, automobiles, and equipment. It will have vertical clearance at least three times the height of the pile, as heat from the fire extends far past the actual flames that you see. It will have horizontal clearance twice the height of the debris pile.
- Clear all flammable material and vegetation within 10-feet of the outer edge of pile. Keep the surrounding area watered down during the burn.
- Keep a water supply close to the burning site.
- An adult should be in attendance with a shovel until the fire is out.
 - Stay with your fire until it is completely out. To ensure the fire has been completely extinguished, drown the fire with water, turn over the ashes with a shovel and drown it again. Repeat several times. Check the burn area regularly over the next several days and up to several weeks following the burn, especially if the weather is warm, dry, and windy.



No burning shall be undertaken unless weather conditions (particularly wind) are such that burning can be considered safe. Weather fluctuations, such as sudden gusts of wind, could make debris burning spark a wildfire. Call your local fire department the day you plan to burn debris to finalize that the weather is safe enough to burn.

Questions:

1. A safe site for an outdoor debris pile **does not** include which of the following?
 - a. Far from overhanging power lines and limbs.
 - b. Vertical clearance at least as tall as the burn pile.
 - c. Far from buildings, automobiles and equipment.

Answer:

- b. The clearance should be at least 3 times the height of the burn pile.

2. To ensure the fire is completely out:
 - a. Wait for it to rain.
 - b. Drown the fire with water and check again in the morning.
 - c. Drown the fire with water, turn over the ashes with a shovel and drown again.

Answer: c

MODULE 5

Burn Conditions

The following are burning conditions that apply to all burning throughout the County.

Burn Permit

Burn permits from AQMD: are required for piles larger than 4 feet by 4 feet, must be obtained prior to burning, and must be available at the burn location during the burn. The Air Pollution Control Officer (APCO) may revoke a permit if the permittee is not in compliance with any permit condition. Burn Permits are good for one burning season and clearly state the expiration date on the permit.

Burn Days

Burning is prohibited on “No Burn” days designated by the California Air Resources Board (ARB), the Air Pollution Control Officer (APCO), or the fire agency with jurisdiction. “No Burn” designations are based on air quality and/or fire danger; both are largely dependent on weather conditions. The APCO may permit burning on “No Burn” days when denial of burning would result in imminent and substantial economic loss. Burning is prohibited during the fire season, typically July 1 until after the first good rain in autumn. To learn if it’s a “No Burn” day, permit holders must call the Burn Line West Slope: (530) 621-5897, South Lake Tahoe: (888) 332-2876 immediately prior to burning. All burning, whether or not it requires a Burn Permit, is prohibited on “No Burn” days, except for recreational or cooking fires and in some instances, prescribed burning (i.e., forest management burning by a public agency). Regardless of the burning status, if local weather conditions are not favorable (i.e., it’s windy), then DON’T BURN until conditions are favorable.

Acceptable Material

Dry vegetation, originating on the property, is the ONLY acceptable material. The material must also be free of dirt. Recreational or cooking fires, (which do not require burn permits) may use charcoal briquettes, untreated wood, or cooking fuels. Acceptable ignition devices include liquid petroleum gas, butane, propane, or diesel oil burners, flares, and other fuels that will not create

black smoke. If you create a burn pile but don't burn right away, cover the pile with a tarp to protect it from rainwater. Do NOT burn the tarp!

Burn Piles

Burn piles must be located away from structures and other flammable materials, and as far away from neighbors as possible. The pile must be arranged to burn with as little smoke as possible, typically in a "teepee" shape to ensure a hot and fast burn. Piles must be able to burn completely within one day. Burning must cease if smoke drifts into populated areas becoming a nuisance. The use of burn barrels to burn anything is prohibited.

Questions:

1. Which agency has authority to designate "No Burn" days?
 - a. Air Quality Management District (AQMD)
 - b. Air Resources Board (ARB)
 - c. Fire Agency with jurisdiction
 - d. All of the above

2. Permit Holders must call the appropriate burn line:
 - a. The week before burning
 - b. Only if in the summer months
 - c. The night before burning
 - d. Immediately before burning

3. Which of the following are acceptable materials to burn?
 - a. Dry vegetation, magazines, and all paper products
 - b. Dry vegetation, plywood, palettes, and other milled lumber
 - c. Dry vegetation only
 - d. Dry vegetation and all other organic matter

4. Recreational or cooking fires are exempt from a burn permit but cannot occur on "No Burn" days.
 - a. True
 - b. False

Answers: 1:d, 2:d, 3:c, 4:b

MODULE 6

Other Burn Requirements

Additional permits and requirements apply to permit holders in various parts of El Dorado County.

Local Fire/CalFIRE Permits

The various fire agencies within the County may require burn permits in addition to AQMD's burn permit. Typically, fire agency permits have a maximum pile size of 4 feet by 4 feet; anything larger and they refer you to AQMD. Some agencies have their own permits, while others simply use CalFIRE's statewide residential burn permit. CalFIRE has two types of open burning permits: a residential burn permit for piles less than 4 feet by 4 feet (Form LE-62A, also known as "Dooryard" burn permits), and burn permits for piles larger than 4 feet by 4 feet (Form LE-5). Each agency may have slightly different requirements, so AQMD encourages you to contact the agency directly before you burn. Even if the fire agency doesn't require a permit, it's still a good idea to notify them of when/where you're burning in case they receive calls from neighbors.

El Dorado County Fire Protection Providers Map

The following is a link to the County-wide map indicating each fire protection provider's jurisdiction. Use the link to determine which fire agency to contact before you burn:

http://www.eldoradocountyfire.com/district/images/district_map_lg.gif

El Dorado County Fire Protection Providers Contacts

Agency	Contact Info	Phone Number
CalFIRE	2840 Mt. Danaher Rd, Camino, CA 95709	(530) 644-2345
Website: http://www.fire.ca.gov/aeu/		
Cameron Park Community Services District (CSD)	3200 Country Club Drive Cameron Park, CA 95682	(530) 677-6192
Website: http://www.cameronpark.org/fire_and_emergency_services.html		
Diamond Springs – El Dorado FPD	501 Main Street, PO Box 741, Diamond Springs, CA 95619	(530) 626-3190
Website: http://www.diamondfire.org/		

El Dorado County FPD	PO Box 807 4040 Carson Road Camino, CA 95709	(530) 644 – 9630
Website: http://www.eldoradocountyfire.com/		
El Dorado Hills Fire Dept.	1050 Wilson Boulevard, El Dorado Hills, CA 9576	(916) 933-6623
Website: http://www.edhfire.com/		
Garden Valley FPD	4860 Marshall Rd., Garden Valley, CA 95633	(530) 333-1240
Website: http://www.gardenvalleyfire.org/index.php		
Georgetown FPD	PO Box 420 6281 Main Street Georgetown, CA 95634	(530) 333-4111
Website: http://www.georgetownfiredepartment.com/		
Lake Valley FPD	2211 Keetak Street South Lake Tahoe, CA. 96150	(530) 577-3737
Website: http://www.lakevalleyfire.org/		
Latrobe FPD	7660 S Shingle Rd, Shingle Springs, CA 95682	(530) 677-6366
Website: None		
Meeks Bay FPD	8041 Emerald Bay Road, Meeks Bay, CA	(530) 525-7548
Website: http://www.meeksbayfire.com/		
Mosquito FPD	8801 Rock Creek Road Placerville, CA 95667	(530) 626-9017
Website: http://mosquitofire.org/		
Pioneer FPD	7061 Mt. Aukum Road / P.O. Box 128 Somerset, CA 95684	(530) 620-4444
Website: http://www.pioneerfire.org/		
Rescue FPD	5221 Deer Valley Rd, Rescue, CA 95672	(530) 677-1868
Website: http://www.rescuefiredepartment.org/		
City of South Lake Tahoe South Lake Tahoe Fire Dept	2101 Lake Tahoe Blvd. South Lake Tahoe, CA 96150	(530) 542-6160

Website: http://www.cityofslt.us/index.aspx?nid=384 NOTE: Open burning is <i>never</i> allowed within the South Lake Tahoe City Limits.	
City of Placerville	“See El Dorado County FPD above”
Website: http://www.cityofplacerville.org/depts/fd/default.asp	

CSD = Community Services District

FPD = Fire Protection District

Questions:

1. If your burn pile is larger than 4 feet by 4 feet, and you are in the State Responsibility Area (SRA) under CalFIRE’s jurisdiction, you will need the following prior to burning, (check all that apply):
 - a. A burn permit from AQMD
 - b. A Form LE-5 permit from CalFire
 - c. A local fire agency burn permit
 - d. A designated permissive burn day
 - e. b and c
 - f. a, b and d

Answer: f

MODULE 7

Forest Management Burning

Forest management burning, also known as controlled, prescribed or hazard reduction burning, is a technique sometimes used in forest management, farming, prairie restoration or weed abatement. Fire is a natural part of both forest and grassland ecology and prescribed fire can be a great tool for foresters. Benefits of forest management burning include:

- Reduction in hazardous fuels, protecting human communities from extreme fires;
- Minimizes the spread of pest insects and disease;
- Removes unwanted species that threaten species native to an ecosystem;
- Provides forage for game;
- Improves habitat for threatened and endangered species;
- Recycles nutrients back to the soil; and
- Promotes the growth of trees, wildflowers, and other plants.

There are a few different types of forest management burning. Broadcast burning is the burning of scattered slash over a wide area, pile burning is the gathering up of the slash into piles before burning and creepy pile burning is letting gathered up slash piles burn and slowly creep through the forest burning years of built up leaf litter on the forest floor. The burning of piles tend to have high temperatures which can harm soil, damaging it physically, chemically or sterilizing it but steps can be taken to treat the soil after a pile burn. Broadcast burns tend to have lower temperatures and will not harm the soil as much as pile burns



Specialists write burn plans and Smoke Management Plans for prescribed fires. Burn plans identify – or prescribe – the best conditions under which trees and other plants will burn to get the best results safely. Burn plans consider temperature, humidity, wind, moisture of the vegetation, and conditions for the dispersal of smoke. Prescribed fire specialists compare conditions on the ground to those outlined in burn plans before deciding whether to burn on a given day. The overall goal of a Smoke Management Plan is to protect public health by reducing smoke impacts in populated areas while protecting the vitality

of California forests, other wildlands, and farmland. California's Smoke Management Program is designed to coordinate agricultural and prescribed burning among air districts, federal, state and local agencies, and private parties.

Questions

1. Broadcast burning tends to have high temperatures which can harm soil, damaging it physically, chemically or sterilizing it.
 - a. True
 - b. False

2. The forest can benefit from prescribed burning by,
 - a. providing forage for game
 - b. Minimizing the spread of pest insects and disease
 - c. Removing unwanted species that threaten species native to an ecosystem
 - d. All of the Above
3. Smoke Management Plans identify – or prescribe – the best conditions under which trees and other plants will burn to get the best results safely.
 - a. True
 - b. False
4. The goal of a Smoke Management Plan is to
 - a. Protect Public Health
 - b. Look at the moisture content of vegetation to be burned
 - c. Reduce Smoke Impact in Populated Areas
 - d. Both a and c

MODULE 8

Woodstove Replacement Incentive

On July 17, 2007, the Board of Directors of the El Dorado County Air Quality Management District (AQMD) approved a Chimney Smoke Reduction Program (Chimney RIP) to encourage homeowners to permanently remove or replace older wood stoves or fireplaces with cleaner burning EPA Phase II certified devices to improve winter air quality through reduction of particulate matter (PM) emissions caused by inefficient residential wood combustion.

Particulate matter less than 10 microns in diameter (PM10) are very small droplets of condensed organic vapors of wood tar and gases. These particles are a result of unburned fuel and have a diameter of 10 microns or smaller (the diameter of a human hair is about 50 to 100 microns), which allows them to be inhaled into the lungs. Exposure to PM10 aggravates a number of respiratory illnesses. PM10 includes a smaller group of particles called PM2.5, particles with a diameter of 2.5 microns and less. These finer particles pose an increased health risk because they can lodge deep into the lungs and contain substances that are particularly harmful to human health, contributing to lung diseases and cancer. Exposure to PM2.5 may even cause early death in people with existing heart and lung disease.

Funding for the RIP is easy but available on a first come, first served basis. Chimney RIP is a tiered program designed to increase (\$200.00 to \$450.00) as the potential for wood smoke reduction increases; AQMD plans to continue this program until the funds are depleted. All fund processing will be based on the date of the final building Department or AQMD inspection. When funds are depleted a notice will be provided on the AQMD website.



Did you know that most older fireplaces rob your house of heat because they draw air from the room and send it up your chimney! Yes, you'll be warmed if you sit within six feet of the fire, but the rest of your house is getting colder as the outside air leaks in to replace the hot air that is going up the chimney. In fact, as much as 90% of the heat generated by a traditional, open hearth fireplace goes straight up the chimney. Why? Because hot air rises. The heat you feel from a fire is primarily radiant heat, rather than convective heat (warm air). Since a fire generates approximately 20% radiant heat and 80% convective heat, and you typically only feel the radiant heat, heating a home using an open hearth fireplace is extremely inefficient. Heating a home this way is estimated to be 10% as efficient as a home heating unit.

Funding is intended only for primary El Dorado County residence remodel/retrofit and the woodstove/fireplace removed must be a non-EPA certified unit. New home construction (homes less than one year old) are not eligible. The following information must be provided with a completed RIP application.

- Evidence of primary residence (copy of utility bill in applicants name)

- Evidence removed stove is a non-EPA certified unit (Owners manual, photo or a copy of information plate on stove showing date of manufacture, make, model, serial number...)
- Building permit allowing woodstove/fireplace change out.
- Final Inspection Report signed off by the Building Department.
- Evidence removed stove was destroyed (photo showing the stove has been cut, crushed or a receipt proving the steel has been recycled)
- Copy of a new EPA certified woodstove purchase receipt

Questions

1. The Chimney RIP is intended for...
 - a. El Dorado County Residents
 - b. Homes greater than 1 year old
 - c. Removal of a non-EPA certified unit
 - d. All of the Above
2. What is **not** a requirement of the Chimney RIP?
 - a. Final inspection report needs to be signed off by the Building Department
 - b. Copy of a new EPA certified woodstove purchase receipt
 - c. Photo of the finished install
 - d. Evidence the removed stove was destroyed
3. PM10 is
 - a. Larger than 10 microns
 - b. Very small drops of water
 - c. About the size of a human hair
 - d. Less than 10 microns
4. Residence from El Dorado County can qualify for the Chimney RIP if a non-certified woodstove/fireplace is replaced with a certified unit in a rental property.
 - a. True
 - b. False

Burn Course Pledge

With my new-found knowledge of the health and environmental effects of smoke, I, _____ (name) _____, pledge:

1. To burn only dry vegetation originating from the property one which it is burned,
2. On a permissive Burn Day,
3. With a valid AQMD Burn Permit (if applicable), and other fire dept permit (if applicable),
4. In a safe and responsible manner,
5. In accordance with AQMD Rule 300, and
6. In a way so as not to constitute a public nuisance.

I also understand the AQMD has the authority to assess penalties if I violate Rule 300 and the option to take this Burn Course to avoid such penalties will NOT be offered to me in the future.

Signed: _____, Dated: _____.

Address: _____.

ATTACHMENT 4 – SAMPLE SETTLEMENT PROPOSAL LETTER



County of El Dorado Air Quality Management District

330 Fair Lane, Placerville Ca 95667
Tel. 530.621.7501 Fax 530.295.2774
www.edcgov.us/AirQualityManagement

Dave Johnston
Air Pollution Control Officer

(Date)

(Address)

SUBJECT: Settlement Proposal For Notice Of Violation # ____
Failure to ____

On (date), the County of El Dorado Air Quality Management District (AQMD) received a complaint regarding (allegation) at (location) or conducted a compliance inspection at your facility at (location). During the complaint investigation/compliance inspection it was determined that (observations of violation). This is a violation of (rule or other statute).

Based on the above findings, there is sufficient evidence to bring an action for civil penalties. As directed by the El Dorado County Air Pollution Control District Resolution 053-2000, the District implements a mutual settlement policy in an attempt to resolve NOV's for violations that appear to be isolated and that may be more appropriately and efficiently handled through a settlement agreement rather than by the filing of a civil or criminal action. The District has reviewed the facts surrounding this NOV and has determined that the violation is eligible for mutual settlement, rather than referral to the District Attorney or County Counsel for prosecution.

The California Health and Safety Code (CH&SC) provides that each violation may result in civil penalties as specified in CH&SC sections 42401, et seq. for each day the rule is violated. Copies of these statutes are enclosed for your ease in reference. The CH&SC sets forth the civil penalties for a violation of the District Rules and Regulations.

In an effort to resolve this NOV, the District proposes the following Mutual Settlement Agreement (Agreement):

1. Both parties agree that the consequences of the subject NOV arising from the events of (date), are fully resolved by performance of the terms of this Agreement.
2. (Owner or Operator) agrees that if any of the terms of this Agreement are breached, an enforcement action may be commenced and prosecuted notwithstanding any of the terms of the Agreement.

3. A civil penalty of \$(amount) is imposed for the Violation arising from the events of (date) and described in the subject NOV. (Owner or Operator) agrees to pay the sum of \$(amount) as a civil penalty for the violation within 30 days of execution of this Agreement.
4. (Owner or Operator) agrees that this Agreement does not relieve (Owner or Operator) from the responsibility to comply with all District Rules and Regulations.
5. (Owner or Operator) agrees that this Agreement does not relieve (Owner or Operator) from the responsibility to comply with rules, regulations, ordinances, statutes, orders, requirements or conditions of other regulatory entities, including but not limited to the County or other applicable State or Federal agencies.
6. This Agreement shall fully resolve this violation only if Owner or Operator demonstrates, to the satisfaction of the District, that the Violation has been corrected/brought into compliance.
7. This Agreement shall not preclude the District from bringing enforcement actions against the Owner or Operator for any future Violations.

If you wish to resolve this matter as outlined above, please sign below and return this signed letter along with a check for \$(amount) payable to the El Dorado County Air Quality Management District. In lieu of up to \$(amount) of the penalty amount you may:

1. Take and must successfully complete compliance training course (name of course), or
2. Propose a Supplemental Environmental Project for consideration by the APCO.

You may call this office at (530) 621-7508 to request an informal office conference if you wish to discuss this matter.

The terms of this proposal shall be deemed rejected if you have not communicated your response to the District on or before (date). If you have not accepted this proposal within the time allotted above, without further notice or demand, this matter will be referred to the El Dorado County Counsel's office or other appropriate agency for further enforcement proceedings.

Respectfully,

Air Pollution Control Officer

Enclosures: California Health and Safety Code sections (section number)
NOV #_____

I certify that the Violation has ceased or has been corrected. I have read, understand and agree with the terms and conditions of the Mutual Settlement Agreement. I am authorized to enter into the terms and conditions of the Mutual Settlement Agreement and have enclosed a check, cashier's check or money order for the amount

of \$(amount) and/or I agree to successfully complete the optional compliance training course by (date) and/or complete the Supplemental Environmental Project approved by the APCO.

Printed Name

Date

Signature

Title