

EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT  
MUTUAL SETTLEMENT PROGRAM PROCEDURES AND GUIDELINES  
12/18/12

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PROCEDURES AND GUIDELINES

EL DORADO COUNTY AIR QUALITY MANAGEMENT DISTRICT  
MUTUAL SETTLEMENT PROGRAM PROCEDURES AND GUIDELINES

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:

- Deleted: POLLUTION CONTROL DISTRICT
- Deleted: 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.
- Deleted: The premise of the program is that most
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- Deleted: e procedures and guidelines described herein are intended to
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- Deleted: ¶ 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.¶
- Deleted: DEFINITIONS. As used herein, the terms identified in the subsections below shall be ascribed the meanings contained therein.¶  
¶  
<#>Air Pollution Control Officer or "APCO." The terms "Air Pollution Control Officer" or "APCO" mean ... [5]
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- Deleted: MUTUAL SETTLEMENT PROGRAM ¶ ... [9]

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.

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- Deleted: 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:¶  
¶ Warning
- Deleted: 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.¶
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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,

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**Deleted: REFERRAL OF NOV TO GRAM.** 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.¶

¶ **STEPS OF THE MUTUAL SETTLEMENT PROGRAM.** ...T...he steps of the Mutual Settlement Program are described as ...s ... [27]

**Deleted: ath....** Depending upon whether a violation is Minor or Major, the violation will initially follow a particular Mutual Settlement Pro ... [28]

**Deleted:** 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, th ... [29]

**Deleted: <#>Minor Violation.** The Minor Violation path of the Mutual Settlement Policy consists of the Settlement Proposal Letter, the C ... [30]

**Deleted: (Minor Violation).** Minor Violations ...shall result in the issuance of a Settlement Proposal Letter, transmitted by certified by certifi ... [31]

**Deleted:** The terms contained in the Settlement Proposal Letter must be approved in advance of their transmittal to the Source by the appropriate ... [32]

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- - - PROCEDURES AND GUIDELINES

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.

~~Deleted:~~ or the DA through the APCO or his designee

**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.

~~Deleted:~~ 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."

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~~Deleted:~~ 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 sha... [33]

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.

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**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 Causing Bodily Injury or Death
- C4: 42402.1 Negligent Emissions
- C5: 42402.2 Failure to take Corrective Actions
- C6: 42401.3 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.

**Deleted: 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 t ... [38]

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- 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.

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- e. **Total Factor:** The total factor (TF) shall be the difference of aggravation factors (AGG) minus the mitigation factors (MIT).

**Deleted:** 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 “

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.

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 <#>**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.¶

## 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.

**Deleted: 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. ¶

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 -- PROCEDURES AND GUIDELINES

- l. **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.
- k. **Mutual Settlement Program:** The process by which Violations are informally resolved by the District and the Owner or Operator.
- l. **Notice of Violation (NOV):** A written method of alleging a Major Violation prepared by an authorized representative of the District.
- m. **Notice to Comply (NTC):** A written method of alleging a Minor Violation prepared by an authorized representative of the District.
- n. **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.
- o. **Owner or Operator:** Any person who owns, leases, operates, controls, or supervises a stationary source.
- p. **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.
- q. **Penalty:** The dollar value of an assessment for a Violation, as calculated under the Mutual Settlement Program.
- r. **Rules and Regulations:** The Rules and Regulations duly adopted by resolution of the District's Board of Directors.
- s. **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.
- t. **Source:** Any recipient of an NOV issued by the District.
- u. **Stationary Source:** A device, equipment, process or facility that emits an air contaminant.

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 -- PROCEDURES AND GUIDELINES



- v. 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.
- w. Violation: Any breach of a permit, regulation, order, rule or statute enforced by District.

**Deleted: <#>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  
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-- PROCEDURES AND GUIDELINES

**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

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PROCEDURES AND GUIDELINES

**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

<b>DEPARTMENT:</b> Environmental Management/APCD	<b>DATE:</b> 02/02/00	<b>CAO USE ONLY</b> <i>C Richard 7/10</i>
<b>CONTACT:</b> <i>SO</i> Jon Morgan/Dennis Otani	<b>PHONE:</b> 5360/5804	

**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**

<b>Financial Impact:</b> ( ) Yes (X) No	<b>Funding Source:</b> ( ) Gen Fund ( ) Other
<b>BUDGET SUMMARY:</b>	<b>CAO OFFICE USE ONLY</b>
Total Estimated Cost \$ -0-	4/5's Vote Required ( ) Yes
<b>Funding</b>	Change in Policy (X) Yes ( ) No
Budgeted \$ -0-	New Personnel ( ) Yes (X) No
New Funding \$ -0-	
Savings* \$ -0-	<b>CONCURRENCES:</b>
Other \$ -0-	Risk Management _____
Total Funding Available \$ -0-	County Counsel <input checked="" type="checkbox"/>
Change in Net County Cost \$ -0-	Other _____
*Explanation:	

**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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PROCEDURES AND GUIDELINES

## 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:  $C (1 \text{ thru } 7) \times TWF \times N$  (for  $N=1$ ) +  $C (1 \text{ thru } 7) \times TWF \times N / 100$  (for  $N>1$ ) = PENALTY (PER VIOLATION ACT)

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.

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SETTLEMENT OFFER =  $C (1,2,3,4 \text{ OR } 5) \times TF$  WHERE C = California Health and Safety Code (CH&SC)¶  
Category - ... [54]

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2...CH&SC ... (b)... = \$10,000 ... [56]

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C5: CH&SC 42402.3 ... [58]

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... PROCEDURES AND GUIDELINES

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
<b>AGGRAVATION TOTALS</b>				
SUM OF AGGRAVATION TOTALS (AGG) <input style="width: 50px;" type="text"/>				
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
<b>MITIGATION TOTALS</b>				
SUM OF MITIGATION TOTALS (MIT) <input style="width: 50px;" type="text"/>				
TOTAL WEIGHTING FACTOR (TWF) = AGG - MIT <input style="width: 50px;" type="text"/>				
$C \times TWF \times N \text{ (for } N=1) + C (1 \text{ thru } 7) \times TWF \times N / 100 \text{ (for } N>1) = \text{PENALTY (PER VIOLATION ACT)}$ $\$ \quad \times \quad \times \quad = \$$				

**GUIDELINES FOR WEIGHTING THE AGGRAVATION FACTORS**

FACTOR	MEANING	GUIDELINES
EXTENT OF HARM	IMPACT TO AIR QUALITY, PROPERTY, OR PERSONS. RESULTING FROM THE EMISSIONS	N/A = NO RELEASE LOW = SMALL EMISSION IN SIZE WITH NO DAMAGE TO PEOPLE OR PROPERTY MEDIUM = MEDIUM EMISSION IN SIZE OR SOME DAMAGE TO PEOPLE OR PROPERTY HIGH = LARGE EMISSION IN SIZE, OR SUBSTANTIAL DAMAGE TO PEOPLE OR PROPERTY
NATURE & PERSISTENCE	NATURE AND TYPE OF POLLUTANT	N/A = NO RELEASE LOW = ANY POLLUTANT NOT LISTED BELOW MEDIUM = PERC AND GASOLINE HIGH = ASBESTOS AND ANY OTHER AIR TOXIC
DURATION	AMOUNT OF TIME IN VIOLATION DURING THE DAY OF THE VIOLATION	LOW = IMMEDIATE SHUTDOWN OF PROCESS OR BATCH ONCE THE VIOLATION OCCURS MEDIUM = PROCESS CONTINUES UP TO 4 HOURS AFTER THE VIOLATION OCCURS HIGH = PROCESS EXCEEDS 4 HOURS AFTER THE VIOLATION OCCURS OR CONTINUES UNABATED
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.	N/A = NO VIOLATIONS LOW = 1 VIOLATION MEDIUM = 2 VIOLATIONS HIGH = > 2 VIOLATIONS

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- - PROCEDURES AND GUIDELINES

**GUIDDLINES FOR WEIGHTING THE MITIGATION FACTORS**

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¶ MONETARY COMPONENT FORMULA¶

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LOW = ACTIONS BEYOND WHAT IS REQUIRED TO COMPLY¶

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GOOD FAITH EFFORT TO COMPLY (DILIGENCE) ... [67]

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- - PROCEDURES AND GUIDELINES

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



**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.<sup>1</sup> 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.<sup>2</sup> 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 2004<sup>3</sup>. District Rule 300 Open Burning Section 300.1.E.5.c also prohibits the burning of household rubbish.

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

<sup>2</sup> Ibid.

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

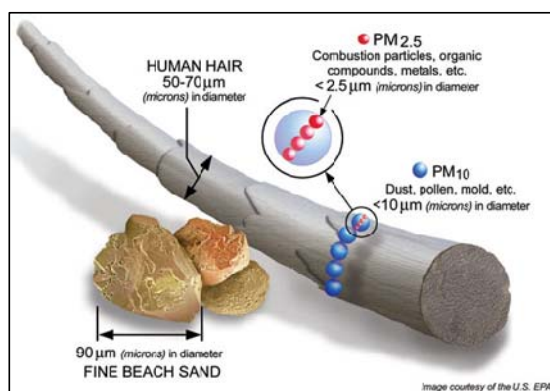


## Burning Wood & Vegetation

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 (NOx), 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 (PM<sub>10</sub>), 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, PM<sub>10</sub> and PM<sub>2.5</sub> can lead to bronchitis and other chronic respiratory issues.

### Diameter Comparison: Human Hair, Sand, PM<sub>10</sub>, and PM<sub>2.5</sub>



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](http://www.epa.gov/asthma), [www.noattacks.org](http://www.noattacks.org) or [www.cdc.gov/asthma](http://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 \(PDF\)](#)

**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, PM<sub>10</sub> 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<sub>2.5</sub> (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 PM<sub>10</sub> and PM<sub>2.5</sub>, 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 PM<sub>10</sub> and PM<sub>2.5</sub>.<sup>4</sup> 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 PM<sub>10</sub> of 20 µg/m<sup>3</sup> (micrograms per cubic meter), and 12 µg/m<sup>3</sup> for PM<sub>2.5</sub>. CARB also adopted a 24-hour standard PM<sub>10</sub> of 50 µg/m<sup>3</sup>. PM<sub>10</sub> 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 PM<sub>10</sub> standard and the western portion of the County for the national PM<sub>2.5</sub> standard.<sup>5</sup>

#### 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.<sup>6</sup> State area designations for ten criteria pollutants: ozone, suspended particulate matter (PM10), fine suspended particulate matter (PM2.5), 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.

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

<sup>5</sup>

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

Deleted: From the ARB websites;  
<http://www.arb.ca.gov/smp/resburn/resburn.htm>,  
<http://www.arb.ca.gov/smp/smp.htm>  
And District Rule 300, Open Burning

### 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.

**Deleted:** From the ARB websites;  
<http://www.arb.ca.gov/smp/resburn/resburn.htm>,  
<http://www.arb.ca.gov/smp/smp.htm>  
And District Rule 300, Open Burning

## **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](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](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

## MODULE 4

### 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](http://www.eldoradocountyfire.com/district/images/district_map_lg.gif)

#### **El Dorado County Fire Protection Providers Contacts**

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

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

Website: <http://www.cityofslt.us/index.aspx?nid=384>

NOTE: Open burning is *never* 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](http://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



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**DEFINITIONS.** As used herein, the terms identified in the subsections below shall be ascribed the meanings contained therein.

**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.

**Board of Directors.** The term “Board of Directors” means the Board of Directors of the El Dorado County Air Pollution Control District.

**Case.** The term “Case” means the facts involved and parties responsible for violation(s) charged in an NOV.

**County Counsel.** The term “County Counsel” means the Office of the El Dorado County Counsel.

**District Attorney or “DA.”** The terms “District Attorney” or “DA” mean the Office of the El Dorado County District Attorney.

**District.** The term “District” means the El Dorado County Air Pollution Control District.

**U.S. Environmental Protection Agency or “EPA.”** The terms “U.S. Environmental Protection Agency” or “EPA” mean the United States Environmental Protection Agency.

**Major Violation.** The term “Minor Violation” means any violation which is not a minor violation.

**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.

**Mutual Settlement Program.** The term “Mutual Settlement Program” means the process by which violation are informally resolved by the District and the Source.

**Notice of Violation or NOV.** The terms “Notice of Violation” or “NOV” mean a Notice of Violation issued by the District staff.

**Penalty.** The term “Penalty” means the dollar value of an assessment for a violation, as calculated under the Mutual Settlement Program.

**Program Manager.** The term “Program Manager” means the Program Manager of the El Dorado County Air Pollution Control District.

**Rules and Regulations.** The term “Rules and Regulations” means the Rules and Regulations duly adopted by resolution of the District’s Board of Directors.

**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.

**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.

**Source.** The term “Source” means any recipient of an NOV issued by the District.

**Violation.** The term “Violation” means any breach of a permit, rule or statute enforced by District.

**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.

**AUTHORITY.** The authority for compromise and settlement of violations by the District is contained in the following described sources:

**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.

**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.

**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.

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All violations shall be reviewed by the District in the following manner:

**Overview of Procedure.**

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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.

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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.

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## MUTUAL SETTLEMENT PROGRAM

### PROCEDURES AND GUIDELINES

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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.

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The NOV may be resolved in its entirety through the Mutual Settlement Pro

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gram, 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.

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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.

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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.

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instead of being placed in the Mutual Settlement Policy

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**Consultation with Other Government Agencies.** To the extent required by law, the District shall consult with other affected government agencies concerning each NOV.

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## Documentation to Accompany Each Case Referred.

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engaged in by

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## REFERRAL OF NOV TO

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**GRAM.** 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.

## STEPS OF THE MUTUAL SETTLEMENT PROGRAM.

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he steps of the Mutual Settlement Program are described as

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**ath.**

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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, t

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**[APCO/Program Manager]**

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compute

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monetary component of the p

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for the NOV

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Monetary Component

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(Attachment 1)

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The District shall calculate a separate penalty for each separate act or omission constituting a violation and for each day of violation.

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The sum of each such penalty is the monetary component.

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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.”

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**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.

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**(Minor Violation).** Minor Violations

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shall result in the issuance of a Settlement Proposal Letter, transmitted by certified by certified mail, return receipt requested, to the Source.

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Source

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District

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including the monetary component term which shall be based upon the formula described in Attachment 1,

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Source

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at

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proposal

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if so desired

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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.

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Source shall have 30 days to

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or

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proposal

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, after which time, i

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Source

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it

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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.

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until the terms thereof shall be reduced to writing and

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or his designee as described in Section 4.b., above

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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.

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## MUTUAL SETTLEMENT PROGRAM

### PROCEDURES AND GUIDELINES

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**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.

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**Monetary Component Considerations.**

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Monetary component consideration of a settlement proposal s

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, and the total factors (TF) component,

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which consists of factors in aggravation

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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.

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elements of the monetary portion of the settlement

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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.

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**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.**

**Factors in**

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The total of the factors in aggravation (AGG) shall be calculated as shown on Attachment 1.

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The total of the factors in mitigation (MIT) shall be calculated as shown on Attachment 1.

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Monetary Component Formula. The calculation of the monetary component shall be performed according to the monetary component formula shown on Attachment 1.

**Gravity Factors.**

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**MUTUAL SETTLEMENT PROGRAM**

**PROCEDURES AND GUIDELINES**

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**MONETARY COMPONENT FORMULA**

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Repeat for each violation, and for each day of violation, and total results.

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SETTLEMENT OFFER = C (1,2,3,4 OR 5) x TF                      WHERE C = California Health and Safety Code (CH&SC)

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Category

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Page 12: [59] Deleted VIOLATION OCCURRED	Dave Johnston	11/21/2012 1:55:00 PM		
Page 12: [60] Deleted	Dave Johnston	11/20/2012 5:24:00 PM		
5. ECONOMIC BENEFIT OF NONCOMPLIANCE	0	.05	.10	.15
Page 12: [61] Deleted	Dave Johnston	11/20/2012 5:24:00 PM		
4. GOOD FAITH EFFORT TO COMPLY	0	.05	.10	.15
Page 12: [62] Deleted 5	Dave Johnston	11/20/2012 5:24:00 PM		
Page 12: [62] Deleted TO VIOLATOR	Dave Johnston	11/21/2012 1:56:00 PM		
Page 12: [63] Deleted (	Dave Johnston	11/26/2012 10:09:00 AM		
Page 12: [63] Deleted )	Dave Johnston	11/26/2012 10:09:00 AM		
Page 12: [64] Deleted SETTLEMENT OFFER (PER VIOLATION, PER DAY) =	Dave Johnston	11/20/2012 5:42:00 PM		
Page 12: [64] Deleted (1,2,3,4 OR 5)	Dave Johnston	11/20/2012 6:07:00 PM		
Page 12: [65] Deleted	Dave Johnston	12/05/2012 2:39:00 PM		
Page 12: [65] Deleted	Dave Johnston	11/20/2012 6:08:00 PM		



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Dave Johnston

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ECONOMIC BENEFIT OF NONCOMPLIANCE (BENEFIT)	COST AVOIDED TO COMPLY/PROFIT OR ADVANTAGE GAINED	N/A = NO BENEFIT  LOW = 0 - \$500  MEDIUM = \$500 - \$2000  HIGH = > \$2000
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Dave Johnston

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GOOD FAITH EFFORT TO COMPLY (DILIGENCE)	ACTION TAKEN PRIOR TO THE NOV. DESIGNED TO ENSURE COMPLIANCE. RELATED TO THE VIOLATION	N/A = SOME EFFORT BUT BELOW WHAT IS REQUIRED BY THE P/O OR RULE  LOW = WHAT IS REQUIRED BY THE RULE OR P/O  MEDIUM = EFFORTS ABOVE AND BEYOND WHAT IS REQUIRED TO COMPLY WITH THE P/O OR RULE  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
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