

FEATHER RIVER AIR QUALITY MANAGEMENT DISTRICT  
MEMORANDUM

December 4, 2023

TO: FRAQMD BOARD OF DIRECTORS  
FROM: Christopher D. Brown, AICP, APCO  
SUBJECT: FFY 22-23 Compliance & Enforcement Program Update

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RECOMMENDATION:

This is an “Informational Only” Item

PROGRAM HIGHLIGHTS:

817 inspections (91% of goal)

Compliance Rate (inspections that found no violations) 97%

146 Complaints from the public

68 Notices of Violation issued

BACKGROUND:

The compliance division supports the mission of the District to promote and improve the air quality through inspections of permitted and non-permitted sources, complaint response, administration of the open burn program, and enforcement of local, state, and federal air quality regulations. Our goals are to provide sources 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 three field-based inspection staff under the direction of the Compliance Supervisor that conduct the following:

1. manage the open burn permit program including inspections of open burn locations and allocating burn acres with reporting to state agencies,
2. inspect permitted and potential air pollution sources to verify compliance, investigate reported breakdowns, and review and report the Title V Full Compliance Evaluations,
3. inspecting and verifying compliance with the agricultural engine registration program,
4. enforce the State's Portable Equipment Registration Program (PERP),
5. enforce the State's specified Air Toxic Control Measures (ATCM's) including truck idling, naturally occurring asbestos (NOA), dry cleaning, chrome towers, and diesel engines,
6. enforce Memorandum of Understandings (MOU) with CARB regarding landfill gas and oil & gas,
7. oversee the implementation of the Prescribed Fire Information System (PFIRS) CAPCOA grant program, and
8. respond to citizen complaints about air pollution.

Compliance staff are responsible for seven Title V sources, 678 permitted sources, 959 open burn permits, and 299 agricultural engine registrations issued within the District. Each inspector specializes in specific industry groups when fully staffed such as power plants, auto body shops, oil & gas production, and gas stations. Routine inspections help ensure emission reductions written into regulations are achieved in practice.

Currently, all District permits are inspected at least annually. Gasoline Dispensing Facilities (GDF) are inspected twice per year, once for the source testing and once for compliance. Title V sources are inspected with a Full Compliance Evaluation (FCE) annually and are reviewed quarterly with Partial Compliance Evaluations (PCE). Complaints are investigated promptly.

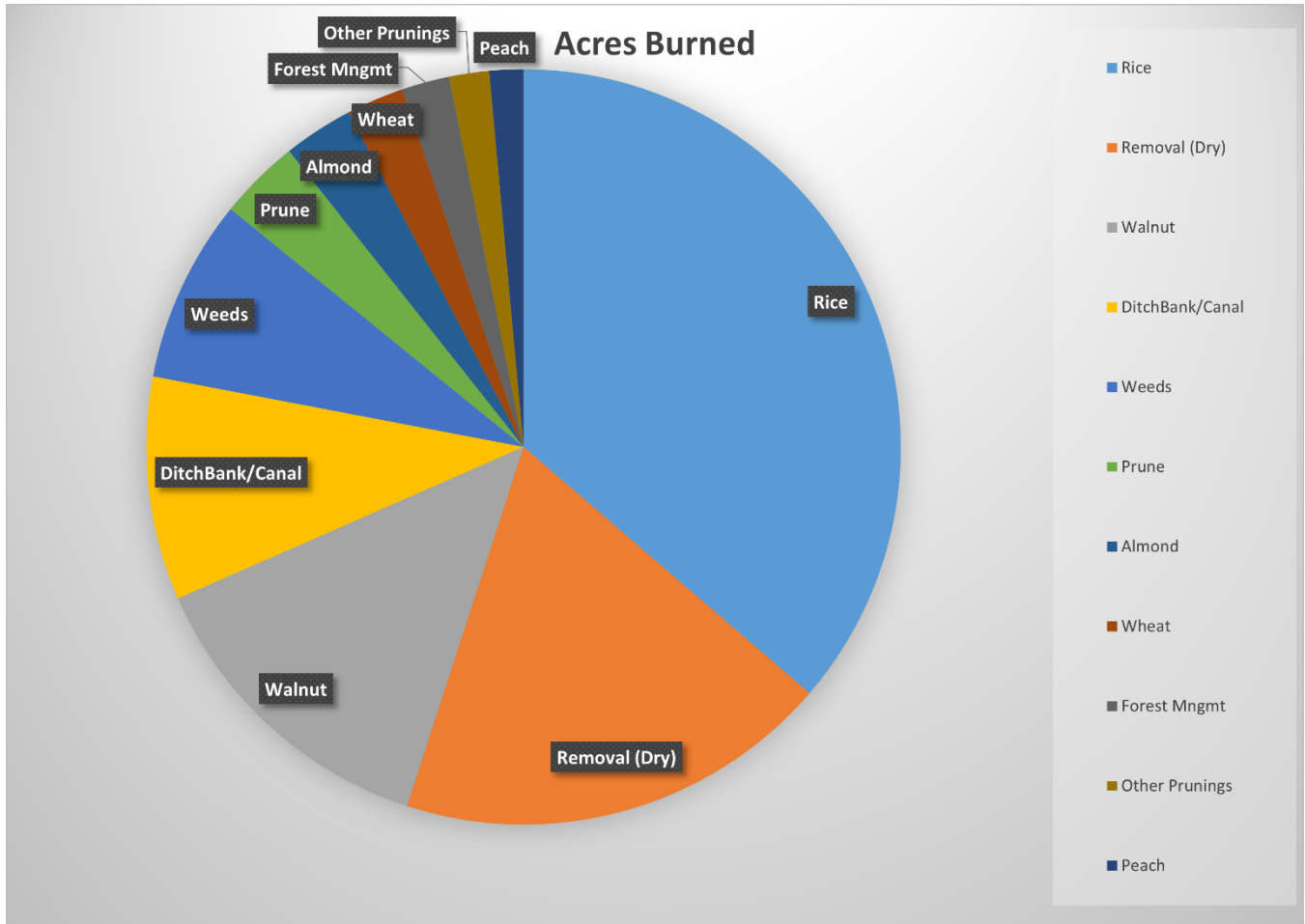
## DISCUSSION

### **Open Burn Program**

The open burn program is reported and tracked by calendar year. Below is data from the 2022 year. The District does not currently permit residents for their disposal burning so long as there are no prohibited materials in their fires, and they follow the burn day and burn hours requirements for their area. Currently, recreational fires continue to be exempt from the open burning regulations.

The District has 950 active agricultural and nonagricultural burn permits in the District. Of these, 121 are rice grower permits. The current phase down for rice fields is at its maximum of 25% of the planted acres that can be burned. In 2022, the District logged 12,539.85 acres of vegetation burned. The highest percentage of crop types burned include rice, dry removals, ditch banks, and walnut crops. Table 1 shows a distribution of the crop types by percentage of total acres burned in 2022 for the top (greater than 100 acres) types.

Table 1 – Percentage of Crop Type Burned in 2022



This year, CalFire introduced an online permitting program for residents and agricultural permitted burners to receive their permits online. This has created some challenges for us to be consistent with their agency’s programs and there have been some instances of incorrect communication being sent out. We are working with CalFire to reduce these inconsistencies.

The intensive fall burn season is from about September 15<sup>th</sup> through the end of November or mid-December depending on the weather of each year. This brief discussion of the fall burn for this season, 2023, is provided to give an update on our progress for this year. This year, Sutter County has 9,311 rice acres permitted to burn and Yuba County has 2,218 rice acres permitted to burn.

Our allocated burns have generally lifted and dispersed as expected based on the meteorological data provided. There have been recent incidences when the burn plumes did not lift and disperse as expected and our communities suffered from smoke impacts. The

District reached out to ARB and the contracted company in charge of the meteorological data. Their review indicates that they do not have an explanation for the lack of smoke lift and dispersion on those days, but they noted the problem for the whole valley, not just our District. They also determined that the District did everything right in the allocation of the acres burned on those days. The District feels there is more data needed to fully evaluate these circumstances that do not currently exist, including more monitoring stations in south Sutter County and more information on specific inversion soundings for the valley.

**Inspections**

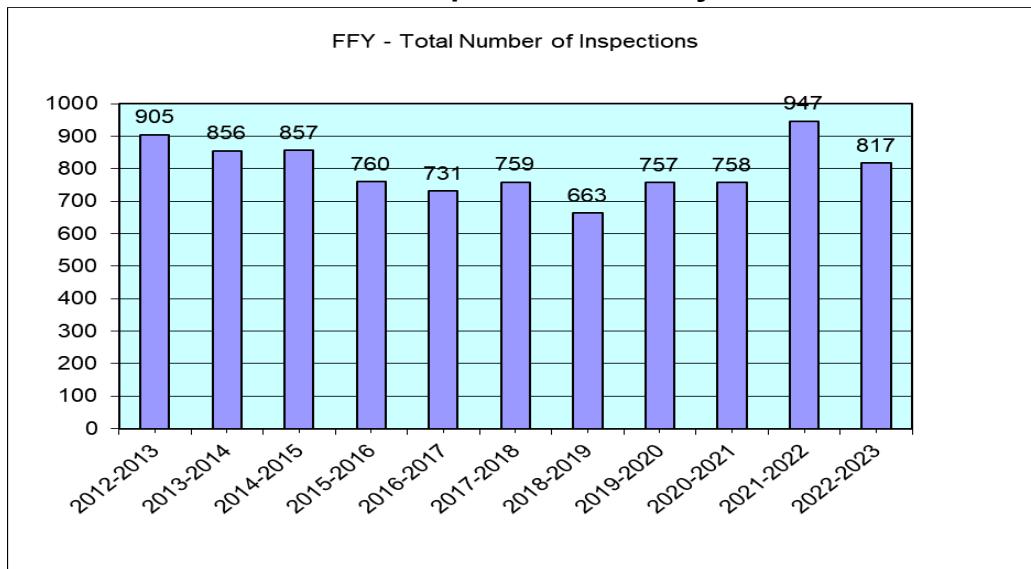
Table 2 summarizes District source inspection activities for October 2022 through September 2023. Compliance lost one staff due to resignation for a different job and one staff out on maternity leave during the April-June 2023 time period. This staffing shortage resulted in less inspections and not meeting our goal of 100% inspected for some source categories for the year. One new staff member was onboarded in July of 2023, and we were able to complete 91% of the annual inspections.

**Table 2 – FFY 22-23 Inspection Total Summary**

<b>Inspection Type</b>	<b>OCT-DEC</b>	<b>JAN- MAR</b>	<b>APR-JUN</b>	<b>JUL-SEP</b>	<b>Year Totals</b>
Annual	110	99	58	284	<b>551</b>
ATC to PTO	17	19	12	13	<b>61</b>
Complaint	5	0	0	0	<b>5</b>
Re-Inspection/Testing	41	76	29	54	<b>200</b>
<b>Total Inspections</b>	<b>173</b>	<b>194</b>	<b>99</b>	<b>351</b>	<b>817</b>

Table 3 shows inspection totals for the past ten federal fiscal years.

**Table 3 – Inspection Totals by Year**



The District evaluates permitted sources for compliance and determines the appropriate enforcement action for each alleged violation documented. Insignificant or minor violations may receive an On-Site Correction (OSC) or Notice to Comply (NTC) in accordance with adopted rules and guidelines. Emission violations may receive a Notice of Violation (NOV). In FFY 22-23, the District issued 28 NOVs, 4 NTCs, and 59 OSCs to permitted sources for documented alleged violations. The permitted source compliance rate for the 2022-2023 federal fiscal year is 97%.

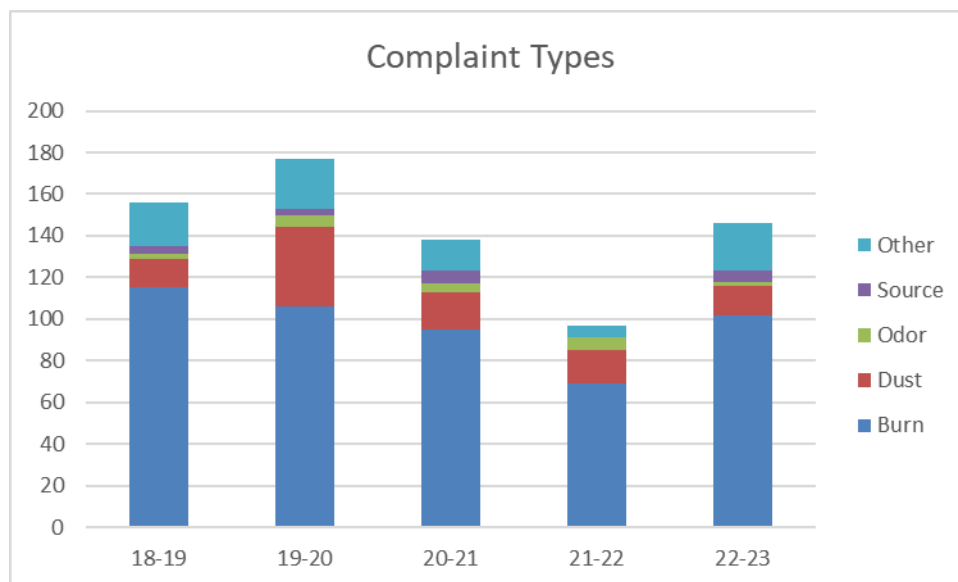
**Complaints**

In FFY 22-23, the District received and investigated 146 complaints, 20 of which were related to the same occurrence. Some complaints were determined to be either involving no air quality issues in the complaint, unidentifiable source of air quality problems, lack of identifying information, or the incident occurred in the past. Five complaints were related to a permitted source, and none were related to the agricultural engine program.

One hundred and two complaints were regarding smoke and/or illegal burning, 14 from dust, two from odors, and twenty-three from other emission, combination complaints, and/or non-emission sources. There are some inconsistencies due to open complaints that are still being investigated and complaints involving multiple categories. We issued 23 NOV's because of the complaint investigations. No NOVs were issued at permitted sources because of a complaint. We issued one NTC because of a complaint and 23 OSC's.

Table 4 summarizes complaint responses for the last five years.

**Table 4 – Complaints over Last Five Federal Fiscal Years**



**Notices of Violations**

The District issued 68 NOV's in FFY 22-23. We withdrew three NOV's due to evidence that no violation occurred, or alternate enforcement action was taken. We did not dismiss any violations (0%) because of indicators like additional evidence, lack of strong evidence, unable to locate violator, and statute of limitations/stale cases. The following table summarizes historical NOV's issued by the District by category type.

**Table 5 - NOV's Issued by Category**

Type of Violation	2018	2019	2020	FFY 20-21	FFY 21-22	FFY 22-23
<b>Burn</b>	26	20	24	18	14	18
<b>Dust</b>	5	0	2	0	2	1
<b>Odor</b>	0	0	0	0	0	0
<b>Throughput</b>	5	8	7	9	4	4
<b>Ag Registration</b>	1	2	2	2	9	3
<b>Source</b>	27	46	14	32	22	42
<b>Total</b>	<b>64</b>	<b>76</b>	<b>49</b>	<b>61</b>	<b>51</b>	<b>68</b>

**Settlements and Court Actions**

We settled and closed a total of 24 NOV's for a total of \$29,855.00. Six cases were settled and closed for non-monetary mitigation costs totaling \$5,960.00. Twenty cases were entered into the Suspended Penalty Suspension Program, a Board approved probationary program for first time violators with penalties collected of \$11,896.00. Total penalties collected in the 22-23 FFY are \$93,698.50. This is a result of compliance activities to ensure the community is protected and to establish a good pattern of compliance.

Eighteen NOV's issued in FFY 22-23 are pending settlement and/or closure. Of these, two cases are currently being reviewed by counsel. Four are in the process of a counsel 10-day letter. Five are in the process of being filed in court or have been filed in court with outside counsel.

Average penalties collected over the last ten years is \$264,556. This is due in large part to last year's activities as reported for the FFY 2021-2022. The average penalties when you remove this anomalous year is \$74,302 per year. The following table summarizes penalties collected during each federal fiscal year for the past ten years.

**Table 6 – Ten Years Penalties Received**



**CONCLUSION**

During the period of October 1, 2022, through September 30, 2023, Compliance has overcome staffing shortages to complete 91% of the permitted source inspections and demonstrated our sources are 97% compliant with the regulations. Burn complaints continue to dominate the actions the District must respond to the community. Violations are resolved effectively through the board adopted Mutual Settlement Process and where necessary through the courts.

The open burn program could see improvement through increased monitoring for data variables that could assist in allocating burns with more specific accuracy to prevent impacts.

The District compliance and enforcement activities continue to support the district’s goals to promote and improve the air quality of Sutter and Yuba counties. Through monitoring, evaluation, education, by implementing control measures to reduce emissions from stationary sources, permitting and inspection of pollution sources, and enforcement of air quality regulations, we strive to provide a level playing field and for our compliant entities and keep penalties fair and consistent.