



## **FACT SHEET**

# **Violation Settlement Program**

### **What is the Violation Settlement Program?**

The District's Violation Settlement Program offers recipients of a Notice of Violation the opportunity to settle alleged violations out-of-court by reaching an agreement with the Air Pollution Control District.

### **What is a Notice of Violation?**

A Notice of Violation is the District's claim that a violation of the District's rules, state or federal air pollution laws has occurred. As provided by state law, a Notice of Violation may subject violators to monetary penalties, civil suit, or in serious cases, criminal prosecution. Normally, violations are settled through the District's Violation Settlement Program.

### **How is a violation settled?**

After a violation is referred to the Violation Settlement Program, the alleged violator will receive a letter offering to settle the violation on stated terms or requesting the alleged violator to call the District's Violation Settlement staff to discuss settlement terms. The terms of a settlement may include both a monetary penalty and changes in operation or equipment to ensure the facility remains in compliance. Settlements can only be reached when the alleged violator comes to agreement with the District. If there is disagreement with the terms or penalty the District offers, the Violation Settlement staff should be contacted to discuss the possibility of mitigating the penalty.

If the settlement discussions reach an impasse during the negotiation process, the Chief of Compliance may be contacted.

### **How is a penalty calculated?**

State law establishes the maximum penalties ranging from \$1,000 to \$10,000 per day for any strict liability violation (without regard to negligence or intent), to \$25,000 to \$100,000 per day for negligent emissions violations, to \$40,000 to \$250,000 per day for knowing emissions without corrective action, and to \$75,000 to one million dollars per day for willful and intentional emissions violations. A detailed list of penalties under state law is available at the District office and is also available on the District's website at [www.sdapcd.org](http://www.sdapcd.org) (follow the menus to Compliance/Violation Settlement Program).

When establishing a specific penalty, state law requires the District to consider all relevant factors including the following:

- The extent of harm caused by the violation.
- The nature and persistence of the violation.
- The violation duration.
- The violation frequency.
- The maintenance record.
- The unproven or innovative nature of the control equipment.
- Any action taken by the alleged violator including the nature, extent, and response time for cleanup and construction undertaken to mitigate the violation.
- The financial burden to the alleged violator.

## **Violation Settlement Program**

When participating in the District's Violation Settlement Program, it is important to make sure the Violation Settlement staff has information about any mitigating circumstances in the case. You may send the information to APCD's Compliance Division at 10124 Old Grove Road, San Diego, CA 92131; fax it to (858) 586-2651; or e-mail it to [apcdcomp@sdcountry.ca.gov](mailto:apcdcomp@sdcountry.ca.gov).

### **What about criminal prosecution?**

Air pollution violations may result in criminal prosecution instead of civil penalties. Criminal prosecution is generally pursued in serious cases involving substantial pollution that could have been prevented or in cases involving willful disregard of the District's rules and regulations. In such cases, the District will refer the case to the local city or district attorney's office, or to the U.S. Attorney's Office.

Maximum fines for criminal violations of state law (misdemeanors) are the same as those in civil actions, except that a jail term of up to 1 year for each day of violation may be added. Federal criminal violations are felonies and may carry harsher sentences. A detailed list of criminal penalties is available at the District office and is also found on the District's website at [www.sdapcd.org](http://www.sdapcd.org) (follow the menus to Compliance/Violation Settlement Program).

### **What about rule changes?**

Rule changes can affect a regulated business, and it is the operator's responsibility to know the current rules. The District holds at least one public workshop and one public hearing before any rule is changed.

In addition, the District attempts to notify affected businesses of a rule change by mailing "advisory" notifications. To help business keep current, the District also maintains a subscription list for those who wish to receive updated rules and regulations. Copies of current rules are available on the District web site at [www.sdapcd.org](http://www.sdapcd.org) under Rules and Regulations, and rule subscription information is available under Permits & Forms/Publication Updating Services.

When a business receives a new or modified permit from the District, the business is responsible for complying with all the permit conditions. Regulated businesses must be familiar with all the permits required and permit conditions. For further information on permits, call (858) 586-2600.

### **Who can I call for more information?**

This fact sheet provides general information about the Violation Settlement Program. For more information or specific questions about a particular Notice of Violation, contact the District's Compliance Division at (858) 586-2650.