

CHAPTER V - ENFORCEMENT AND PENALTY ACTIONS

RULE 1-500 - ENFORCEMENT

No person shall violate any condition of an Authority to Construct, any condition of a Permit to Operate, any provision of these rules and regulations; or any order, rule, or regulation of the California Air Resources Board; or any provisions of the California Health and Safety Code. Any person violating this rule is guilty of a misdemeanor and shall be subject to a fine not exceeding one thousand dollars (\$1,000), or imprisonment in the county jail for a period not exceeding six months, or both. Every day during any portion of which the violation occurs constitutes a separate offense. (Health and Safety Code, Section 42400)

RULE 1-510 - ORDERS FOR ABATEMENT

- (a) The Mendocino County Air Quality Management District Board or the Mendocino County Air Quality Management District Hearing Board may, after public notice and a public hearing, issue an Order for Abatement whenever it finds that any person is in violation of Section 41700 or 41701 of the California Health and Safety Code, or of any order, rule or regulation prohibiting or limiting the discharge of air contaminants into the air. In holding such a hearing, the Air Quality Management District Board shall be vested with all the powers and duties of the Hearing Board. (Health and Safety Code, Sections 42450 & 42451)
- (b) The Order for Abatement shall be framed in the manner of a writ of injunction requiring the respondent to refrain from a particular act. The order may be conditional and require a respondent to refrain from a particular act unless certain conditions are met. The order shall not have the effect of permitting a variance unless all the conditions for a variance, including limitation of time, are met. (Health and Safety Code, Section 42452)

RULE 1-520 - CIVIL PENALTIES

- (a) Except as otherwise provided in Rule 1-520(b), (c), (d), (e), (f), (g), (h), (i), (j) and (k), any person who violates any order, permit, rule or regulation of the District or of the District's Hearing Board, including any Airborne Toxic Control Measure adopted as part of Regulation 3 of the Air Quality Management District, shall be strictly liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day in which such violation occurs. (Health and Safety Code, Sections 39674, 42402)

[Adopted September 8, 1992; Amended April 6, 1993]

- (b) Except as otherwise provided in Rule 1-520(a), (c), (d), (e), (f), (g), (h), (i), (j) and (k), any person who violates any order, permit, rule or regulation of the District or of the District's Hearing Board, including any Airborne Toxic Control Measure adopted as part of Regulation 3 of the Air Quality Management District, shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each day in which such violation occurs. (Health and Safety Code, Sections 39674, 42402)

[Adopted September 8, 1992; Amended, Renumbered April 6, 1993]

- (c) Any person who negligently emits an air contaminant in violation of any rule, regulation or order of the state board or of the District pertaining to emission regulations or limitations, including any Airborne Toxic Control Measure adopted as part of Regulation 3 of the Air Quality Management District, shall be liable for a civil penalty of not more than fifteen thousand dollars (\$15,000) for each day in which such violation occurs, (Health and Safety Code, Sections 39674, 42402.1).

[Adopted September 8, 1992; Amended, Renumbered April 6, 1993]

- (d) Any person who owns or operates any source of air contaminants in violation of Health and Safety Code, Section 41700 which causes actual injury to the health or safety of a considerable number of persons of the public is liable for a civil penalty of fifteen thousand dollars (\$15,000). Each day in which a violation occurs is a separate offense, (Health and Safety Code, Section 42402.1).

[Adopted April 6, 1993]

- (e) Any person who emits an air contaminant in violation of any order, rule, or regulation of the state board or of the District pertaining to emissions regulations or limitations, including any Airborne Toxic Control Measure adopted as part of Regulation 3 of the Air Quality Management District, and who knew of the emissions and failed to take corrective action within a reasonable period of time, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day in which such violation occurs, (Health and Safety Code, Sections 39675, 42402.2).

[Adopted September 8, 1992; Amended, Renumbered April 6, 1993]

- (f) Any person who owns or operates any source of air contaminants in violation of Health and Safety Code, Section 41700 which causes actual injury to the health or safety of a considerable number of persons of the public, and who knew of the emissions and failed to take corrective action, is liable for a civil penalty of twenty-five thousand dollars (\$25,000). Each day in which a violation occurs is a separate offense, (Health and Safety Code, Section 42402.2).

[Adopted April 6, 1993]

- (g) Any person who intentionally or negligently violates any Order for Abatement issued by the Air Quality Management District Board or Air Quality Management District Hearing Board pursuant to Health and Safety Code, Sections 42450 - 42454 or Rule 1-510(a), or by the state board shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day in which such violation occurs, (Health and Safety Code, Section 42401).

[Adopted September 8, 1992; Renumbered April 6, 1993]

- (h) Any person who willfully and intentionally emits an air contaminant in violation of any order, rule, or regulation of the District or of the state board, pertaining to emission limitations is liable for a civil penalty of not more than fifty thousand dollars (\$50,000), (Health and Safety Code, Section 42402.3).

[Adopted April 6, 1993]

- (i) Any person who, knowingly and with intent to deceive, falsifies any document required to be kept pursuant to the provisions of Division 26 of the Health and Safety Code, or any rule, regulation, or order of the District, shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day in which such violation occurs or the information remains uncorrected, (Health and Safety Code, Section 42402.2).

[Adopted September 8, 1992; Renumbered April 6, 1993]

- (j) Any person who fails to submit any information, reports, or statements required by the Air Toxics "Hot Spots" Information and Assessment Act of 1987 ("the Act" -- Health and Safety Code, Sections 44300 - 44384), or who otherwise fails to comply with any requirement of the Act or with any permit, rule, regulation or other requirement issued or adopted pursuant to the Act, is subject to a civil penalty of not less than five hundred dollars (\$500.00) or more than ten thousand dollars (\$10,000.00) for each day that the information, report, or statement is not submitted, or that the violation continues, (Health and Safety Code, Section 44381(a)).

[Adopted September 8, 1992; Renumbered April 6, 1993]

- (k) Any person who knowingly submits any false statement or representation in any application, report, statement, or other document filed, maintained or used for the purposes of compliance with the Air Toxics "Hot Spots" Information and Assessment Act of 1987 is subject to a civil penalty of not less than one thousand dollars (\$1,000.00) or more than twenty-five thousand dollars (\$25,000.00) for each day that the information remains uncorrected, (Health and Safety Code Section 44381(b)).

[Adopted September 8, 1992; Renumbered April 6, 1993]

- (l) The civil penalties prescribed in Rule 1-520 (a), (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) shall be assessed and recovered as provided in Health and Safety Code, Section 42403. Alternatively, the Air Pollution Control Officer is authorized to enter into a voluntary settlement in accordance with the District's Violation Settlement Guidelines, (Health and Safety Code, Section 42403).

[Adopted September 8, 1992; Amended, Renumbered April 6, 1993]

RULE 1-530 - NOTICE TO COMPLY Repealed
Health and Safety Code, Sections 39150 - 39153 Repealed – January 1, 2006

RULE 1-540 - EQUIPMENT BREAKDOWN

(a) Breakdown Conditions

For the purposes of this rule, a breakdown condition means an unforeseeable failure or malfunction of any air pollution control equipment or related operating equipment which causes a violation of any emissions limitation or restriction prescribed by these rules and regulations, or by State law, or similar failure of any required in-stack continuous monitoring equipment where such failure or malfunction:

- (1) is not the result of neglect or disregard of any air pollution control law or rule or regulation;
- (2) is not intentional or the result of negligence;
- (3) is not the result of improper maintenance;
- (4) does not constitute a nuisance;
- (5) is not an abnormally recurrent breakdown of the same equipment.

(b) Breakdown Procedures

- (1) Any breakdown condition meeting the qualifications of Rule 1-540(a) shall constitute a violation of any applicable emission limitation or restriction prescribed by these rules and regulations; however, the Air Pollution Control Officer may elect to take no enforcement action if the owner or operator demonstrates to his satisfaction that a breakdown condition exists and the following requirements are met:
 - (A) The breakdown is reported to the District office as soon as reasonably possible, but no later than one (1) hour after its detection during normal office hours (8:30 a.m. to 5:00 p.m.), or one (1) hour after the start of the next regular business day, whichever is sooner.
 - (B) The owner or operator takes immediate steps to minimize the impact of the breakdown and come into compliance.
 - (C) The breakdown does not interfere with the attainment or maintenance of any national ambient air quality standard.
- (2) The breakdown shall be logged, investigated and handled to its final disposition in accordance with uniform District procedures.
- (3) Upon receipt of notification of a breakdown condition, the Air Pollution Control Officer shall promptly investigate and determine whether the occurrence constitutes a breakdown condition. If it is not a breakdown condition, he may take appropriate enforcement action including, but not limited to, seeking fines, an abatement order, or an injunction against further operation.

(c) Reporting Requirements

Within ten (10) days after a breakdown occurrence has been corrected, the owner or operator shall submit a written report to the Air Pollution Control Officer including, but not limited to, the following details:

- (1) Duration of excessive emissions.
- (2) Estimate of quantity of emissions.

- (3) Statement of the cause of the occurrence.
- (1) Corrective measures to be taken to prevent recurrences.
- (2) Documentation of the breakdown condition may be required by the Air Pollution Control Officer.

(d) Burden of Proof

The burden shall be on the owner or operator of the source to provide sufficient information to demonstrate that a breakdown did occur. If the owner or operator fails to provide sufficient information, the Air Pollution Control Officer shall undertake appropriate enforcement action.

(e) Failure to Comply with Reporting Requirements

Any failure to comply, or comply in a timely manner, with the reporting requirements established in Rule 1-540 (b)(1)(A) and (c)(1) through (c)(4) shall constitute a separate violation of this rule.

(f) False Claiming of Breakdown Occurrence

It shall constitute a separate violation of this rule for any person to file with the Air Pollution Control Officer a report that falsely, or without probable cause, claims that an occurrence is a breakdown occurrence.

(g) Extended Breakdown Provisions

For any occurrence which causes a breakdown condition meeting the requirements of Rule 1-540(a) and which may persist for longer than twenty-four (24) hours (ninety-six hours for monitoring equipment), the owner or operator may, in lieu of shutdown, obtain an emergency variance as provided in Rule 1-615.