

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT
MEMORANDUM
December 9, 2019

TO: FRAQMD BOARD OF DIRECTORS
FROM: Christopher D. Brown, AICP, APCO
SUBJECT: Report on the District's Mutual Settlement Program (MSP)

BACKGROUND:

Compliance staffs support the mission of the District to promote and improve the air quality through inspections of permitted and non-permitted sources, complaint response, and enforcement of local, state, and federal air quality regulations. Our goals are to provide companies and individuals with assistance in complying with air quality rules and regulations and when they cannot comply, to apply an appropriate level of enforcement action proportionate to the non-compliance.

The enforcement of air quality regulations must concentrate first on obtaining compliance and second providing an effective deterrence for non-compliance. We are committed to fair, reasonable, and equitable treatment of all regulated sources. The compliance assistance activities include a full range of educational and technical assistance such as courtesy facility reviews, quick response from inspectors to inquiries, assistance in completing applications, and the distribution of self-inspection guidelines. We work with individual companies, industry groups, trade associations, small business assistance programs, and green business programs to promote self-compliance with air regulations.

The District has four inspection staff that inspect air pollution sources, verify compliance, investigate breakdowns, document violations, and respond to citizen complaints about air pollution and accidental releases of air contaminants. We are responsible for the 621 permitted sources, 636 agricultural engine registrations, and 1500 burn permits issued within the District. Routine annual and unannounced inspections help ensure emission reductions written into regulations are achieved in practice.

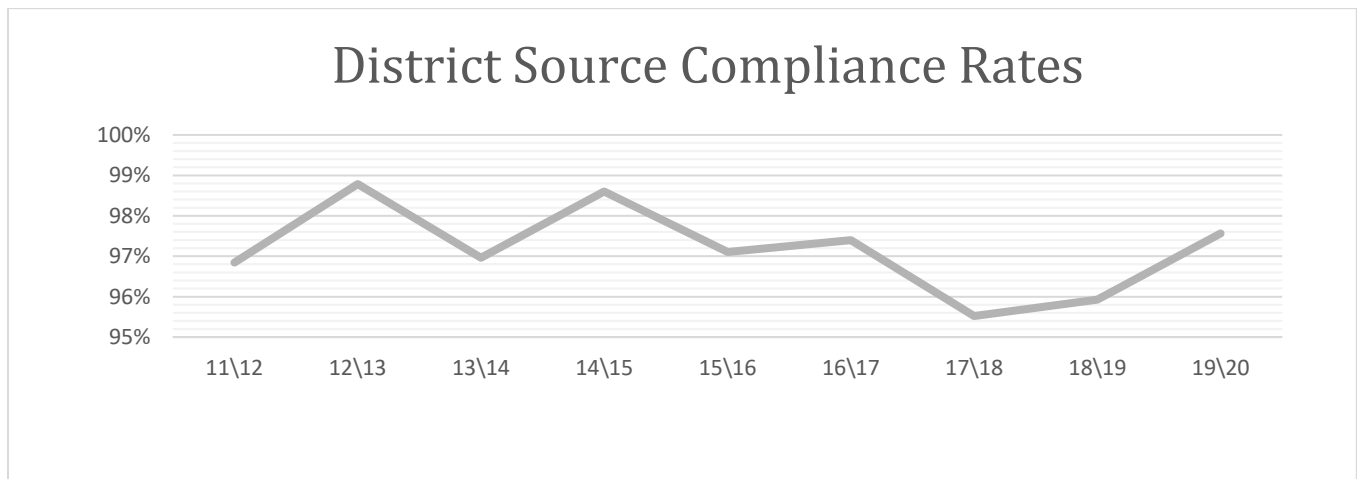
Upon finding noncompliance with the rules and regulations, the District can cite these alleged violations in a Notice to Comply (NTC) or a Notice of Violation (NOV). An NTC is issued under District Rule 9.9 and is used to cite a minor violation providing it does not result in, or have the effect of covering or concealing an emission of air contaminants; does not endanger the

health, safety, or welfare of any person; does not endanger the environment; does not cause or contribute to the violation of any state or federal ambient air quality standard; and does not hinder the ability of the APCO to determine compliance with any other applicable local, state, or federal rule, regulation, information request, or other requirement. An NTC cannot be issued for a willful or intentional violation, if the violator benefits economically from the noncompliance, if the violation is chronic; or the violator is recalcitrant. In those circumstance and if the violation involves an emission of air contaminates, the District issues an NOV. An NOV is issued under Health and Safety Code Sections 42400 through 42402 and District Rule 8.0 for any violations of any rule or order of the District and any enforceable section of the state or federal regulations.

SUMMARY OF FISCAL YEAR 2018-2019

The District evaluates permitted sources for compliance and determines the appropriate enforcement action for each violation documented. In general, minor violations receive an on-site correction or Notice to Comply in accordance with set guidelines. Emission violations receive a Notice of Violation. Compliance rates for District permits are based on the percentage of the ratio of total facility inspections and Notices of Violations issued. The following Table 1 summarizes the compliance rates since fiscal year 2011-2012. Compliance rates continue to be within established guidelines of above 95%.

Table 1



Permitted Stationary Sources

In 2018-2019, FRAQMD completed 663 permitted source inspections. There were 425 annual inspections, 87.6% were unannounced (guidance recommendation is 75%), 56 ATC-PTO inspections, 4 complaint inspections, and 182 testing or re-inspections. Twenty-seven Notices of Violation (NOV) were issued to permitted sources. The District issued four Notices to Comply (NTC).

Complaints

FRAQMD received 141 complaints and investigated 133 complaints. Reasons for not investigating a complaint include no air quality issues in the complaint, unidentifiable source of air quality problems, lack of identifying information, or the incident occurred in the past. Four complaints were regarding permitted facilities. One hundred five complaints were regarding smoke and/or illegal burning, ten from dust, two from odors, and twenty-four from other emission, combination complaints, and/or non-emission sources. We issued 50 NOV's due to complaint investigations.

Enforcement Actions & Settlements

FRAQMD issued 117 NOV's during the fiscal year 2018-1019. We dismissed or withdrew 14 NOV's as a result of indicators like additional evidence showing no violation occurred, lack of strong evidence, unable to locate violator, and statute of limitations/stale cases. We settled and closed 91 NOV's for a total of \$73,953.00. Thirteen NOV's are pending settlement closure. Table 2 shows a summary of enforcement actions for FY 2018-2019.

Table 2

NOV Type	Number Issued	Total Penalties	Total Mitigated	Total # Suspended Penalties	Pending
Permitted Sources	62	\$27,551	\$13,830	14	10
Burn	46	\$44,802	\$12,000	30	9
Agricultural Registration	1	\$1,600	\$0	0	0
Dust	1	\$2,289	\$0	1	0
Odor	0	\$0	\$0	0	0
Withdrawn	14	--	--	--	--

FRAQMD issued 61 NTC's during the fiscal year 2018-1019. Twenty-two were issued for the agricultural engine registration program. The rest were issued to permitted sources. NTC's do not typically have an associated penalty although there is no restriction on the District issuing a penalty for an NTC.

FRAQMD pursued two cases in 2018-2019 to court; one of which is still pending; and referred seven cases to legal for consultation. There were no small claims actions or administrative penalty actions.

Mutual Settlement Program (MSP)

The MSP was adopted by the Board by resolution in 1993 and amended in 1999 and 2011. The Board modified the MSP to align with ARB and district staff recommendations. On July 26, 2017, the California legislature chaptered Assembly Bill 617 to amend penalty sections of the Health and Safety Code, relating to non-vehicular air pollution, among other things. The provisions were effective January 1, 2018 and increased maximum penalties for certain air quality violations and allowed the Air Resources Board (ARB) to adjust maximum penalties based on a Consumer Price Index (CPI) every year. To date, the ARB has not increased the penalty amounts and is just beginning workshops to develop procedures for these adjustments.

The MSP amendments adopted by the Board contains provisions for the penalty suspension program. This is an effective program that allows the district to suspend a portion of a penalty for a probationary period of three years. If there are no further violations, the penalty amount is waived.

During the fiscal year 2018-2019, forty-five NOV's were settled under the penalty suspension program resulting in \$60,268.00 in penalty monies waived and not paid by first time violators. It is only rarely that companies or individuals repeat the alleged violations.