

South Coast AQMD v. LA Sanitation (Hyperion), Case No. 1212-39

PETITIONER'S
EXHIBIT 7
NOV P74725



NOTICE OF VIOLATION

DATE OF VIOLATION		
Month:	Day:	Year:
2	3	2022

Facility Name: LA City, Sanitation Bureau Hyperion Treatment Plant		Facility ID#: 800214	Sector: WE
Location Address: 12000 Vista Del Mar	City: Playa Del Rey		Zip: 90293
Mailing Address: 12000 Vista Del Mar	City: Playa Del Rey		Zip: 90293

YOU ARE HEREBY NOTIFIED THAT YOU HAVE BEEN CITED FOR ONE OR MORE VIOLATIONS OF THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD) RULES, STATE LAW OR FEDERAL LAW. IF PROVEN, SUCH VIOLATION(S) MAY RESULT IN THE IMPOSITION OF CIVIL OR CRIMINAL PENALTIES.

EACH DAY A VIOLATION OCCURS MAY BE HANDLED AS A SEPARATE OFFENSE REGARDLESS OF WHETHER OR NOT ADDITIONAL NOTICES OF VIOLATION ARE ISSUED.

DESCRIPTION OF VIOLATIONS

#	Authority*	Code Section or Rule No.	SCAQMD Permit to Operate or CARB Registration No.	Condition No. (If Applicable)	Description of Violation
1	<input checked="" type="checkbox"/> SCAQMD <input type="checkbox"/> CH&SC <input type="checkbox"/> CCR <input type="checkbox"/> CFR	3002(c)(1)	R-D39256	1	Failure to operate equipment in compliance with all specifications submitted with application (Flare No. 6 stack height does not match description on permit)
2	<input checked="" type="checkbox"/> SCAQMD <input type="checkbox"/> CH&SC <input type="checkbox"/> CCR <input type="checkbox"/> CFR	3002(c)(1)	R-D39256	13	Failure to demonstrate compliance with CO emission limit for Flare No. 1 during source test on 7/27/2022
3	<input checked="" type="checkbox"/> SCAQMD <input type="checkbox"/> CH&SC <input type="checkbox"/> CCR <input type="checkbox"/> CFR	3002(c)(1)	R-D39256	14	Failure to conduct source test at least once every five years or portable analyzer test annually to determine compliance with CO emission limit for all 6 flares (due 7/2020)
4	<input checked="" type="checkbox"/> SCAQMD <input type="checkbox"/> CH&SC <input type="checkbox"/> CCR <input type="checkbox"/> CFR	3002(c)(1)	R-D39256	16	Facility exceeded NOx limit for Flare(s) No. 1 (9/2022), 3 (9/2021, 3/2022), 4 (9/2021, 3/2022), and 5 (3/2022) as demonstrated by source tests for each device

Served To: Barbara Romero	Phone: 310-648-5000	Served By: Kristina Gonzales	Date Notice Served: 4/18/2023
Title: Director and General Manager	Email: barbara.romero@lacity.org	Phone No: <input checked="" type="checkbox"/> 909-396-2982	Email: kgonzales@aqmd.gov

*Key to Authority Abbreviations:

SCAQMD – South Coast Air Quality Management District
CCR – California Code of Regulations

CH&SC – California Health and Safety Code
CFR – Code of Federal Regulations

Method of Service:

☐ In Person ☐ Certified Mail ☒ Electronic Mail

FILE COPY (Pink)

FACILITY COPY (Gold)

What is a Notice of Violation?

A Notice of Violation is issued by an SCAQMD Air Quality Inspector to inform a business that a failure to comply with one or more applicable federal, state, and/or local (SCAQMD) air pollution rules and regulations or legal requirements is being alleged.

What happens when I receive a Notice of Violation?

If you are operating in violation of one or more applicable federal, state, and/or local (SCAQMD) air pollution rules and regulations or legal requirements, each day or part of a day that you operate in violation is considered a separate violation even if only one Notice of Violation has been issued. Continuing to operate in violation may subject you to substantial civil or criminal penalties. **It is in your best interest to resolve any compliance problem immediately before you resume operation.**

What if I need to continue to operate the equipment named in the Notice of Violation?

If continued operation of equipment cited in the Notice of Violation is necessary, you may be able to obtain a variance from SCAQMD's Hearing Board. A **variance** is an administrative order that allows a company to continue operating without penalties while it takes appropriate steps to meet air pollution control requirements. Proof of specific legal circumstances must be provided before a variance can be granted. Timeliness in seeking such relief will be considered by the Hearing Board. Additional information concerning variances can be found in California Health & Safety Code §§ 42350-42359.5 and at <http://www.aqmd.gov/home/about/hearing-board>.

During a hearing for a variance, you may be represented either by yourself or by your attorney or consultant. You will have the opportunity to present evidence and testimony, and to cross-examine any SCAQMD witness.

If you fail to comply with any order of the Hearing Board, you may be subject to additional civil or criminal penalties set forth in California Health & Safety Code §§ 42400 *et seq.* and 42402 *et seq.*

How are Notices of Violation resolved?

The SCAQMD General Counsel's office reviews each alleged violation and, based on the facts, determines how best to resolve the allegation. Options available to the General Counsel's office include:

- **Minor Source Penalty Assessment Program**

Certain Notices of Violation may be eligible for resolution through SCAQMD's Minor Source Penalty Assessment Program if they are issued to a minor source or for violations other than emitting air toxics or creating a

public nuisance involving injury or property damage.

If your case is handled by this program, you will receive a letter or phone call from an investigator in the SCAQMD General Counsel's office offering to settle your violation. Settlement terms usually call for a penalty payment and written proof of current compliance. The investigator's name and telephone number are included in the initial settlement letter in the event you would like to discuss the case.

Be prepared to describe any facts about the violation that you believe SCAQMD should know in considering your case. Sharing your knowledge of the facts, possible causes for the violation and plans to avoid future violations will help the investigator arrive at an appropriate disposition. **Be sure to respond by the date indicated in the letter to avoid further legal action.**

If the Minor Source Penalty Assessment Program fails to result in a settlement, your Notice of Violation may be referred to an SCAQMD attorney and handled under the procedures for Civil Prosecution or resolved through a Small Claims Court.

- **Civil Prosecution**

If your case is handled as a civil matter, it will be reviewed by an attorney from the SCAQMD General Counsel's office, who will typically make first contact with you through a letter that asks for information about your case. If the allegations in the Notice of Violation cannot be informally resolved, the SCAQMD is authorized to file a civil lawsuit in court to recover civil penalties. In cases involving serious harm or danger, however, SCAQMD may immediately commence a legal action for civil penalties and a court-ordered injunction. A **mandatory injunction** is a court order compelling a person and/or company to take specific action. A **prohibitory injunction** is a court order compelling a person and/or company to refrain from taking a specific action. Injunctions, which may even lead to shutting down a business, may be sought by SCAQMD to prevent continuing or serious violations or damages from occurring.

- **Criminal Prosecution**

If SCAQMD determines that criminal prosecution is appropriate, the case will be referred to the appropriate state or federal law enforcement agency. That agency will determine if criminal prosecution is warranted.

Civil and Criminal Penalties

Penalties are determined by California Health & Safety Code §§ 42400 *et seq.* and 42402 *et seq.*

Available Resources

You can obtain SCAQMD Rules, permit application forms, and detailed information about SCAQMD and the Hearing Board using the resources provided below:

Contact Numbers	Useful Links		
General Information:			
SCAQMD Headquarters General Number	(909) 396-2218	About SCAQMD Enforcement Authority	http://www.aqmd.gov/home/about http://www.aqmd.gov/home/about/authority/enforcement
General Counsel’s Office	(909) 396-3400	Compliance Notices SCAQMD Rules	http://www.aqmd.gov/home/regulations/compliance/compliance-notices http://www.aqmd.gov/home/regulations/rules
Obtaining Permit or Billing Information:			
Small Business Assistance	(800) 388-2121	Getting Permits	http://www.aqmd.gov/home/permits
Permit Information	(909) 396-2468	Permit Forms	http://www.aqmd.gov/home/permits/permit-application-forms
Billing Services	(866) 888-8838 (909) 396-2900	Permitting Fees	http://www.aqmd.gov/home/permits/fees
Variances:			
Clerk of the Hearing Board	(909) 396-2500	The Hearing Board	http://www.aqmd.gov/home/about/hearing-board

PETITIONER'S
EXHIBIT 8

Correspondence Re Source Tests

From: [Devorlyn Celestine](#)
To: sheri.symons@lacity.org
Cc: [Terrence Mann](#); [Victor Yip](#)
Subject: Hyperion WPR Facility ID 800214 - AO-1212-39 Request for Assistance
Date: Tuesday, April 18, 2023 9:02:07 AM
Attachments: [Final DRAFT P74725- HTP - Flares \(002\).pdf](#)

Dear Ms. Symons,

South Coast AQMD has reviewed the results for source tests conducted in March, August, and September 2022 on Hyperion's flare equipment (Permit to Operate R-D39256). Based on enforcement staff's evaluation, we have determined that Flare Nos. 1, 4, and 5 failed to demonstrate compliance with their NOx emissions limits and must be retested. With respect to Flare No. 1, after applying mathematical rounding to the results (i.e., rounding to hundredths), the NOx emission factor is 0.07 lb/MMBTU. This is over 10% of the permitted limit and therefore constitutes a violation of Permit Condition No. 16. With respect to Flare Nos. 4 and 5, based on our evaluation of your weekly progress reports (SOA Case No. 1212-39), the source test for Flare No. 4 was not completed due to insufficient digester gas to operate the equipment; and both flares also operated below the permitted minimum operating temperature of 1450 degrees F (Permit Condition No. 7) during their respective source tests. All three units therefore are required to be retested to demonstrate compliance with their NOx emission factor limits. As for Flare Nos. 2, 3, and 6, the source test results indicate compliance with the permitted limit of 0.06 lb/MMBTU at the time of the tests. The table below summarizes these results and our findings:

Flare	Last Test Date	NOx Emission Factor (lb/MMBTU) from Source Test	Permitted NOx Emission Factor Limit (lb/MMBTU)	NOx Emission Factor (lb/MMBTU) expressed into the hundredths	Compliant?	Reason for Non-Compliance	Retests required?
1	9/2/2022	0.0655	0.06	0.07	No	Result exceeded limit.	Yes
2	8/28/2022	0.0622	0.06	0.06	Yes	N/A	No
3	8/28/2022	0.0604	0.06	0.06	Yes	N/A	No
4	8/27/2022	Invalid	0.06	Invalid	No	Insufficient digester gas; did not maintain minimum operating temperatures	Yes
5	8/28/2022	Invalid	0.06	Invalid	No	Did not maintain minimum operating temperatures	Yes
6	3/18/2022	0.035	0.06	0.04	Yes	N/A	No

Finally, based on enforcement staff's evaluation of the flare equipment at issue, it has been determined that the stack height for Flare No. 6 does not match the description on the permit and that the facility failed to demonstrate compliance with its NOx and CO limits through required source testing. A Notice of Violation is being issued to LASAN, and a courtesy copy is enclosed here for your reference.

Please feel free to contact me if you have any questions.

Thank you.

Devorlyn Celestine
Manager(WOC)
Compliance & Enforcement
Toxics Waste Management
O 909 396-2368
M 951 830-8866