

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY

CODES

- ARTICLE 8 - GENERAL OPERATIONS**
PART 8.7 - STORM WATER CONTROL
SECTION 8.76 - ENFORCEMENT
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(a) Violations and Enforcement. Violations of this Storm Water Code are deemed a threat and direct harm to public health, safety and welfare, and the environment. The President/CEO is authorized to enforce this Storm Water Code as follows:

(1) Cease and Desist Orders. Issue written and/or verbal orders to stop Illegal Discharges and/or remove Illicit Connections;

(2) Notice and Order to Clean, Test or Abate. Issue written and/or verbal orders to perform activities to clean and/or abate the impacts to Authority property resulting from a violation, or to test and monitor for pollutants that may be Discharged as a result of a violation.

(b) Administrative Authority. The President/CEO or designee (“Enforcement Officer”) may enforce the Storm Water Code in an administrative action. A civil penalty may be imposed if the administrative action results in a finding of a violation.

(1) Notice of Violation. When the Enforcement Officer observes or has notice of a violation, the Enforcement Officer may issue a Notice of Violation to the violator. The Notice shall contain:

- (A) the date, time, location, nature of the violation;
- (B) the name of the individual issuing the Notice of Violation, the names of victims and/or witnesses, and the Authority Code(s) section(s) violated;
- (C) the nature of any action required to correct the violation and/or potential administrative penalty and the timeframe for completing the corrective action and/or satisfying any penalty; and
- (D) the manner in which the Notice of Violation may be appealed.

(2) Responsibility and Liability. The person in violation of the Storm Water Code shall be responsible for taking corrective action and satisfying any penalty.

(c) Judicial Authority, Arrest and Issuance of Citations. If use of any administrative authority under the Storm Water Code is deemed not effective by the President/CEO, the assistance of an authorized peace officer may be enlisted to arrest violators as provided in California Penal Code, Chapter 5, 5c, and 5d, Title 3, Part 2 (or as amended) and/or a citation and notice to appear may be issued as prescribed in Chapter 5c, Title 3, Part 2 of the California Penal Code, including immunities prescribed in Section 836.5 of the California Penal Code, which are applicable to the President/CEO acting in course and scope to this Storm Water Code.

(d) Contribution, Concealment and Continuing Violations. The following constitute a violation of this Storm Water Code:

- (1) Causing, permitting, aiding, or abetting non-compliance with any part of this Storm Water Code,
- (2) Concealing a violation of this Storm Water Code, and
- (3) A separate violation takes place for each day a condition of non-compliance with this Storm Water Code exists.

(e) Penalties.

(1) Administrative Penalties. At the discretion of the President/CEO, non-compliance with this Storm Water Code may result in suspension, revocation or termination of any license, permit, agreement or privilege issued or allowed by the Authority, and/or the assessment of the following civil penalties:

(A) Monetary Penalties. Unless specifically identified in the Storm Water Code, monetary penalties of up to \$10,000 may be imposed per violation, per day,

(B) Any subsequent violation(s) of the same provision(s) within ninety (90) days of the first violation may be assessed increased penalties of up to \$20,000 per violation per day,

(C) Additional penalties may include the cost incurred by the Authority to investigate and/or clean up any pollutants discharged as a result of the violation,

(D) Failure to pay an administrative penalty within thirty (30) days may result in temporary or permanent denial of access to restricted areas of Authority property, loss of permission to be on Authority property, and/or the termination or suspension of any and all rights, privileges, permits, or other agreements at Authority property or with the Authority.

(2) Infractions. The President/CEO may charge any violation of this Storm Water Code as an infraction at its discretion. Violation of any provision of this Storm Water Code that is deemed to be an infraction shall be punishable as prescribed by State statutes and other applicable laws, as follows: every violation that is charged as an infraction is punishable by fine not to exceed \$100 for the first violation and \$250 for the second violation of the same provision within one year of the first violation. Any subsequent violation(s) of the same provision, occurring any time after the second violation of the same provision, may be punishable as a misdemeanor.

(3) Civil Actions. In addition to other penalties and remedies permitted in this Storm Water Code, the President/CEO may elect to enforce this Storm Water Code as part of any civil action.

(4) Remedies Not Exclusive. Penalties and remedies under this Storm Water Code are in addition to and do not supersede or limit any and all other remedies available by law. The remedies provided herein are cumulative and not exclusive.

(f) Appeals. Administrative penalties may be appealed in writing to the President/CEO within ten (10) business days of the date on the notice of violation. Any request for appeal shall state the basis of the appeal and include all supporting facts. If an appeal is not filed within the ten (10) days, the administrative penalty shall become effective and any appeal filed thereafter will be denied for failure to exhaust administrative remedies.

(1) The President/CEO may, without a hearing, immediately reverse a timely appealed administrative penalty based on the written appeal, the notice of violation, and/or any other supporting documents.

(2) When an appeal is timely filed and is not immediately reversed by the President/CEO, it shall be assigned for review to a Vice President or his/her designee (“**Hearing Officer**”). The matter shall be heard no later than thirty (30) calendar days from the date of receipt of the request for appeal, or at a date mutually agreed upon by all parties. The hearing shall be conducted as an informal administrative proceeding with the rules or evidence relaxed from strict judicial practice; e.g., hearsay evidence may be admissible. All parties may, but are not required to, be represented by legal counsel, witnesses shall be sworn and be subject to cross-examination, and cumulative or repetitive evidence may be excluded. Any party may record the hearing or hire a court reporter, at their own expense.

(3) The Hearing Officer shall issue a written Administrative Enforcement Order that:

- (A) upholds the administrative penalty specified in the notice of violation;
- (B) reverses or modifies the decision which is the subject of the appeal; or
- (C) makes a different decision.

(4) The Administrative Enforcement Order shall contain findings of fact and state reasons for the decision. A copy of the decision shall be furnished to the parties within ten (10) business days of the conclusion of the hearing.

(5) The Administrative Enforcement Order may be appealed in writing to the President/CEO within ten (10) business days of the date on the Hearing Officer's written decision. The decision of the President/CEO shall be based solely on the record of the underlying decision (i.e. the Hearing Officer's findings of fact and stated reason for the decision, and the documents and evidence considered by the Hearing Officer.). The President/CEO may uphold the Administrative Order, reverse or modify the decision which is subject to appeal, or make a different decision. If an appeal of the Administrative Enforcement Order is filed within ten (10) days after it is issued by the Hearing Officer, the Administrative Enforcement Order shall become final and any appeal filed thereafter will be denied for failure to exhaust administrative remedies.

(6) The decision of the President/CEO shall be the final administrative order. There shall be no rehearing or reconsideration. The final decision shall be subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6.

(7) When a timely appeal has been filed, the administrative penalty shall be stayed pending the decision(s) of the Hearing Officer and/or the President/CEO. However, when, in the opinion of the President/CEO, there is a clear and immediate threat to public safety, the Authority may enforce a suspension or revocation prior to a hearing being held. The penalized party may then request a hearing from the President/CEO within ten (10) business days of receipt of notification that the suspension or revocation is not stayed. If no expedited hearing is requested, the appeal shall proceed in the ordinary course and the suspension or revocation shall remain in effect ending the outcome of the appeal process.

(g) Capitalized terms not defined in this Section are defined in Section 8.71 of this Code.