



AIR POLLUTION CONTROL DISTRICT

POLICY: NOTICE TO COMPLY – ADMINISTRATIVE GUIDELINES

EFFECTIVE: January 24, 1995, April 4, 2000
Revised September 6, 2022

POLICY NUMBER: 28

REFERENCE: APCD Rule 112

GENERAL:

The Notice to Comply is an enforcement tool used to achieve compliance with the District's procedural Rules and Regulations. There are a number of situations where an educational approach is more effective than enforcement action in achieving compliance with the District's Rules and Regulations. These situations generally involve first time violations committed by members of the general public or businesses that are not fully aware of District's Rules and Regulations. The Notice to Comply usually results in bringing the person or facility into compliance without resorting to legal action. This document provides guidelines for completing the form and maintaining records, and specifies approval procedures for granting time extensions, if appropriate, for sources to come into compliance.

GUIDELINES FOR ISSUING A NOTICE TO COMPLY:

The Notice to Comply (copy of form attached) will be issued to a person or facility when: it is out of compliance with a procedural rule; when the District requests the person or facility to supply information concerning its operation; when a person or facility is out of compliance due to a recent adopted rule or regulation, which in this case the Notice to Comply will be issued for a period set by the APCO.

The Notice to Comply may be used at any Title V, major, or minor source in lieu of a Notice of Violation for first time violations in the following situations:

1. RECORDERKEEPING AND REPORTS

- a. Inadvertent omissions of deficiencies in reports or recordkeeping that do not prohibit an overall compliance determination. The weight of evidence should indicate compliance, and the inspector must be able to determine compliance (even with the omissions) before a Notice to Comply may be issued.
- b. Records not physically available at the time of inspection provided the records do exist and can be produced in a timely manner.
- c. Certain reports (including some Title V reports) submitted to the District beyond the required due date may be eligible for a Notice to Comply. Late submittal of

any Title V reports must be accompanied by a deviation report for the late submittal. A Notice to Comply may not be issued for reports late a second time.

2. PERMIT AND PERMIT CONDITIONS

- a. Failure to post an Authority to Construct or a Permit to Operate or have the permits readily available on site during an inspection.
- b. Failure to file a Transfer of Ownership for a small business as long as required Permits to Operate are otherwise current.
- c. Equipment that was previously exempt from permits and there is no reasonable expectation that the source would have had knowledge of the loss of exemption.
- d. Minor discrepancies in equipment description that do not result in excess emissions and do not interfere with the District's ability to evaluate sources of emissions or enforce the Rules and Regulations.

3. AGRICULTURAL AND OPEN BURNING

- a. Minor discrepancies which require verification of total acres burned for agricultural fields.
- b. Failure to obtain an open burn permit, for first time offenders that are required to obtain such a permit.

4. DUST CONTROL PLANS

- a. Minor recordkeeping omissions at construction sites that require a Dust Control Plan, provided that a Dust Control Plan exists.

5. CONSERVATION MANAGEMENT PRACTICES PLAN.

- a. Conservation Management Practices Plan holders who have switched practices or crops and have not updated their Plan, provided that an approved practice is being conducted in its place.
- b. An agricultural source that is not except from having a Plan, and has not obtained one, provided that approved practices are being conducted.

6. OTHER

- a. Any other situation in which the inspector determines that a Notice to Comply is warranted, a Notice to Comply may be issued, upon consultation and approval with the Compliance Division Manager or APCO.

TIME REQUIREMENTS:

The owner or operator is allowed a maximum of fourteen (14) calendar days to comply, depending on the type of operation and urgency of the situation. Working within this time allowance, inspectors issuing the Notice to Comply will rely on professional judgment and supervisory instructions to set reasonable time allowances for bringing sources into compliance.

APPROVAL FOR EXTENSION OF TIME:

The authority to extend the time allowance for owners or operators to comply is as follows:

Time Extension

Approval Requirements

Up to and including fourteen (14) days
Beyond the original due date.

APC Division Manager, Assistant
APCO or the APCO.

Fifteen (15) to thirty (30) days beyond
original due date.

APC Division Manager, Assistant
APCO or the APCO.

Thirty (30) days or more beyond
the original due date.

Assistant APCO or the APCO

FAILURE TO COMPLY:

A Notice of Violation will be issued to a person who fails to comply with a procedural rule or regulation by the due date specified on the Notice to Comply. When a Notice of Violation is served, the inspector must include in the Notice of Violation Report a copy of the Notice to Comply and a description of the chronological sequence of events pertaining to the case.

INSTRUCTIONS FOR WRITING A NOTICE:

A Notice to Comply must be accurate and complete. The following is a list of entries on the form and explanatory notes.

1. **Date of Inspection:** The date of the inspection during which the inspector determined the company's need to comply.
2. **Name/Address/City:** The complete legal name and address of the source.
3. **Location:** The address, or if there is no address, description of the location where the inspector occurred which resulted in issuing the Notice.
4. **Permit Number:** The current, valid Permit to Operate number.
5. **You are Directed To Comply With:** Check the appropriate instruction boxes and cite specific Rule(s) or Code section(s).
6. **Failure to Comply With:** Check the appropriate box.
7. **To Comply, You are Require To:** Print clear and complete instructions to facilitate compliance.
8. **Due Date:** Enter the compliance due date.
9. **Served To:** Print the name and title of the person at the source to whom the Notice is served. Attempt to serve the

Notice to the most responsible person at the source.

10. Date: Print the date on which the Notice is served.

11. Title The inspector serving the Notice shall sign at the bottom and print the appropriate phone number.

RECORDKEEPING REQUIREMENTS:

The following are duties of the Compliance Division Manager:

1. Provide Notice to Comply forms to the inspectors.
2. Instruct inspectors in use of the Notice to Comply.
3. Review computerized records and Notice to Comply follow-ups (form attached).

The following are duties of the assigned Compliance Division staff member:

1. Maintain computerized records (Notice to Comply Records) of issued notices.
2. Keep a written record of approved time extensions with individual justifications.


Belen Lopez
Air Pollution Control Officer