

## Guidelines for Negotiating a Consent Order

A Consent Order is a formal administrative tool used by ADEQ when a Responsible Party (RP) needs time to correct an ongoing environmental violation. Under a Consent Order:

- Both ADEQ and the RP sign a bilateral, enforceable agreement that a RP agrees to voluntarily.
- The Responsible Party waives their administrative appeal rights in consideration for additional time to achieve compliance.
- The RP can negotiate the terms of the compliance schedule or strategy; however, the recitals, jurisdiction, and agency's findings have been designed to be fair, but non-negotiable.
- The RP and ADEQ have a 30-day opportunity to negotiate the terms of the Consent Order. If an agreement cannot be reached within 30 days, ADEQ may unilaterally issue an appealable Compliance or Abatement Order.

If you are interested in negotiating a Consent Order:

**Step 1:** Contact ADEQ after receipt of a Notice of Violation (NOV), if the facility cannot meet the deadlines in NOV. Be prepared to discuss any potential adverse impacts of the noncompliant activity and identify the earliest available date to schedule a Consent Order negotiation meeting.

**Step 2:** The RP and ADEQ will cooperatively develop a return to compliance strategy, which will include, compliance conditions, compliance schedules, and activities to mitigate adverse impacts to the environment. Compliance strategies must be activities that can be implemented as expeditiously as practical.

For the meeting, the RP should bring:

- Proposed compliance strategies or conditions
- Compliance schedule for achieving compliance objectives
- Mitigating activities

Environmental impact mitigating activities may include the determination of interim or alternative control technologies to reduce pollution discharges, work practice restrictions, and/or operational restrictions.

**Step 3:** ADEQ will provide the RP with a draft Consent Order incorporating the RPs proposed conditions prior to meeting.

**Step 4:** Meet with ADEQ to review the draft Consent Order. Any revisions to the Consent Order will be made at the time of the meeting. At the conclusion of the meeting, a final Consent Order will be generated and signed by the ADEQ compliance manager and the RP. The Consent Order will be effective after both parties sign the agreement. (Note: Mail or email may be used when an in-person meeting is not practical).