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If you require assistance in obtaining access to the presentations, call the Public Affairs Office at (916) 341-6300 or Dennis Corcoran at (916) 341-6395.

County of Sacramento California

Environmental Management Department

The Penalty Order as an Enforcement Tool

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Why are Penalty Orders needed?

- Achieve Compliance
- Recover Costs for Enforcement
- Eliminate Financial Gains From Non-Compliance

Sacramento County LEA Enforcement Actions

- **Florin-Perkins Inert Landfill:** Site remediation (2006-2008)
- **14th Avenue Landfill:** Twelve owners. Orders issued for landfill gas violations (2005-2008)
- **Waring's Dump CIA Site:** Orders to remediate/close burn dump. Two owners (2005-2009)
- **Super Pallet Recycling:** Chip and Grind (2005-06)
- **Elvas Avenue Landfill:** Three property owners. Gas Control (2004-07)
- **North Area Transfer Station:** Site Maintenance (2007)
- **Kiefer Landfill:** Landfill Gas (2007-2008)
- **Rio Cosumnes Correctional Facility:** Grading (2004-09)
- **Dixon Pit Landfill:** Site closure; gas violations (2004-09)

Sacramento County LEA Enforcement Strategy

- **Compliance** first priority
- **Don't bluff!** Never issue a Notice and Order if reluctant to issue a Penalty Order or go to appeal
- **Timely resolution:** Settle when you can; resolve other site issues – "Wish list for the facility"
- **Every enforcement action should be a "slam dunk"** – Sacramento County has never lost an appeal

Establishing Penalties

- Penalty Matrix used as “Internal Guide”
- Review previous cases to make sure you’re consistent. Problem if you don’t do enforcement - the more you do the better you become
- When setting penalty amount, understand that this is the maximum
- Penalty amount should leave room for negotiation to a level that is acceptable to you
- Penalty amount should provide a powerful incentive for the person to settle

Lopez Ag Enforcement Case

- **Feb. 28, 2008 N&O for violating terms and conditions of permit**: Accepting residential curbside green waste; exceeding 7 day storage.
- **July 1, 2008 PO** for $141,000 for continuing to accept residential curbside collection green waste (*$5,000.00 x 24 days*) and not keeping records per N&O (*21 days x $1,000.00*).
- **Aug. 8, 2008 Stipulation and Order**: $6,000.00 in back fees and $50,000.00 in penalties collected.

SOLID WASTE PROGRAM PENALTY ASSESSMENT WORKSHEET

Facility: Lopez Ag Violation: PRC 45023; Permit Terms & Conditions # Days: 24

Maximum Penalty Allowed: 24 X $10,000.00 = $240,000.00

($10,000.00 per day maximum penalty under PRC 45023; $5,000.00 per day maximum if violation under PRC 45011)

Penalty Mitigation Calculations Category	Maximum 65 to 100 %	Moderate 35 to 65%	Minimum 0 to 35%	result
PRC 45016 (b) – Corrected in a timely fashion or reasonable progress made (reduction - factor if applicable)	X			
PRC 45016 (c) – Chronic pattern of noncompliance or serious risk to public health, safety or the environment (increase + factor if applicable)		X		
PRC 45016 (d) – Violations intentional (increase + factor if applicable)	X			
PRC 45016 (e) – Violations not voluntarily reported to authorities prior to investigation (reduction - factor if applicable)				
PRC 45016 (f) – Not Due to circumstances beyond the reasonable control of the violator or otherwise unavoidable (reduction - factor if applicable)	X			
PRC 45016 (g) – Programs established to avoid violations prior to the violation (only a reduction - factor if programs are in place – otherwise not applicable)	X			
Application of 2 % rule to long term violations				

Other factors: First offense (reduce maximum by 50 %) or repeat offense (maximum); Size/volume of facility and/or ability to pay: _____

Result/ Final Penalty Calculation: $5,000.00 X 24 = $120,000.00

Lopez Ag Enforcement Case, (cont.)

- **July 7, 2008 N&O** issued for violating Terms and Conditions of Permit by exceeding 18 month limit for "soil blending" operation.
- **Sept. 24, 2008 PO** for $109,500.00 for failure to comply with pile removal deadlines (73 days x $1,500.00/day).
- **Nov. 14, 2008 Stipulation and Order**: $15,000.00 in back fees and $40,000.00 in penalties paid.

SOLID WASTE PROGRAM PENALTY ASSESSMENT WORKSHEET

Facility: Lopez Ag Violation: PRC 45023; Permit Terms & Conditions # Days: 73

Maximum Penalty Allowed: 73 X $10,000.00 = $730,000.00

($10,000.00 per day maximum penalty under PRC 45023; $5,000.00 per day maximum if violation under PRC 45011)

Penalty Mitigation Calculations Category	Maximum 65 to 100 %	Moderate 35 to 65%	Minimum 0 to 35%	result
PRC 45016 (b) – Corrected in a timely fashion or reasonable progress made (reduction - factor if applicable)		X		
PRC 45016 (c) – Chronic pattern of noncompliance or serious risk to public health, safety or the environment (increase + factor if applicable)			X	
PRC 45016 (d) – Violations intentional (increase + factor if applicable)	X			
PRC 45016 (e) – Violations not voluntarily reported to authorities prior to investigation (reduction - factor if applicable)				
PRC 45016 (f) – Not due to circumstances beyond the reasonable control of the violator or otherwise unavoidable (reduction - factor if applicable)	X			
PRC 45016 (g) – Programs established to avoid violations prior to the violation (only a reduction - factor if programs are in place – otherwise not applicable)	X			
Application of 2 % rule to long term violations				

Other factors: First offense (reduce maximum by 50 %) or repeat offense (maximum); Size/volume of facility and/or ability to pay: _____

Result/ Final Penalty Calculation: $1,500.00 X 73 = $109,500.00

Lopez Ag – Final Outcome

- **Compliance Achieved:**
  - Site records vastly improved
  - Load checking improved
  - Site operations improved
  - Delinquent facility fees paid

Summary: Why are Penalty Orders Needed?

1. **Essential to achieve and maintain credibility** with the regulated community and top management. (County Exec/Board of Sups)

2. **A big plus for staff morale and motivation**. Staff involvement in cases -- Improved inspections.

3. **Along with education and inspections, enforcement is essential to achieving compliance.** Penalty Orders are an essential component of the enforcement process.

Questions & Answers