

STANDARD OPERATING PROCEDURE

Air Quality Management Division



SOP No: 0005

SOP Title: Violation Process and Procedure

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	NAME	TITLE	SIGNATURE	DATE
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Reviewer	Craig Petersen	Enforcement Panel	<i>[Signature]</i>	02/09/21
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**Policy:** The Air Quality Management Division (AQMD) is the permitting agency responsible for the processing of all air quality related applications for Washoe County. An important role for the division is ensuring that the regulated community is complying with the permit requirements and regulations.

**Purpose:** To communicate the procedure to be followed when noncompliance is discovered and a violation will be issued.

**Scope:** This policy and procedure applies to all personnel that must work through the noncompliance and violation.

**Responsibilities:**

- Compliance Inspector: Shall conduct all required inspections and investigations. During the inspection all permitted equipment and air pollution control systems shall be inspected and documented to be in proper working order. In addition, all required records shall be reviewed to determine compliance with the permit and regulations. Next, the inspector shall complete an inspection report and present any noncompliance information to the Sr. Air Quality (AQ) Specialist. Finally, any corrective action shall be communicated and resolved with the facility.
- Sr. AQ Specialist: Shall review the inspection report and any noncompliance information to determine if the information supports the issuance of a violation. Each violation shall be issued under a separate Notice of Violation (NOV) number.

- Supervisor, Permitting and Compliance: Shall work with the Sr. AQ Specialist to determine if the information supports the issuance of a violation. In the absence of the Supervisor, Permitting and Compliance, the Director shall make the determination if a violation is supported. If the Sr. AQ Specialist is involved in the investigation of noncompliance, the Supervisor, Permitting and Compliance shall make the determination if a violation is supported.
- Enforcement Panel: Shall use the information available and the Washoe County Air Quality Management Division (WCAQMD) Penalty Calculation Worksheet to determine a consistent and reasonable penalty. In some cases, a warning may be issued.
- Director: Shall support any violation and penalty discussions. Shall have final say on any violation or penalty determinations in the case of lack of agreement.

**Procedure:****1) Inspection and/or Investigation (Inspector)**

- a) The assigned inspector shall conduct all required inspections and investigations. An inspection shall include an onsite inspection of all permitted equipment and air pollution control systems and a review all required records.
- b) Completion of the inspection shall include the development of a complete inspection report and all follow-up to verify compliance has been achieved.
- c) If during the inspection, any noncompliance incident is discovered:
  - i) The potential noncompliance incident shall be communicated to the facility on-site, verbally, and followed with an email if possible or a letter.
  - ii) A deadline shall be set for corrective action to be completed.
  - iii) If necessary, a Stop Work Order shall be issued. If a Stop Work Order is to be issued, the Director and Supervisor, Permitting and Compliance shall be notified prior to the issuance, pursuant to SOP No. 0011.
  - iv) At the completion of the inspection, which is defined as when any and all follow-up to verify compliance has been achieved and all noncompliance information has been presented to the Sr. Air Quality Specialist to determine if a violation is warranted.

**2) Noncompliance Review and Violation Determination**

- a) The Sr. AQ Specialist shall review all available information to determine if the issuance of a violation is supported. The Sr. AQ Specialist shall consult with the Supervisor, Permitting and Compliance, prior to any final determination.
  - i) If the information presented supports the issuance of a violation and the penalty associated with violation is defined pursuant to 020.040 C and D, the following shall take place:
    - (1) The following information shall be organized and sent certified mail to the permittee:
      - (a) Cover Letter
      - (b) Final NOV
      - (c) Penalty amount established by 020.040

- (d) Appeal Form
- (2) The permittee will have 10-days from receipt of the certified letter and NOV to appeal the AQMD's action to the Air Pollution Control Hearing Board (APCHB).
  - (a) If the permittee has not exercised their appeal rights, the violation and the regulatory defined penalty will be sent to the District Board of Health (DBOH) as a consent agenda item for approval.
  - (b) If the permittee has exercised their appeal rights, the process will move to Section 8 of this SOP.
  - (c) If the permittee requests a compliance meeting within the 10-day appeal timeframe, the process will move to Section 5.
- ii) If the information presented supports the issuance of a violation where a penalty is not defined pursuant to 020.040, the information shall be organized and provided to the Enforcement Panel to determine the recommended enforcement action.
- iii) If the information presented does not support the issuance of a violation, no further action is required.

### 3) Enforcement Panel

- a) The Enforcement Panel is a group, a minimum of three members, made up of Health District staff that review noncompliance information and as a group make a determination on what an appropriate enforcement action should be.
- b) Upon being presented with noncompliance information, the Enforcement Panel shall individually make a determination on the appropriate enforcement action. Appropriate enforcement action includes:
  - i) Warning,
  - ii) Penalty based on the WCAQMD Penalty Calculation Worksheet,
  - iii) Environmental project where air quality improvements are made to the facility,
  - iv) A combination of all the above.
- c) After individually determining the appropriate enforcement action, the enforcement panel shall meet as a group with the Sr. AQ Specialist in order to get any outstanding questions answered and finalize the recommended enforcement action.
  - i) If the Enforcement Panel determines that a warning is appropriate, a certified letter shall be sent by the compliance branch to the permittee.
    - (1) The letter shall describe the details of noncompliance, the decision by the AQMD to issue it as a warning and that any future noncompliance will be compounded by the issuance of this warning.
  - ii) If the Enforcement Panel determines that a penalty is appropriate, Section 4 through 6 below shall be followed.

- (1) Penalty amounts determined by the Enforcement Panel are only recommendations and must be approved by the DBOH.
- 4) **Draft Violation Issuance (Sr. Air Quality Specialist)**
- a) If it is determined by the Enforcement Panel that a penalty is to be assessed and recommended for approval by the DBOH, the following procedures shall be followed:
    - i) A draft NOV(s) shall be written.
    - ii) The facility shall be contacted to setup a date and time for the compliance meeting. If the facility is not able to be reached, a date and time for the compliance meeting shall be set for them.
    - iii) Develop a cover letter for the transmittal of the draft NOV(s) and communication of the compliance meeting date and time.
      - (1) In the cover letter, it shall be communicated that following the compliance meeting, there may be a meeting with the Enforcement Panel depending on the results of the compliance meeting.
      - (2) If the compliance/enforcement meeting will be held virtually, the cover letter shall also include information on how to participate in the virtual meeting.
        - (a) If the compliance/enforcement meeting will be held virtually, all information supporting the issuance of the NOV shall be provided to the facility.
      - (3) An electronic copy of the cover letter shall be provided to the members of the Enforcement Panel and the Director.
      - (4) The letter and its contents shall be sent certified in order to confirm receipt of the package.
- 5) **Compliance Meeting (Sr. Air Quality Specialist)**
- a) During the compliance meeting, the NOV(s) and supporting information shall be presented.
  - b) The facility shall be provided the opportunity to present any information that contests the issuance of the NOV(s).
    - i) In the event the facility is able to present information disputing the issuance of a violation, the enforcement meeting shall be rescheduled.
  - c) If the facility is unable to present any information that contests the NOV(s), the NOV(s) will be issued as final under a cover letter forthcoming and pass the facility off to the Enforcement Panel for the enforcement meeting.
- 6) **Enforcement Meeting (Enforcement Panel)**
- a) During the enforcement meeting, the following shall be discussed:
    - i) Background information on how the penalty process works, the divisions role and the role of the DBOH shall be provided.
    - ii) Information on how the penalty is calculated using the WCAQMD Recommended Penalty Calculation Worksheet and the Penalty Table.

- iii) A review of how the specific penalty being proposed was calculated.
  - b) If the facility agrees to the proposed penalty and does not exercise their appeal rights, the following shall transpire:
    - i) The proposed penalty shall be reduced by 10%.
    - ii) A Memorandum of Understanding (MOU) shall be drafted and signed by the permittee signifying that they agree not to appeal the proposed penalty.
    - iii) The violation and the recommended penalty will be sent to the DBOH as a consent agenda item for approval.
  - c) If the facility does not agree to the proposed penalty, as described in Sections 7.d and 8 below, the facility shall have 10-days from receipt of the final NOV issuance to appeal the AQMD's action to the Air Pollution Control Hearing Board.
- 7) **Final Violation Issuance (Sr. Air Quality Specialist)**
  - a) After the completion of the compliance and enforcement meetings, the Sr. AQ Specialist shall finalize the draft NOV(s) previously developed for the compliance meeting.
  - b) A cover letter for the transmittal of the final NOV(s) shall be developed. The cover letter shall communicate the following:
    - i) That a compliance meeting was held and as a result of that meeting, the AQMD is moving forward with the issuance of the NOV(s).
    - ii) That an enforcement meeting was held following the compliance meeting and what enforcement action was recommended.
    - iii) A copy of the penalty calculation worksheet used to develop the recommended penalty.
    - iv) The facilities appeal rights if they have not stipulated to the NOV and proposed penalty.
  - c) The letter and its contents shall be sent certified in order to confirm receipt of the package.
    - i) The contents include:
      - (1) Cover Letter
      - (2) Final NOV
      - (3) Appeal Form
  - d) The facility has 10-days from receipt of the certified letter to appeal the AQMD's action.
    - i) If appealed the action will be heard by the APCHB.
- 8) **Appealed Violations**
  - a) If the violation is appealed, the action will first be heard by the APCHB.
    - i) If the appellant accepts the Air Pollution Control Hearing Board's decision, the matter shall be presented to the DBOH under consent.
    - ii) If the appellant does not agree with the APCHB's decision, the matter will go before the DBOH for final determination of the penalty.



**9) District Board of Health**

- a) If the recommended penalty has been stipulated to or has not been appealed to the APCHB within the 10-day timeframe, it shall be presented to the DBOH under consent.
- b) The DBOH shall also hear any APCHB decisions that have been appealed.
- c) The DBOH shall have final determination authority of all penalties.

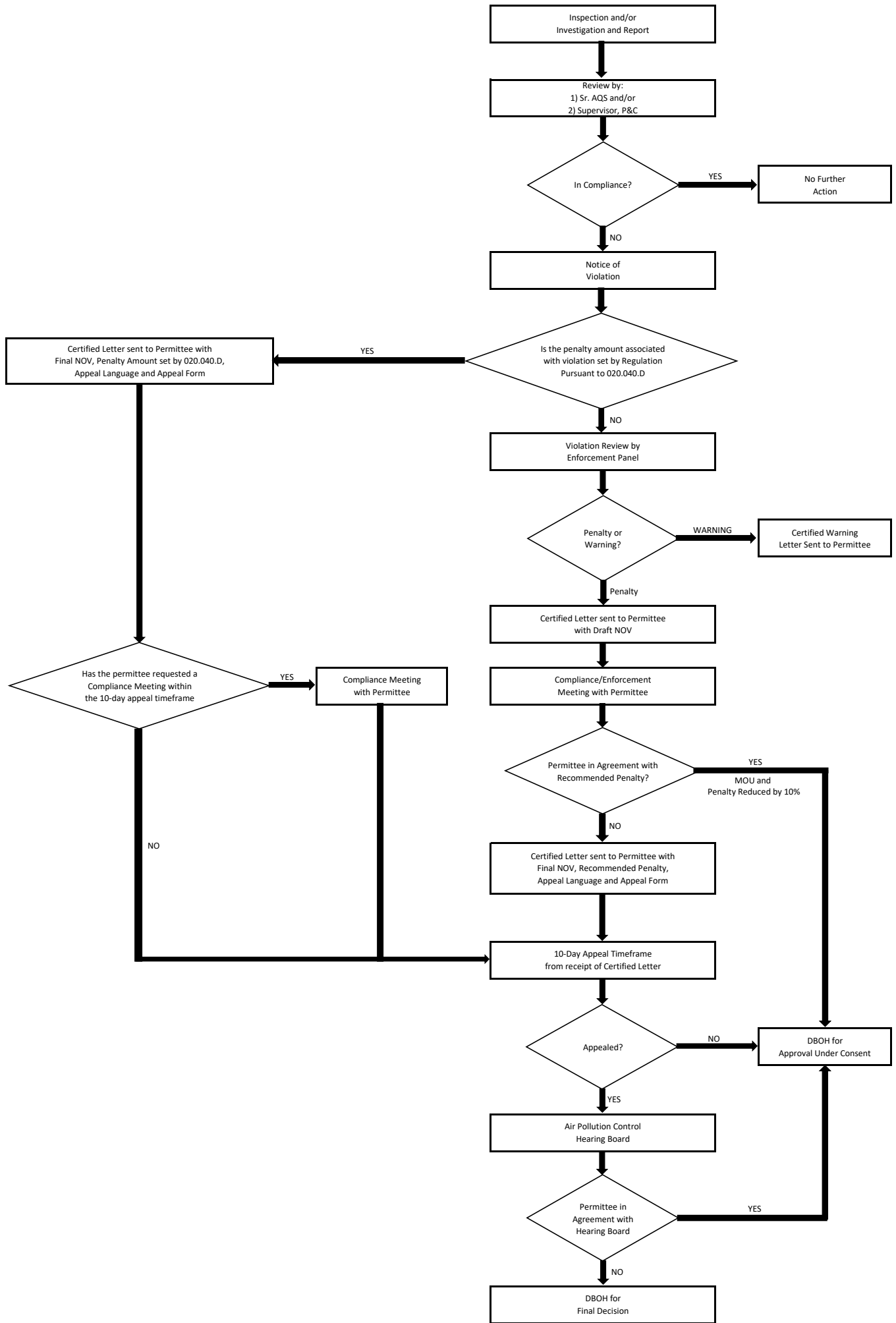
**10) Change History**

SOP Version No.	Effective Date	Significant Changes	Previous SOP Version No.
1	6/22/2020	Initial Version	N/A
2	2/8/2021	Revised to include process for violations in which the penalty associated with violation is set by regulation.	1

Attachments

- 1) Violation and Enforcement Process Flowchart
- 2) Appeal Form

# **ATTACHMENT 1**



Inspection and/or Investigation and Report

Review by:  
1) Sr. AQS and/or  
2) Supervisor, P&C

In Compliance?

YES

No Further Action

NO

Notice of Violation

Is the penalty amount associated with violation set by Regulation Pursuant to 020.040.D

YES

Certified Letter sent to Permittee with Final NOV, Penalty Amount set by 020.040.D, Appeal Language and Appeal Form

NO

Violation Review by Enforcement Panel

Penalty or Warning?

WARNING

Certified Warning Letter Sent to Permittee

Penalty

Certified Letter sent to Permittee with Draft NOV

Compliance/Enforcement Meeting with Permittee

Permittee in Agreement with Recommended Penalty?

YES

MOU and Penalty Reduced by 10%

NO

Certified Letter sent to Permittee with Final NOV, Recommended Penalty, Appeal Language and Appeal Form

10-Day Appeal Timeframe from receipt of Certified Letter

Appealed?

NO

DBOH for Approval Under Consent

YES

Air Pollution Control Hearing Board

Permittee in Agreement with Hearing Board

YES

DBOH for Approval Under Consent

NO

DBOH for Final Decision

Has the permittee requested a Compliance Meeting within the 10-day appeal timeframe

YES

Compliance Meeting with Permittee

NO

10-Day Appeal Timeframe from receipt of Certified Letter



# **ATTACHMENT 2**

**APPEAL PETITION TO THE AIR POLLUTION CONTROL HEARING BOARD**

Return to: Washoe County Health District  
Air Quality Management Division  
1001 East Ninth Street B171  
Reno, Nevada 89512  
(775) 784-7200

[www.OurCleanAir.com](http://www.OurCleanAir.com)

PETITIONER: \_\_\_\_\_

PHONE: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PHYSICAL ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

EQUIPMENT OR PROCESS REGISTERED WITH CONTROL OFFICER? YES  NO

APPEAL OF ORDER

APPEAL OF VIOLATION

VIOLATION NUMBER: \_\_\_\_\_ DATE RECEIVED: \_\_\_\_\_

REGULATION INVOLVED: SECTION: \_\_\_\_\_

BASIS FOR APPEAL/VARIANCE: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

Revised 06-2020