

EL DORADO COUNTY AIR POLLUTION CONTROL DISTRICT
MUTUAL SETTLEMENT PROGRAM PROCEDURES AND GUIDELINES
2-15-2000

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EL DORADO COUNTY AIR POLLUTION CONTROL DISTRICT
MUTUAL SETTLEMENT PROGRAM PROCEDURES AND GUIDELINES

1. **PURPOSE.** This document establishes procedures and guidelines for the settlement of Notice of Violation ('NOV's') issued pursuant to California Health and Safety Code ("CH&SC") Sections 42400 et seq., or El Dorado County Air Pollution Control District Rules and Regulations, or both. The premise of the program is that most NOV's are issued for isolated, unintentional violations that are not efficiently or appropriately handled by the immediate filing of a civil or criminal action. Such violations are better handled by allowing the violator the opportunity to have an office conference during which the violation can be explained and discussed, and penalty grieved upon. The procedures and guidelines described herein are intended to support compliance without the necessity of litigation.
2. **ADMINISTRATION.** The provisions herein are to be administered by the El Dorado County Air Pollution Control District under the direct control of its Air Pollution Control Officer. Consistent with these guidelines, the District may initiate settlement procedures with persons served with NOV's for the purpose of fully settling NOV's without the necessity of litigation.
3. **DEFINITIONS.** As used herein, the terms identified in the subsections below shall be ascribed the meanings contained therein.
 - a. **Air Pollution Control Officer or "APCO."** The terms "Air Pollution Control Officer" or "APCO" mean the Air Pollution Control Officer of the El Dorado County Air Pollution Control District.
 - b. **Board of Directors.** The term "Board of Directors" means the Board of Directors of the El Dorado County Air Pollution Control District.
 - c. **Case.** The term "Case" means the facts involved and parties responsible for violation(s) charged in an NOV.
 - d. **County Counsel.** The term "County Counsel" means the Office of the El Dorado County Counsel.
 - e. **District Attorney or "DA."** The terms "District Attorney" or "DA" mean the Office of the El Dorado County District Attorney.
 - f. **District.** The term "District" means the El Dorado County Air Pollution Control District.
 - g. **U.S. Environmental Protection Agency or "EPA."** The terms "U.S. Environmental Protection Agency" or "EPA" mean the United States Environmental Protection Agency.

- h. **Major Violation.** The term “Minor Violation” means any violation which is not a minor violation.
 - i. **Minor Violation.** The term “Minor Violation” means any violation where the monetary component of the proposed Settlement Agreement is an amount less than or equal to \$1,000.
 - j. **Mutual Settlement Program.** The term “Mutual Settlement Program” means the process by which violation are informally resolved by the District and the Source.
 - k. **Notice of Violation or NOV.** The terms “Notice of Violation” or “NOV” mean a Notice of Violation issued by the District staff.
 - l. **Penalty.** The term “Penalty” means the dollar value of an assessment for a violation, as calculated under the Mutual Settlement Program.
 - m. **Program Manager.** The term “Program Manager” means the Program Manager of the El Dorado County Air Pollution Control District.
 - n. **Rules and Regulations.** The term “Rules and Regulations” means the Rules and Regulations duly adopted by resolution of the District’s Board of Directors.
 - o. **Settlement Agreement.** The term “Settlement Agreement” means the express terms, mutually agreeable in writing, between the recipient of an NOV and the District, resolving the consequences of an NOV.
 - p. **Settlement Conference.** The term “Settlement Agreement” means a voluntary meeting between the District and the Source for the purpose of reaching a mutual settlement to resolve an NOV.
 - q. **Source.** The term “Source” means any recipient of an NOV issued by the District.
 - r. **Violation.** The term “Violation” means any breach of a permit, rule or statute enforced by District.
 - s. **Warning.** The term “Warning” means a written notification to the Source that a violation was documented, that future recurrences could result in enforcement action being taken, but that no further enforcement action will result directly from the particular violation noted.
4. **AUTHORITY.** The authority for compromise and settlement of violations by the District is contained in the following described sources:

- 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, 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, a copy of which is attached hereto and incorporated herein. Such Resolution delegates District settlement authority ("Settlement Authority") as follows: to the Program Manager up to \$5,000. All Settlement Agreements requiring Settlement Authority in excess of \$5,000 shall require APCO approval.
 - c. **Enforcement Action Authority.** The District, through its APCO, is empowered to refer for legal proceedings all enforcement actions concerning violations of its Rules and Regulations, consistent with the policies and guidance stated herein, to the agencies named herein under the authority contained in CH&SC section 42403 and Resolution No. 053-2000 adopted by the District's Board of Directors on February 15, 2000, a copy of which is attached hereto and incorporated herein.
5. **REVIEW OF VIOLATION.** All violations shall be reviewed by the District in the following manner:
- a. **Overview of Procedure.** All NOV's shall be reviewed by the **[APCO/Program Manager]** to determine which of the following courses of action will be taken. Initially, the **[APCO/Program Manager]** shall determine whether there is sufficient basis to reasonably conclude that a violation has occurred, no further action will be taken. If there is sufficient basis to reasonably conclude that a violation has occurred, one of the following actions shall be taken: i) a warning shall be issued to the source with documentation thereof placed in the case file and no further enforcement action taken as a result of the NOV, ii) the NOV will be processed through the Mutual Settlement Program, iii) the NOV shall be referred to the County Counsel, and /or iv) the NOV shall be referred to the District Attorney. As appropriate, the District shall consult with, and/or refer the NOV to, other governmental agencies, as described below.
 - i. **No Further Action (NFA).** If, after review, it is determined that there is not a sufficient basis to reasonably conclude that a violation has occurred, no further action shall be taken and the source shall be notified. A determination of NFA shall be based upon a review of the field report and other supporting documentation and upon a finding by the **[APCO/ Program Manager]** that no basis exists to reasonably

conclude that a violation has in fact occurred. No such basis exists if the violations fall within the applicable range of error of measurement.

- ii. **Further Action.** If, after review, it is determined that there is a sufficient basis to reasonably conclude that a violation has occurred, one or more of the following actions shall be taken:
 1. **Warning.** A source shall receive a warning as a consequence of the NOV when it is determined by the District that the acts constituting the violation were immaterial insignificant, resulted in negligible risks to health and the environment, and were not intended to violate the Rules and Regulations. As used herein, immaterial and insignificant means a violation which results in negligible damage or threat of damage to the District's ambient air quality.
 2. **Penalty.** A source shall have a penalty imposed as a consequence of the NOV when it is determined by the District that a violation has occurred, the source is liable, and such action is in the best interest of the public to deter future violations. The NOV may be resolved in its entirety through the Mutual Settlement Program, or the [APCO/Program Manager] may determine that recurring, continuing, or intentional violations are not suitable for the Mutual Settlement Program, and directly refer such violations to the County Counsel or District Attorney.
 3. **County Counsel.** An NOV shall be referred to the County Counsel instead of being placed in the Mutual Settlement Program when it is determined that the violation resulted from conduct described in Sections 42402, 42402.1 and /or 42402.3 of the CH&SC and such action is necessary to deter future violations. The [APCO/Program Manager] may also refer any recurring, continuing, or intentional violations directly to the County Counsel.
 4. **District Attorney ("DA").** An NOV shall be referred to the DA instead of being placed in the Mutual Settlement Policy when it is determined by the District that the violation resulted conduct described in Sections 42400, 42400.1, 42400.2, and/or 42400.3 of the CH&SC and such action is necessary to deter further violation. The [APCO/Program Manager] may also refer any recurring, continuing or intentional violations directly to the District Attorney.

Referral and Consultation.

1. **U.S. Environmental Protection Agency (“EPA”).** An NOV shall be referred to the EPA instead of being placed in the Mutual Settlement Policy when it is determined by the District that such action is appropriate or required under federal law.
 2. **Consultation with Other Government Agencies.** To the extent required by law, the District shall consult with other affected government agencies concerning each NOV.
 - iii. **Documentation to Accompany Each Case Referred.** To the extent reasonable, each NOV referred to the County Counsel, DA, or EPA shall contain at least the following documentation: (1) the NOV itself, (2) a report of the staff investigation including the statements of witnesses, laboratory reports, photographs, and staff assessments, (3) the name, address and telephone number of each witness, (4) the name, title, and telephone number of all consultants/experts who have reviewed this matter for either the District or the Source and an indication of on whose behalf they participated, (5) copies of all reports issued by such consultants/experts, (6) copies of all correspondence between the District and the Source, (7) an analysis of costs deemed appropriate by the District to be assessed against the Source, and (8) a detailed summary of all settlement efforts engaged in by the District, if any.
6. **REFERRAL OF NOV TO MUTUAL SETTLEMENT PROGRAM.** If it has been determined that there is sufficient basis to reasonably conclude that a violation has occurred, the [APCO/Program Manager] may refer it to the Mutual Settlement Program. The [APCO/Program Manager] may determine that NOV’s issued for recurring, continuing and/or intentional violations are more appropriately handled outside the Mutual Settlement Program. A violation is considered to be recurring if it has occurred more than once in the previous two years. A violation is considered to be continuing until the violator has demonstrated compliance, or less, by its very nature, the violation has a finite duration which has passed. The APCO or his designee shall, using the criteria described herein, determine whether the NOV arises from a Minor Violation or a Mayor Violation.
7. **STEPS OF THE MUTUAL SETTLEMENT PROGRAM.** The steps of the Mutual Settlement Program are described as follows:
- a. **Path.** Depending upon whether a violation is Minor or Major, the violation will initially follow a particular Mutual Settlement Program path. To determine whether a violation is Minor or Major, the [APCO/Program Manager] shall compute the monetary component of the penalty for the NOV pursuant to the Monetary Component Formula (Attachment 1). The District shall calculate a

separate penalty for each separate act or omission constituting a violation and for each day of violation. The sum of each such penalty is the monetary component. If the monetary component is calculated to be less than or equal to 1,000, the violation shall be handled as a “Minor Violation.” Otherwise, the NOV shall be handled as a “Major Violation.”

i. **Minor Violation.** The Minor Violation path of the Mutual Settlement Policy consists of the Settlement Proposal Letter, the Office Conference, if requested by the Source, and the Resolution.

1. **Settlement Proposal Letter (Minor Violation).** Minor Violations shall result in the issuance of a Settlement Proposal Letter, transmitted by certified mail, return receipt requested, to the Source. The purpose of the Settlement Proposal Letter is to: (1) inform the Source of the facts associated with the NOV, (2) specify the terms upon which the District would be willing to resolve the violation, including the monetary component term which shall be based upon the formula described in Attachment 1, and (3) invite the Source to discuss that settlement proposal at an office conference, if so desired. The terms contained in the Settlement Proposal Letter must be approved in advance of their transmittal to the Source by the appropriate Settlement Authority as described in Section 4. b., above. The Settlement Proposal Letter shall specify that the Source shall have 30 days to consider and either accept or reject the settlement proposal, or request an office conference, after which time, if no response is received from the Source, it shall be deemed rejected and the matter shall be referred to County Counsel or the DA through the APCO or his designee. The Settlement Proposal Letter shall expressly state the potential consequence of referral of the Case to the El Dorado County Counsel or the DA. The Settlement Proposal Letter shall be in a form substantially similar to that attached hereto as Exhibit “A.”

2. **Office Conference.** The Office Conference for a Minor Violation shall be an informal meeting between the District and the Source. The purpose of the Office Conference is to openly share with the Source documentary and other support for the NOV in an effort to mutually resolve the violation. The Source may, but is not required to present evidence in defense or mitigation. The District shall take into consideration all evidence presented by the Source during the course of the Office Conference in evaluating the terms of its proposed settlement as required in determining the monetary component of the Settlement Agreement. Information produced at the Office Conference may cause the District to amend its proposed settlement. If the District feels an amendment to the proposed settlement is appropriate, this shall be communicated to the Source within 15 days. Such amended proposed settlement shall specify that the Source shall have 15 days to consider

and either accept or reject the proposed settlement, and if no response is received from the Source within such time, the proposed settlement shall be deemed rejected. If the settlement proposal is rejected or deemed rejected, the NOV shall be referred by the APCO or his designee to County Counsel to the DA for further action.

Sources may request, subject to District agreement, that statements made and documents produced at the Office Conference be deemed privileged settlement negotiations inadmissible at trial. Such an agreement shall be reduced to a writing signed by the parties and shall bind both the District and the Source.

3. **Resolution.** In the event a mutual settlement is reached, it shall not be binding until the terms thereof shall be reduced to writing and signed by the Source and the APCO or his designee as described in Section 4.b., above. The performance of the terms of the mutual settlement agreement may be acknowledged by the District by letter containing the settlement terms and substantially in the form of the letter attached hereto as Exhibit A-1. Resolution of the NOV through a mutual settlement agreement shall not be deemed an admission of liability by the Source. In the event the settlement is rejected, the NOV shall be referred by the APCO or his designee to County Counsel or the DA for further action.
- ii. **Major Violation.** The Major Violation path of the Mutual Settlement Program consists of the following steps:
 1. **Office Conference Letter (Major).** Major Violations shall result in issuance of an Office Conference Letter transmitted to the Source by certified mail, return receipt requested. The Office Conference Letter is to inform the Source of the facts of the NOV, specify the penalties prescribed by the California Health and Safety Code for the violations at issue, inform the Source of the fact that the District is characterizing the NOV as a “Major Violation,” and invite the Source to discuss the Major Violation at an office conference, if so desired. The Office Conference Letter shall specify that the Source shall have 30 days to consider and either accept or reject the invitation for the office conference, after which time, if no response has been received from the Source, the invitation shall be deemed rejected. Rejection of the invitation for the office conference shall result in referral of the Case through the APCO or his designee to County Counsel or the DA for further action. The Office Conference Letter shall be in a form substantially similar to the form letter attached hereto as Exhibit “B.”
 2. **Office Conference.** The Office Conference shall be an informal meeting between the District and the Source. The purpose of the office conference is to openly share with the Source documentary and other

support for the NOV in an effort to mutually resolve the violation. The Source may, but is not required to, present evidence in defense or mitigation. The District shall take into consideration all evidence presented by the Source during the course of the office conference in attempting to develop a basis upon which the Case can be settled.

Information produced at the office conference may cause the District to suggest that an additional office conference session be held at a mutually agreeable time within the next 30 days. Such additional office conference sessions may take place so long as they are mutually agreed to, and are deemed productive by the District. If the District determines that additional office conference session would not be productive, the District shall communicate this to the Source with notice that the matter is being referred by the APCO or his designee to County Counsel or the DA for further action

Information produced at the office conference may cause the District to draft a settlement proposal for review and approval by the appropriate District Settlement Authority as set forth in Section 4.b., above. If such is the case, the terms of such a settlement proposal shall then be communicated to the Source in accordance with the provisions of Section 7.a.ii.(3), below. If no such settlement proposal seems reasonably possible following the office conference, the Case shall be referred by the APCO or his designee to County Counsel or the DA for further action.

Office conferences shall not be for the purpose of negotiating reductions to the monetary component, but may, where appropriate, take up the manner in which the monetary component was calculated.

Source may request, subject to District agreement, that statements made and documents produced at the office conference be deemed privileged settlement negotiations inadmissible at trial. Such an agreement shall be reduced to a writing signed by the parties and shall bind both the District and the Source.

3. **Settlement Proposal Letter.** Upon approval of the terms of the proposed settlement by the appropriate District Settlement Authority, the terms thereof shall be communicated to the Source within 15 days in the Settlement Proposal Letter. The Settlement Proposal Letter shall specify that the Source shall have 15 days to consider and either accept or reject the terms of the proposed settlement, after which time, if the Source has failed to respond, the settlement proposal shall be deemed rejected.
4. **Resolution.** In the event a mutual settlement is reached, the terms thereof shall be reduced to writing and signed by the Source and the

appropriate District Authority as set forth in Section 4.b., above. Resolution of the NOV through a mutual settlement agreement shall not be deemed an admission of liability by the Source. In the event a mutual settlement is not reached, the Case will be referred by the APCO or his designee to County Counsel or the DA for further action.

- b. **Settlement Considerations.** Settlement Agreement considerations shall be based upon those circumstances listed in California Health and Safety Code Section 42403: 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 to mitigate the violation, (8) any financial burden to the defendant, (9) any economic benefit of noncompliance, and (10) any good faith efforts to comply.

The Source may agree to provide in kind services or economic contributions as part of the Settlement Agreement. Nonetheless, all Settlement Agreement terms shall have a monetary component. For NOV's in which there are violations of different rules resulting from the same act or occurrence, the Settlement Proposal shall not exceed the maximum daily liability for a single rule.

- i. **Monetary Component Considerations.** The Monetary component consideration of a settlement proposal shall consist of a Violation Category, and the total factors (TF) component, which consists of factors in aggravation (AGG) and factors in mitigation (MIT), as appropriate. Attachment 1 describes the monetary component calculation process, including the total factors and the factors in aggravation and factors in mitigation. The District shall calculate a separate penalty amount for each separate act or omission that constitutes a violation and for each day of violation. The total penalty is the sum of all the penalties calculated in this manner. The elements of the monetary portion of the settlement are as follow:

1. **Violation Category.** The violation Category shall be determined by the District based upon categories as defined in the CH&SC section as follows: Violation Category C1 – CH&SC section 42402(a); Violation Category C2 – CH&SC section 42402(b); Violation Category C3 – CH&SC section 42402.1; Violation Category C4 – CH&SC section 42402.2; and Violation Category C5 – CH&SC section 42402.3.
2. **Total Factor.** The total factor (TF) shall be the sum of factors in aggravation (AGG) minus factors in mitigation (MIT), as more fully described herein and in Attachment 1.

3. **Factors in Aggravation.** The total of the factors in aggravation (AGG) shall be calculated as shown on Attachment 1.
 4. **Factor in Mitigation.** The total of the factors in mitigation (MIT) shall be calculated as shown on Attachment 1.
 5. **Monetary Component Formula.** The calculation of the monetary component shall be performed according to the monetary component formula shown on Attachment 1.
 6. **Gravity Factors.** Factors in Aggravation and Factors in Mitigation shall be weighted based upon the gravity factors of “High”, “Moderate”, “Low” and “Not Applicable.” For purposes of this section, the term “High” means actions resulting in consequences which are momentous, serious or many. For purposes of this section, the term “Moderate” means significant, medium, average or several. For purposes of this section, the term “Low” means of relatively little consequence, small or few. For purposes of this section, the term “Not Applicable” means indeterminable or no discernable effect.
 7. **Past Violations.** For purposes of this section, “Past Violations” means those repeat violations relating to a specific process or control equipment that have occurred within the most recent three (3) year period.
- c. **Settlement Agreement Documentation.** If the Source and District mutually agree, in writing, to the consequences of the NOV, the Source and the District may waive further enforcement proceedings pending compliance by the Source with the terms of the Settlement Agreement. In the event a mutual settlement is reached, the terms thereof shall be reduced to writing and signed by the Source and the District Official with the appropriate Settlement Authority, as set forth in Section 4.b. above.
8. **MULTIPLE RULE VIOLATIONS.** 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. Notwithstanding the foregoing, Factors in Aggravation and Factors in Mitigation may include consideration that multiple rules were violated by the same act or occurrence

ATTACHMENT 1 – MONETARY COMPONENT FORMULA

1. Select and circle the proper “gravity” component for each aggravation and mitigation factor 1 through 10.
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 on the “total factor” (TF) box.
5. Apply settlement offer formula.
6. Repeat for each violation, and for each day of violation, and total results.

SETTLEMENT OFFER = C (1,2,3,4 OR 5) x TF

WHERE C = California Health and Safety Code (CH&SC)

Violation Category :

- C1: CH&SC 42402(a) = \$1,000
- C2: CH&SC 42402(b) = \$10,000
- C3: CH&SC 42402.1 = \$15,000
- C4: CH&SC 42402.2 = \$25,000
- C5: CH&SC 42402.3 = \$50,000

| GRAVITY COMPONENT | | | | |
|--|--|-----|----------|------|
| AGGRAVATION FACTORS | N/A | LOW | MODERATE | HIGH |
| 1. EXTENT OF HARM CAUSED BY VIOLATION | 0 | .05 | .10 | .15 |
| 2. NATURE AND PERSISTENCE OF VIOLATION | 0 | .05 | .10 | .15 |
| 3. LENGTH OF TIME VIOLATION OCCURRED | | .05 | .10 | .15 |
| 4. PAST VIOLATIONS | 0 | .05 | .10 | .15 |
| 5. ECONOMIC BENEFIT OF NONCOMPLIANCE | 0 | .05 | .10 | .15 |
| TOTALS OF AGGRAVATION COLUMNS | | | | |
| AGG (SUM OF AGGRAVATION TOTALS) | <input style="width: 100px; height: 20px;" type="text"/> | | | |
| MITIGATION FACTORS | N/A | LOW | MODERATE | HIGH |
| 1. DEGREE AND RECORD OF MAINTENANCE | 0 | .05 | .10 | .15 |
| 2. FACTORS ASSOCIATED WITH CONTROL EQUIPMENT | 0 | .05 | .10 | .15 |
| 3. ACTION TAKEN TO MITIGATE VIOLATION | 0 | .05 | .10 | .15 |
| 4. GOOD FAITH EFFORT TO COMPLY | 0 | .05 | .10 | .15 |
| 5. FINANCIAL BURDEN TO VIOLATOR | 0 | .05 | .10 | .15 |
| TOTALS OF MITIGATION COLUMNS | | | | |
| AIT (SUM OF MITIGATION TOTALS) | <input style="width: 100px; height: 20px;" type="text"/> | | | |
| TF = (AGG - MIT) | <input style="width: 100px; height: 20px;" type="text"/> | | | |

| |
|---|
| SETTLEMENT OFFER (PER VIOLATION, PER DAY) = C (1,2,3,4 OR 5) x TF \$ _____ X _____ = \$ _____ |
|---|

**GUILDINES FOR SCORING THE AGGRAVATION FACTORS
IN THE
MONETARY COMPONENT FORMULA**

| FACTOR | MEANING | GUIDELINES FOR SCORING |
|---|--|--|
| EXTENT OF HARM (SIZE) | INJURY TO AIR QUALITY, PROPERTY, OR PERSONS. RELATED TO THE EMITTED | <p>N/A = NEVER</p> <p>LOW = NO OR 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 (TYPE) | NATURE AND TYPE OF POLLUTANT | <p>N/A = NEVER</p> <p>LOW = ANY POLLUTANT, INCLUDING PERC AND GASOLINE, EXCLUDING ANY ACUTE AIR TOXIC</p> <p>HIGH = ASBESTOS AND ANY OTHER AIR TOXIC, EXCLUDING PERC AND GASOLINE</p> |
| LENGTH OF TIME (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 (HISTORY) | COVERS THE LAST 3 YEARS. THE PROBLEM MUST BE SIMILAR TO PAST VIOLATIONS TO QUALIFY. IF A PERMITTED SOURCE, THE PROBLEM(S) MUST BE ASSOCIATED WITH 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> |
| ECONOMIC BENEFIT OF NONCOMPLIANCE (BENEFIT) | COST AVOIDED TO COMPLY/PROFIT OR ADVANTAGE GAINED | <p>N/A = NO BENEFIT</p> <p>LOW = 0 - \$500</p> <p>MEDIUM = \$500 - \$2000</p> <p>HIGH = > \$2000</p> |

GUIDLINES FOR SCORING THE MITIGATION FACTORS

IN THE

MONETARY COMPONENT FORMULA

| FACTOR | MEANING | GUIDELINES FOR SCORING |
|--|--|---|
| DEGREE & RECORD OF MAINTENANCE (PREVENTION) | ANY MAINTENANCE RELATED TO AIR POLLUTION | <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> |
| FACTORS ASSOCIATED WITH CONTROL EQUIPMENT (INNOVATION) | ABOVE WHAT IS NORMAL, USE OF EXPERIMENTAL EQUIPMENT | N/A = NOT INNOVATIVE |
| ACTION TAKEN TO MITIGATE VIOLATION (RESTITUTION) | ACTION TAKEN <u>AFTER</u> THE SOURCE IS NOTIFIED OF A VIOLATION; RELATED TO CLEAN UP OR IMPROVEMENTS FOR THE TREVENTION OF FUTURE VIOLATIONS | <p>N/A = ACTION TAKEN WERE MINIMAL, A RETURN TO COMPLIANCE</p> <p>LOW = ACTIONS BEYOND WHAT IS REQUIRED TO COMPLY</p> <p>MEDIUM = CLEAN UP AT GREAT 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> |
| GOOD FAITH EFFORT TO COMPLY (DILIGENCE) | ACTION TAKEN PRIOR TO THE NOV. DESIGNED TO ENSURE COMPLIANCE. RELATED TO THE VIOLATION | <p>N/A = SOME EFFORT BUT BELOW WHAT IS REQUIRED BY THE P/O OR RULE</p> <p>LOW = WHAT IS REQUIRED BY THE RULE OR P/O</p> <p>MEDIUM = EFFORTS ABOVE AND BEYOND WHAT IS REQUIRED TO COMPLY WITH THE P/O OR RULE</p> <p>HIGH = EXTRAORDINARY EFFORTS ABOVE AND BEYOND WHAT IS NECESSARY TO COMPLY WITH THE P/O OR RULE, INCLUDING SELF REPORTED VIOLATIONS PROVIDED THAT SELF REPORTING IS NOT ALREADY REQUIRED BY PERMIT, RULE, OR ANY OTHER REGULATION</p> |
| FINANCIAL BURDEN TO VIOLATOR (FINANCIAL IMPACT) | BURDEN OF THE PENALTY TO THE VIOLATOR | <p>LOW = 0 - \$1,000</p> <p>MEDIUM = \$1,000 - \$5,000</p> <p>HIGH = > \$5,000</p> |