



AIR POLLUTION CONTROL DISTRICT

POLICY: NOTICE OF VIOLATION ISSUANCE AND FOLLOW UP

EFFECTIVE: October 18, 1993; December 8, 1999
November 6, 2023 (Last Revised)

POLICY NUMBER: 18

GENERAL:

Inspectors must follow specific guidelines for issuance and follow-up of the Notice of Violation. Detecting, documenting, and reporting violations are important duties of inspectors, air quality control specialist, and other designated Enforcement Division staff. Through these actions, they implement the Enforcement Division's main function, which is to provide uniform compliance of federal, state, and local air pollution control laws. The Notice of Violation is an official notification that a violation has occurred which could result in a penalty.

The inspector must never use the Notice of Violation as a written warning. It is intended to result in a penalty for the violator. Under no circumstances may they tell the violators that the Notice of Violation will be dismissed or canceled upon proof of compliance.

CONDITIONS NECESSARY FOR ISSUING A NOTICE OF VIOLATION:

The Notice of Violation is issued when the inspector, or other government enforcement officials (examples: EPA, CARB, Fire Department, etc.) can confirm that the following exist:

1. An act or omission of an act is observed or documented and results in a violation of a state air law, District rule, Health and Safety Code, permit conditions, ATCMs, federal law, or other legal requirement (such as the condition on a variance or Order of Abatement that the ICAPCD has the authority to enforce).
2. The responsible person or persons are identified.
3. The location or address is identified.
4. The equipment or source is identified. If an emission violation is observed, the specific type of air contaminant must also be identified.

SOME SITUATIONS THAT DEMAND A NOTICE OF VIOLATION:

1. A Notice to Comply has been issued and the source is not in compliance by the designated date.

2. Equipment is operated contrary to specific Permit to Operate conditions or specific requirements of state or federal law.
3. A violation is observed during, or confirmed by, a source test or inspection.
4. A breakdown has been reported, and the inspector determines that a violation resulted from operator error, neglect, or improper operation or maintenance.
5. A violation of a variance condition or Order of Abatement has occurred.
6. A violation of District Rule 701, *Agricultural Burning*, or District Rule 421, *Open Burning*, has occurred.
7. A violation of District Rule 201, *Permits Required*, or any District Rule under Regulation IV – *Prohibitions*.

NOTICE OF VIOLATION PROCEDURES

A. Serving the Notice of Violation

The Notice of Violation can be served in the field, mailed, or delivered in person at a later time (usually within 30 days of completing the NOV report). When serving the Notice of Violation, the inspector will give a copy to the person served and explain the violation. The inspector will issue the Notice of Violation to the highest ranking person available at the site.

1. In a corporation: serve a corporate officer (president, vice president, secretary, treasurer or designated agent).
2. In a partnership: serve one of the partners.
3. In a company owned by an individual: serve the owner.
4. If none of the above is available, and a responsible manager or supervisor can be identified: serve the manager or supervisor.
5. If responsible individuals cannot be identified or are not available: send a copy of the Notice of Violation by certified mail return receipt to an appropriate company official. The return receipt will be submitted to the Compliance Division Manager for inclusion in the case file to document the date the company has knowledge of the violating incident.

The inspector should inform the facility operators that compliance is required. The inspector must advise the source of the following possible options for compliance:

1. Immediately comply;
2. Cease operation (this is not a demand, only a suggested option);
3. Apply for a variance;

4. Submit an application for an Authority to Construct and Permit to Operate for the new or modified equipment;
5. Submit an application for amendment of Authority to Construct permit condition(s).

The inspector should inform the facility operators that continued violation may result in daily penalties and/or the issuance of additional NOVs that carry increased penalties, with each day potentially considered as an additional violation.

B. Compliance Verification

Before a Notice of Violation can be resolved through the District's Mutual Settlement Program, a determination of the source's compliance status must be first documented as a part of the settlement process via one or more of the following options:

1. On-site re-inspection of the facility to confirm that the affected equipment/source is now operating in compliance.
2. Review and verification of previously missing logs, records, reports, and related documentation as required by a Permit to Operate or District Rule.
3. The results of a source test conducted by a source test contractor.
4. The results of a lab analysis provided by the source.
5. Filing an application for variance that is later granted.
6. Verification through on-site inspection that the source has ceased operation of the affected equipment, has closed down, or is otherwise not in business.
7. Determination that the source's application for a new or amended Authority to Construct has been submitted to the district.

Approved


Belen Leon-Lopez
Air Pollution Control Officer