



## AIR POLLUTION CONTROL DISTRICT

**POLICY:** REFERRED DELINQUENT NOTICE OF VIOLATION TO COUNTY COUNSEL  
AND/OR DISTRICT ATTORNEY – SETTLEMENT GUIDELINES

**EFFECTIVE:** January 22, 2007  
Revised June 7, 2022

**POLICY NUMBER:** 39

### GENERAL:

A Notice of Violation (NOV) is issued when a violation of any order, permit, Rule, or regulation of the Imperial County Air Pollution Control District (ICAPCD) and/or California Health and Safety Code is enforced by the Air Pollution Control Officer. He may issue citations, seek a misdemeanor complaint, assess civil penalties, seek an injunction, or take other enforcement action. He may seek enforcement action through County Counsel or the District Attorney. He may issue notices to abate or correct violations of these Rules, or he may require attendance at a hearing before the Hearing Board, or constitute other administrative proceedings as provided in procedures adopted by the Board. This policy establishes step procedures to be followed when an NOV has been referred to County Counsel or the District Attorney and the violator chooses to negotiate the settlement of such NOV at that time. This is subsequent to initial offers by the ICAPCD to settle the **NOV**.

A violator has two options to resolve a Notice of Violation:

**A. Civil Penalty Procedure**

1. Payment of a civil penalty in the sum determined by the severity of the violation.
2. Release of the alleged violator(s) from any and all claims for civil or criminal penalties arising out of the incident referred to in the Notice of Violation.
3. ICAPCD reserves the right to rely upon the alleged violation and may offer proof thereof in connection with any petition for a variance, permit revocation, or abatement order before the ICAPCD Hearing Board or in connection with the determination of the appropriate penalty in the event similar Notices of Violation are issued in the future.
4. The settlement shall not constitute an admission of liability nor shall any such admission be inferred in any administrative or judicial proceeding.
5. The violator will conduct corrective actions and observe the compliance conditions determined by the ICAPCD.

B. Mutual Settlement Program

1. The Mutual Settlement Program offers both the ICAPCD and the violator an opportunity to settle violations without expensive and time consuming litigation.
2. The ICAPCD's policy is to negotiate a resolution of all violations referred for mutual settlement, and the Mutual Settlement Program (MSP) provides an opportunity for the violator to settle the case out of court by agreeing to a mutually settled penalty amount. Conditions of settlement may include actions to be taken by the source to help prevent future violations, or actions that can be shown to result in a net air quality benefit. The MSP is defined in ICAPCD Policy 22 and 27.

When a violator refuses to pay the initial penalty and fails to negotiate a settlement, the matter is referred to County Counsel or the District Attorney for legal action. When the violator chooses to resolve the NOV after being notified by County Counsel or the District Attorney, the following step procedures shall be followed to ensure a proper and satisfactory resolution.

STEPS:

1. When a NOV is referred by County Counsel or the District Attorney, the original fine will become due and increased by 1/2 the amount thereof.
2. The violator will conduct corrective actions and observe compliance conditions determined by the ICAPCD and referred by County Counsel or the District Attorney.
3. Nonpayment of the increased penalty within thirty (30) days and failure to conduct corrective actions and observe compliance conditions, shall result in the cancellation of the permit, if any.



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Matt Dessert  
Air Pollution Control Officer