



Notice to Comply Fact Sheet

What is a Notice to Comply?

A Notice to Comply is the Air Pollution Control District's claim that a minor violation of air pollution laws has occurred. It differs from a Notice of Violation in that it does not result in penalties, provided corrective action is taken by the due date.

A Notice to Comply is issued in accordance with specific requirements of Air Pollution Control District Rule 6 (Minor Violations Rule).

What is a minor violation?

District Rule 6 classifies specific administrative and *de minimis* emissions violations as minor violations, provided there are no prior violations of the same or similar nature occurring within the previous 36 months or the last three full inspection cycles, whichever occurs first.

What should I do after a Notice to Comply is issued?

First, take immediate action to correct the violation by the due date listed on the Notice to Comply. Each day the violation is not corrected after the due date may be considered an additional violation.

Next, within five calendar days of achieving compliance, sign the Notice to Comply and return it to the District. You may send it to 10124 Old Grove Road, San Diego, CA 92131; fax it to (858) 586-2651; or email it to apcdcomp@sdcounty.ca.gov.

If additional time is needed to correct the violation, the due date may be extended by the District for good cause; however, it cannot be extended more than 30 days beyond the date the Notice to Comply was issued. To request an extension, please contact the District Compliance Division at (858) 586-2650.

What if I cannot fix the violation right away?

If, due to conditions beyond your reasonable control, you cannot correct the violation immediately and you must use the equipment or process that resulted in a Notice of Violation, you may seek a variance from the San Diego Air Pollution Control District Hearing Board. Variances cannot allow public nuisances or allow relief from the requirement to obtain a permit to construct or operate a process or equipment.

For information on how to apply for a variance, contact the District Compliance Division at (858) 586-2657 or (858) 586-2650, the District Small Business Assistance program at (858) 586-2656, or the Clerk of the Hearing Board at (619) 531-5434. Current forms may be downloaded from the District website at www.sdapcd.org (follow the menus to "I Want To ..." → "Apply" → "Variance").

What happens if I do not respond to the Notice to Comply?

The District must determine compliance before the Notice to Comply is considered resolved. If you do not respond by the due date, the District may be required to re-inspect your facility to determine compliance.

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How is a Notice to Comply resolved after I respond to the District?

The District will review the signed Notice to Comply and/or other information submitted to the District to determine compliance. The District may also conduct a follow-up re-inspection of the facility to ensure compliance and verify that the violation(s) cited in the Notice to Comply has been corrected.

What can happen for failing to comply?

Failure to comply by the due date may result in civil penalties or criminal fines. Future violations of a similar nature in the next three years will result in a Notice of Violation, which may also result in civil penalties or criminal fines. A Notice to Comply will be considered a prior violation for purposes of assessing penalties and fines for similar Notices of Violation.

Maximum penalties established by the California Health and Safety Code range from \$1,000 to one million dollars per day of violation, depending on the nature of the violation. Criminal sanctions may also subject violators to up to one year in jail for each day of violation. A list detailing the maximum penalties for violations of state law is available on the District's website at www.sdapcd.org (follow the menus to "Citizens & Businesses" → "Violation Information").

What about rule changes?

Rule changes can affect a regulated business, and it is the operator's responsibility to know the current rules. The District holds at least one public workshop and one public hearing before any rule is changed.

In addition, the District attempts to notify affected businesses of a rule change by mailing "advisory" notifications. Copies of current rules are available on the District web site at www.sdapcd.org (follow the menus to "Citizens & Businesses" → "Rules & Regulations").

When a business receives a new or modified permit from the District, the business is responsible for complying with all the permit conditions. Regulated businesses must be familiar with all the permits required and permit conditions. For further information on permits, call (858) 586-2600.

Who can I call for further help?

This fact sheet provides general information about Notices to Comply. For more information or specific questions about a particular Notice to Comply, contact the District Compliance Division at (858) 586-2650.