



**COMPLIANCE & ENFORCEMENT
DIVISION**

***Policies &
Procedures***

COMPLAINT GUIDELINES

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COMPLIANCE & ENFORCEMENT DIVISION

*Policies &
Procedures*

COMPLAINT GUIDELINES

For purposes of this policy, an air quality complaint is a concern that is communicated to the District alleging a realized or potential injury, detriment, annoyance or nuisance occurring as a result of the release or potential release of air contaminants or other materials, including, but not limited to, smoke, odors, dust and other particulate matter.

Community members are often the first to be aware of an emission release, and the community can be considered the “eyes and noses” of the District. In response to legitimate civic concerns, District staff will endeavor to investigate every complaint in order to achieve early intervention on potential problems and allow the District to be proactive in protecting public health. District staff will maintain the cooperative, but objective, attitude of an investigator. Informal complaints will also be investigated where the person may otherwise feel uncomfortable filing a formal complaint.

These Complaint Guidelines are intended to handle air pollution complaints that have impacts on individuals, and which may result in District enforcement actions against public nuisance, visible emissions, particulate emissions, odorous substances emissions, etc. Referrals, or “tips,” from other agencies or individuals, which do not involve impacts on individual persons, are not covered under these guidelines.

Air pollution complaints are an important part of the daily workload of an inspector. It is essential that complaint investigation and complaint processing be handled in a prompt, efficient and professional manner.

1. COMPLAINT RECEIPT AND DISPATCH

A. Public Outreach – How to Start the Complaint Investigation Process

The following methods are used by the District to inform the public about how to report a complaint:

- Telephone directory listings for the District’s toll-free Complaint Line at 1-800-334-ODOR (6367) can be found in any local white page directory under the “**California, State of**” listing, under any of the following subheadings:

“Bay Area Air Quality Management District”

“Air Pollution”

“Environmental”

“Odor Complaints”

These listings are in both the blue-bordered government and red-bordered business white pages.

- Members of the public wishing to register a complaint who do not speak English can receive Over-the-Phone-Interpretation in 150 languages from a third party translator once they reach the District’s toll-free Complaint Line at 1-800-334-ODOR (6367).
- Complaint Cards entitled “*To Register a Complaint*” (colored 3 x 5” cards) with instructions on how to call are distributed at public events.
- District brochures covering complaint-related topics on the following subjects are circulated at public events:
 - Complaint Procedures
 - Odors
 - Residential Woodstoves and Fireplaces
 - Requirements for Building Permits and Industrial Facilities Near Schools and Hospitals

Air quality complaints are sometimes made to other agencies or organizations that may take them but not act upon them. In order to correctly receive such complaints, the District will maintain an outreach program to communicate with and educate other possible agencies of these complaints and refer them to the District.

B. Received During Staffed Office Hours (Core Hours)

Complaints called in on the District’s toll-free complaint line are normally received by telephone in the District’s Communication Center (ComCenter) during core hours of 7:30 a.m. to 6:00 p.m. on Monday through Friday. Core hours for Saturday and Sunday are 8:30 a.m. to 5:00 p.m.

The complaint is entered into a District computer program. This entry creates a complaint record and reference number (C#) that automatically assigns the complaint to the area inspector or an alternate inspector. The C# will be provided to the complainant and can be used to track the progress, actions taken, and final resolution of the complaint.

Complaints will be dispatched as soon as possible according to a priority system that allows the District to respond more quickly to urgent complaint situations.

C. Received By the Answering Service

The District contracts with an answering service to take complaints during non-core hours. If a complaint is taken by the answering service at night or over the weekend, the complaint information is telephoned/faxed to the ComCenter the following morning and will be entered into the computer, assigned a C# and dispatched at that time.

During non-core hours, when the answering service receives three (3) or more complaints alleging a single company they will refer the complaints to a supervising inspector with the complaint information. If the caller is a public official acting in an official capacity, *only one call* is needed for the answering service to call the assigned supervising inspector or manager.

Each complaint will be evaluated on a case-by-case basis and a determination made whether an investigation by an inspector is warranted. If a possible public nuisance situation is developing, an inspector will be called back to work to conduct an investigation.

D. Received by the Inspector

When a complaint is received in the field, the inspector will obtain pertinent information from the complainant and begin completing a "Complaint Report" form (see Exhibit 1 and Section 7(A) below).

If a large number of people wish to make complaints at the same time, the "Complaint Declaration" form (see Exhibit 2 and Section 7(B) below) may be distributed in order to accommodate the information collection process, if the inspector has detected the air contaminant within the previous 60 minutes. The "Complaint Declaration" form can be collected by the Inspector later and the process completed, as below. However, if a complaint can be confirmed immediately, a "Complaint Declaration" form may be circulated to assist solely in information gathering.

When time permits, the inspector will contact the ComCenter to submit the complaint information and obtain a C#. All complaints must be assigned a C# and this can only be done by contacting the ComCenter. The inspector will give the C# to the complainant at the time received, or will call the complainant later if that person is no longer available, provided the complainant wants the C#.

E. Complaints Received by Petition

Petitions are written complaints signed by more than one complainant, usually generated in response to an ongoing problem that is airborne in nature. However, because some petitions are initiated to *prevent* certain actions from taking place (based upon an assumption of *future* airborne problems), the following information should be verified for each petitioner contacted:

1. Date(s) on which alleged air emission took or is anticipated to take place
2. Description of harm, injury, annoyance, etc. (real or potential) suffered
3. Source of air emission (real or potential)

A petition will be assigned only one C# for tracking purposes, but all petitioners may be considered as individual complainants, based on the outcome of the investigation.

F. Complaints Received as an Area-wide Event

Area-wide complaint events are generally the result of an unusual occurrence such as a large accidental fire or an industrial incident resulting in the emission of air contaminants that are detected by the public.

Following any air pollution incident, whether or not it resulted in an area-wide complaint event, the supervising inspector responsible for the area in which the event is occurring shall arrange for the preparation of an "Incident Report" (see "Incident Response and Investigation Plan" Guidelines of this Manual).

G. Cancellation

Complaints are sometimes received which are duplicates of an already existing, or Primary, complaint. These complaints warrant investigation but not the creation of a separate reference number (C#). The information that is generated by the investigation of such complaints is always incorporated into the report for the Primary complaint, but the inadvertent creation of a separate reference number (C#) will result in cancellation, as indicated in the following cases:

- When a duplicate complaint is received on the same day (any calendar day) for the same source, from the same person. The original complaint for this person is referred to as the primary complaint.
- When a duplicate complaint is received on the same day from a person related to someone living in the same household (dwelling), where the related other party has already filed a complaint against the same source.

For these cases, if an existing Primary complaint has not yet been confirmed, but a subsequent duplicate complaint is received, that subsequent complaint is treated as a message to continue the investigation. If the follow-up investigation results in confirmation, then the Primary complaint will be confirmed.

Also for these cases, the person may be given an “Odor Log” form (see Exhibit 3 and Section 7(C) below) to use for detailed tracking purposes by the same person or a person in the same household. Inspectors will collect and attach such documents to their Primary complaint report in order to support the complaint investigation and/or for additional case development.

Other cases where District staff can investigate complaints received, but cannot take any enforcement action is where:

- the source of an air emission is affecting an individual located inside the District’s boundary, but itself is located outside the District’s boundary; or
- the complaint is for a non-air-pollution contaminant, e.g., noise.

For these cases, the inspector will conduct all appropriate investigation and will work with or refer the complaint to any adjacent district or applicable public agency to resolve the problem. The inspector will recommend cancellation of any associated complaint reference number (C#).

In a final cancellation category, if, after contact by District staff, a complainant wishes to withdraw his/her name from the record, the complaint can be converted to “Anonymous” or can be cancelled entirely. This action is entirely at the complainant’s discretion (see “Complaint Confidentiality” at Section 3(E) below).

For cancellation of a complaint under any of the categories listed above, approval by the Air Quality Program Manager is required.

2. COMPLAINT TYPES REQUIRING SPECIALIZED PROCESSING

A. Received from Schools (H&SC 42301.8)

If the principal, or an authorized representative thereof, of a school contacts the District to request an investigation of odors or possible air pollution sources from new and modified sources (as of January 1, 1989) as the cause of impact on persons at a school, the District must respond and investigate.

The inspector who receives this complaint for investigation is also responsible for notification within 24 hours of the complaint to the following agencies:

- The city or county office responsible for administering hazardous materials policy, and
- The fire department having jurisdiction over the school.

B. Regarding Compost Operations (H&SC 41705)

Compost operations are exempt from the public nuisance provision of Regulation 1 and from the complaint applicability of Regulation 7.

A compost operation is described in the Public Resources Code (PRC), Section 40116, in the following manner:

“Compost” means the product resulting from the “controlled” biological decomposition of organic wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility. Compost includes vegetable, yard, and wood wastes which are not a hazardous waste.

“Controlled” is defined as having the ability to aerate the material at will, regulate the water content and control temperature in such a manner that would result in a product legally marketable as compost under the rules of the California Integrated Waste Management Board (CIWMB) of Cal/EPA.

Activities which do **not** constitute compostable material handling operations are listed in Section 17855 “Excluded Activities” of the California Code of Regulations (CCR), Title 14, Division 7, Chapter 3.1.

All odor complaints that allege or are determined to be compost related shall be reported to a “Local Enforcement Agency” (LEA) designated and certified pursuant to PRC Section 43200. The inspector receiving the complaint will notify, within 24 hours or by the next working day, the LEA having jurisdiction over the alleged source. In the event that the CIWMB has decertified the LEA having jurisdiction, the complaint(s) will be reported to the enforcement section of the CIWMB (PRC Section 43205).

Where the alleged source or location is known or suspected to have odor sources, ***other than compost***, that are under District jurisdiction, the inspector will investigate all complaints at the site. In the event that ***co-mingling of odors from compost and sources under District jurisdiction*** results in a sufficient number of complaints to document a public nuisance, the case will be submitted to the Manager for determination on whether an NOV is to be issued.

The inspector will advise the complainant(s) of the LEA's jurisdiction regarding compost operations. The inspector will also advise complainants that the inspector will contact the LEA and provide all applicable complaint information, unless the complaint is canceled. Additionally, complainants will be advised to contact the LEA for future complaint handling.

C. Regarding Idling Trucks at Certain California Ports (H&SC 40720)

Assembly Bill 2650 (AB 2650) was originally introduced into legislation by Assemblyman Alan Lowenthal (Long Beach). AB 2650 required each Marine Terminal Operator (MTO) in certain ports (within District jurisdiction only the Port of Oakland is subject to these provisions) to operate in a manner that does not cause the engines on trucks to idle or queue for more than 30 minutes while waiting to enter the terminal. The bill required that citations for violations be issued to the MTO by the applicable district. AB 2650 was implemented as Health and Safety Code Section 40720 on July 1, 2003.

If a complainant calls specifically regarding trucks idling at a terminal at the Port of Oakland, thus making them subject to enforcement by the District, then ComCenter staff will take and dispatch complaints of "Idling Port Truck." For complaints regarding any idling trucks outside of this scope, the complaint will be taken as "Other."

In order to confirm idling port truck complaints, the inspector must determine if a violation of 40720(a) has occurred.

D. Regarding Idling Bus Emissions (H&SC 42403.5)

Any idling diesel-powered bus shall be subject to the provisions of H&SC Section 41700 (public nuisance), unless the operator can show that the harm caused by the emissions does not exceed the benefit accrued to bus passengers as a result of idling, e.g., heating or cooling.

E. Alleging Health Effects

District staff does not have the medical expertise to determine whether or not complaints of physical symptoms are caused by exposure to specific air contaminants. The county Health Officer affiliated with the appropriate county health department is equipped to evaluate such cases.

When a complainant verbally alleges health effect(s) (nausea, eye or throat irritation, asthma attacks, etc.) associated with an air contaminant that the inspector is investigating, the inspector will carefully record any alleged symptoms and any visible signs, as offered by the complainant (see Section 3(D)5 below).

In addition to conducting the complaint investigation, the inspector will also direct the complainant to contact the appropriate county health department. The inspector may also suggest the complainant may also wish to contact his/her own health care provider regarding the alleged health effect(s). The inspector will note all the circumstances of any referral to the county health office.

F. Regarding Indoor Air Quality

Complaints are sometimes received and dispatched for sources of air contaminants that are not directly emitted to the atmosphere. The H&SC Section 39002 sets forth the jurisdiction for each district to regulate only the “air pollution from all sources other than vehicular sources.” Section 39013 states that an “air pollutant” means any discharge...into the atmosphere....” This restricts inspectors from citing sources that do not emit air contaminants into the outdoor air environment, but does not prevent response and investigation.

In order to be under District jurisdiction, the air contaminant must enter the complainant’s site from the ambient air, not through interior vents or walls. Asbestos demolition and renovation operations are an exception in that the asbestos air contaminants may possibly not leave an interior building, but are still subject to District jurisdiction. For indoor air contaminants, either the Cal OSHA or local health department is the appropriate agency for referral.

G. Potential Nuisance Sites

The Director of Enforcement, or an Air Quality Program Manager, may designate any company/facility to be a potential public nuisance source when sufficient complaint activity alleges air emissions from that site. The Director may then consider enhanced response, which may include, but not necessarily be limited to, assignment of overtime coverage or shift work for field inspectors and support staff as needed to address the specifics of the situation. The Director may also send the company/facility a letter notifying them that they are being designated a potential public nuisance.

H. Regarding Gasoline Dispensing Facility

See “Gasoline Dispensing Facilities” Guidelines of this Manual.

I. Regarding Residential Woodsmoke

If a complaint is received for woodburning smoke coming from a residential fireplace or woodstove, the occupant at the residence address identified will be sent a package of informational material concerning the air pollution impacts of woodsmoke. If complaints become numerous within one day, an inspector will be dispatched for investigation.

3. FIELD INVESTIGATION

A. Assignment of Priority

Complaints will be dispatched according to the Priority (P#) ranking listed in the table below. Not all "Types" of specialized complaints are designated in the table. If a Type is not listed, then the current status (ongoing vs. not ongoing) will be used as the screening factor.

P#	CURRENT STATUS OR TYPE	DISPATCH RESPONSE	INSPECTOR RESPONSE
1	Ongoing, <i>Potential Nuisance Sites</i>	15 minutes	30 min
2	Ongoing, <i>non-Nuisance</i>	First Available, up to 30 minutes	30 min
3	Not Ongoing, <i>Asbestos</i>	When inspector is first available (but no later than 2 pm)	1 hr/2 hr for Asbestos
4	<i>Service station nozzle</i>	When inspector is first available (but no later than 2 pm)	24 hr
N/A	<i>Residential wood smoke</i>	Wood smoke information materials to be sent by mail	N/A

After a complaint has been dispatched the inspector must decide which of the following to do first:

1. Go directly to the alleged or suspected source, or
2. Contact the complainant via telephone or
3. Contact the complainant in person.

If there is any possibility that a violation is in progress, then the complaint response should begin with a visit to the suspected source of the contaminant.

B. Inspector Safety

Inspection staff must conduct themselves in accordance with the District Safety Policy which promotes "a safe work environment that will allow employees to perform their work without fear of possible harm to their lives and/or health....it is BAAQMD's intent to provide a safe workplace, safe equipment, proper materials and to establish and insist upon safe work methods and practices at all times." At the first sign of danger or threat to safety, inspection staff should remove themselves from harm's way as quickly and safely as possible. Any inspection staff member who believes

that he/she has been endangered is to immediately report the incident to his/her supervisor.

There may be cases during an inspector's normal activities where circumstances require a judgment call on the part of the inspector as to whether his/her safety may be compromised. In such cases where the inspector elects not to conduct the inspection activity due to safety concerns, the inspector will notify his/her supervisor to obtain guidance on how to proceed.

C. Inspector Procedures

The District investigates air pollution complaints as an impartial party to determine facts and circumstances surrounding an alleged release of an air contaminant to the atmosphere. Therefore, the inspector needs to remain objective, impartial and neutral as he/she conducts the investigation. Soliciting complaints, taking sides (with any party), leading or influencing anyone is inappropriate. The Inspector is there to document his/her observations, gather evidence and, if necessary, take appropriate enforcement action.

The following guidelines will be followed by the Inspector when interviewing the complainant:

1. **Identification:** Identify her/himself by name and by credentials on the "Investigator" badge (see Exhibit 7) in a professional and cooperative manner.
2. **Listening:** Allow the complainant to explain the details of the complaint. When facts appear, the inspector should repeat them aloud for verification and then write them down.
3. **Explaining:** Explain that:
 - he/she will conduct an investigation, to include
 - an attempt to track the source of the air contaminants
 - contact of possible sources
 - different regulations or laws may be involved and evidence will be necessary to proceed with any enforcement action, if appropriate.
4. **Questioning:** Proceed with a line of questioning, after the complainant has expressed his/herself, which will help determine the cause, nature, and source of the air pollution problem alleged in the complaint.

Note: It may be necessary to explain to the complainant that this line of questioning is necessary to establish the nuisance aspect of

their complaint. The inspector may need to explain that he/she is not attempting to discourage or raise barriers, etc. An inspector will NOT ask a complainant if they are willing to testify in court.

5. **Impartiality/Objectiveness:** Attempt to determine the source of the air quality problem that may be revealed by a complaint, but will remain impartial in the conduct of her/his duties, and will not take “sides” during an investigation.
6. **Other Jurisdictions:** Attempt to assist the complainant to the proper agency, if the complaint is not within the District's jurisdiction, and if possible, provide the agency's phone number (see Section 1(G) above). If the complainant requests help in pursuing the complaint with the other jurisdiction, the inspector may offer to facilitate the first contact, just to get the process started.
7. **Other Information:** Advise the complainant that until the investigation is completed no promise of any legal action or commitment to any course of enforcement action can be made. The inspector will also advise the complainant that at the conclusion of the investigation they can choose to receive the following:
 - the written Complaint Report and/or
 - notification of the final disposition of any enforcement action that may result from their complaint.

D. Complaint Interview

If the inspector meets with a non-English speaking complainant, the inspector should utilize the available over-the-phone translation services or use the card “We Speak Your Language” to have a complainant point to his/her language in order to request the correct translator.

Upon arrival at the scene of the complaint situation (or at an alternative location as prearranged by the inspector and the complainant), every effort will be made to avoid obvious identification of the complainant (i.e., parking in front of the complainant's home when a representative(s) of the alleged source is in the vicinity).

In order to effectively complete the investigation, the following information should be obtained as part of the complaint interview:

1. Description of the problem and its frequency.
2. Time of day the incident or problem was first noticed.
3. Name and location of suspected release of air contaminants
4. Duration of each occurrence.

If the complainant alleges health effects, then document the description and frequency of the air contaminants or how the situation affected the complainant, including any illnesses alleged to have resulted from such incident. The inspector should attempt to document **signs and symptoms alleged** by the complainant, as explained below:

5. **Signs are observable** - Examples are: tearing eyes, running nose, coughing, sneezing, vomiting, sweating, respiratory distress, scratching, rashes etc.
6. **Symptoms are felt by the person affected and are not observable.** Examples are: nausea, burning eyes, burning throat, burning nose, tightness in chest, stomach ache, tingling sensations, itching etc. These symptoms must be described to the inspector by the complainant.
7. If fall-out or other property impacts are involved, the inspector should also examine the complainant's property, and take photographs, if possible. The pattern of fall-out of contaminants may indicate the direction from which they came. Fall-out is any material that is emitted as liquid or solid particles, or gaseous material, which becomes liquid or solid particles, and has been deposited through an airborne process onto a complainant's personal or real property.
8. Description of odors, if any involved.
9. Record of meteorological observations. The wind direction should be obtained to help determine the source of an alleged odor.
10. Any other information the complainant may have that will relate the complaint or air quality problem to a specific piece of equipment.

If the complainant is not at home the inspector will contact the complainant by voice mail, or leave a card. The doorknob business card holder (see Exhibit 4) should be used if possible.

If information is revealed that the complainant has other reasons for registering a complaint *besides personal impact of air contaminants*, the inspector will note that information in the statements in the written report.

E. Complaint Confidentiality

At the conclusion of the interview the inspector will inform the complainant of the District confidentiality policy:

"The District cannot ensure complainant confidentiality with respect to any matter which results in litigation, and which results from and/or relies on the complaint as a basis for the litigation. All such complainant information is discoverable and will, upon formal demand, be made known to the defendant in the action."

If the complainant wishes to retain confidentiality, then the inspector can either offer to have the complaint changed to “Anonymous” or will notify the ComCenter to cancel the complaint (see Section 1(G) above).

If the inspector feels, upon completion of the investigation, that a complaint is essential to initiating an enforcement action, including the issuance of an NOV, Regulation 7 applicability letter, etc., then the inspector may ask a complainant to reconsider the confidentiality issue. No coercion or pressure will be used.

No enforcement action, including the issuance of an NOV, etc. may be based upon complaints which have been cancelled due to confidentiality issues, nor will any reference to them be made in any other documents associated with such issuance.

All complaints will continue to be confidential in every other manner, and a complainant’s identity may not be released without an authorization from the District Counsel’s Office.

F. Inspection of the Alleged Source

To establish a complaint verification (confirmation), the party responsible for the release of an air contaminant, or for failure to follow a regulatory requirement, must be established. When at all possible, the specific source responsible should be identified.

When investigating the source the inspector should:

1. Identify her/himself by name and by credentials on “Investigator” badge (see Exhibit 7) in a professional and cooperative manner.
2. Explain that he/she is investigating a complaint. For verification purposes, the source contact may telephone the District ComCenter (or Answering Service after core hours) at 800-334-6367 to make certain a complaint was received and is being investigated.
3. Ask pertinent questions relating to the facility’s activity at the date and time in question, based on information obtained from complainant
4. Inspect the equipment and compare actual operating conditions, cycles and times of operation, with the times and frequencies of complaints
5. Obtain wind data, if appropriate, from a nearby facility, e.g. airport, air monitoring station, or by using a wind gauge.
6. Inform the responsible source as early as possible of any complaint confirmation to them; or advise the alleged source of the investigation outcome if they are determined not to be responsible.

G. Complaint Confirmation Status

A complaint confirmation status must be one of the following:

1. Complaint Confirmed

A confirmed complaint means that either an inspector, or another trained employee of the District, or a complainant must be able to establish that a particular operation or combination of operations is the source of the air contaminants. This confirmation includes two elements:

- detecting the odor/air contaminant release, and
- tracing it to its source.

Confirmation may be accomplished in three (3) different ways:

- a. **Face-to-Face:** Personal observation by an inspector or another trained District employee with the complainant. This would require that the Inspector or District employee had traced the air contaminant from the complainant's impacted location to the alleged source. A contaminant can be traced not only from residence or place of business, but from any area where a complainant might typically be for public use, e.g., parks, places of worship, stadiums, museums, recreational facilities, etc.
- b. **Declaration:** The Complainant is unable to meet with the inspector, but, within 60 minutes of the time of the complaint, the inspector is able to detect the alleged contaminant and is reasonably assured, by corroborative evidence, that the contaminant detected is the same as alleged by the complainant, based on at least one prior face-to-face confirmation with the same complainant for the same type of contaminant. The Inspector is also able to trace the alleged contaminant from the complainant's impacted location to the alleged source. The Complainant is subsequently offered and chooses to complete a District "Complaint Declaration" Form.
- c. **Other Evidence:** The identification of an operation as the source of the air contaminants by:
 - i. Analysis of a sample of the air contaminant, and, in some cases, through other supporting data, such as, but not limited to, recording chart data which can be correlated

with the time of complaints; e.g., wind charts, monitoring devices, other public agency observations.

- ii. Smoke emissions that are observed by the inspector and the complainant, and the source can be identified.
- iii. Fall-out that is observed impacting a complainant's property and the source can be identified.

NOTE: Although these represent three primary means for confirming a complaint, the District reserves the right to use any means legally available for confirmation.

2. Complaint Unconfirmed

An unconfirmed complaint means that either the odor/air contaminant release could not be detected, or the source/facility cannot be determined. A complaint should be deemed unconfirmed in the following situations:

- a. The inspector detected an odor or observed alleged fall-out, smoke or other air contaminant, with the complainant, but could not trace it to a source/facility. In these circumstances the Inspector should offer the complainant the use of an "Odor Log" (see Exhibit 3), which may help the Inspector locate a source/facility.
- b. The Inspector detected an odor downwind, or in close proximity, of the alleged source/facility, but was unable to detect an odor with the complainant.

NOTE: If a complainant completes a "Complaint Declaration" form (subject to the conditions specified in Section 1(B) above), an "Unconfirmed Complaint under these circumstances" may be changed to a "Complaint Confirmed."

- c. The Inspector cannot detect the odor/air contaminant.

H. Non-Specific Complaint

The **cause** of a complaint may not always involve air pollution. Although most complaints are valid, some will concern problems over which the agency has little or no control or in which air pollution plays a minor role.

Inspectors will thoroughly investigate air pollution problems that may be pertinent. This may require alerting other government agencies with more direct jurisdiction.

I. Complainant Follow-up

By the end of the day in which a complaint is received, the inspector will attempt to contact the complainant and inform him/her of the current status of the complaint investigation. If the investigation is still open at the end of the day, the inspector will keep the complainant updated at whatever reasonable time interval the complainant wishes to be advised until the investigation is completed (confirmation status and enforcement action, if any).

The inspector will ask the complainant whether or not he/she would like a copy of the:

- o written Complaint Report, and/or
- o notification of disposition of any related enforcement action (i.e., NOV Final Disposition) taken as a result of the complaint filing (see Section 3(C)7 and 3(l) above).

4. PUBLIC NUISANCE – REGULATION 1

"No person shall discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons or the public, or which cause, or have a natural tendency to cause injury or damage to business or property.

For the purposes of this section, three or more notice of violations validly issued in a 30-day period to a facility for public nuisance shall give rise to a rebuttable presumption that the violations resulted from negligent conduct."

Regulation 1, Section 301

A. Exclusions

1. Regulation 1, Section 301, cannot apply to:
 - a. Emissions from engines used to propel motor vehicles, as defined by the California Vehicle Code
 - b. Aircraft
 - c. Fires used for residential heating or cooking
 - d. Open outdoor fires, recreational fires and outdoor cooking fires, except to the extent limited by Regulation 5
 - e. Emission points which are unintended openings and from which insignificant quantities of air contaminants are emitted

- f. Air contaminants where purposely emitted for specific beneficial use, e.g., smoke generated for public safety training purposes
- g. Emissions from agricultural operations, except as limited by Regulation 5.

Refer to Regulation 1, Section 110, for specific details. Note: some operations could still be cited under H&SC, Section 41700 with Director of Enforcement/Air Quality Program Manager approval.

- 2. California H&SC, Section 41700, does not apply to odors emanating from:
 - a. Agricultural operations necessary for the growing of crops or the raising of fowl or animals
 - b. Operations that produce, manufacture, or handle compost, as defined in PRC, Section 40116, if the odors emanate directly from the compost facility or operations (See Section 2(B) above).

Refer to CH&SC Section 41705 for specific details.

B. Public Nuisance Violation Criteria

When sufficient complaint activity results from air emissions from a company/facility, the Director of Enforcement, or an Air Quality Program Manager, may designate that plant to be a potential public nuisance source (see Section 2(G) above). The District may then allocate staff resources to better address the developing nuisance situation. To enhance the District's response to these complaints, the Director or Air Quality Program Manager may assign overtime coverage or shift work for field inspectors and support staff as needed to address the specifics of the situation. The Director of Enforcement may send the company/facility a letter notifying them that they are being so designated.

In order to make a finding of violation for a specific incident, on a daily basis, the District must establish the following:

1. Discharge of an air contaminant and the responsible party

Both the air contaminant and the responsible party must be established by: direct observation; or odor/plume survey; or fall out comparison; or evidence from monitors; or other data sources (e.g., FD run reports, CHP & police reports, Hazmat reports).

2. Effect of the contaminant on the public, a considerable number of persons, property or business, under one or more of the following scenarios:

a. Causes injury, detriment, nuisance or annoyance to the public or a considerable number of persons. Information regarding the

actual effect of the air contaminant on person(s) or the public can be obtained from medical facilities, indicating the number of persons treated and the nature of the treatment; **OR** information from the complainants indicating how the contaminant is injurious, detrimental, a nuisance, or annoyance can be obtained.

NOTE: A considerable number of persons or the public will be determined by any of the ways listed under **items i, ii, or iii below**.

b. Endangers the comfort, repose, health or safety of the public or a considerable number of persons. Information from complainants can be obtained indicating how the contaminant has endangered (threatened) their comfort, repose, health or safety; **OR** information from a public agency or responsible government official that an action was taken to protect the safety of the public can be obtained.

NOTE: A considerable number of persons or the public may be determined by any of the ways listed under **items i, ii, or iii below**.

c. Causes or has a natural tendency to cause injury or damage to business or property. Document a quantifiable injury or damage to business or property. "Damage" refers to quantifiable dollar losses. To prove a public nuisance based on damage to a business, the District requires documentation or proof of financial loss, such as receipts for the clean up and/or repair costs associated with remedying the alleged nuisance or other documentation of loss of business or revenue. Employee loss of time can be considered where a business owner provides written documentation demonstrating significant loss of business.

A violation can be based on one complaint only, where information from a complainant, as indicated above, must be provided. Or the District can establish "a natural tendency," if injury or damage is real and verifiable, without documentation, based on repeat occurrences. This option can only be utilized if the circumstances surrounding the prior verification can be established to have occurred again with the same degree of confidence. Such factors will be carefully reviewed before issuance of an NOV under this citation.

In order to fulfill the criteria required under subsections 2(1) and 2(b) above, the impact to a considerable number of persons must be established in one of the following ways:

- i. **Daily, Complaint-Based:** A minimum of five (5) confirmed complaints in a day and at least two of which are confirmed in the presence of the Inspector. **NOTE:** An inspector will not solicit complaints from community members. This means an inspector will not attempt to encourage or gather complaints in the field unilaterally or act in a prejudicial manner against any facility under investigation.

However, this restriction does not apply to any organizing or soliciting that may take place between members of the public.

- ii. **Public Agency-Based:** The public aspect of a nuisance does not need to rely on any complaints received by the District, if reliable information from a public agency is available documenting the number of persons impacted. Use of any such information will be only of data based on real time activity and not include any projected or modeled activity which might indicate a probability.
- iii. **Other Impact-Based:** The weight of facts and evidence demonstrates that the public has been impacted over time, which may be less than the typical single-day thresholds for public nuisance on any one day. Approval to issue based on this criteria will be determined by the Director of Enforcement.

Once a finding of violation has been established pursuant to the applicable criteria listed above, issuance of any public nuisance Notice of Violation will be only after approval of the Air Quality Program Manager.

C. Further Enforcement Action

The Compliance and Enforcement Division staff will evaluate cases and confer with the District Counsel's Office to discuss options for further legal action on cases.

D. Complainant Notification of Abatement Hearing

In all actions brought before the Hearing Board for the abatement of a public nuisance, complainants involved in the nuisance will be notified of the hearing.

5. ODOROUS EMISSIONS - REGULATION 7

Section 301: General Limit on Odorous Substances

Non-specific, any odor, at emission point
Sample diluted with odor-free air (Refer to Table I of Regulation 7 for dilution rates).

Section 302: Limit on Odorous Substances at or Beyond Property Line

Non-specific, odorous ambient air
Sample diluted with four parts of odor-free air

Section 303: Limit on Odorous Compounds

Five specific, chemically identifiable odors at emission point
Maximum allowable concentrations (Refer to Table II of Reg. 7)

A. Standards Applicability

The standards of Regulation 7 are not applicable until the District receives odor complaints from ten or more individuals within a 90-day period alleging a specific facility. The complaints must allege that a person has caused odors perceived at or beyond the property line of such person's facility that are deemed to be objectionable by the complainants in the normal course of their work, travel, or residence. This also includes areas where complainants might typically be for public use, e.g., parks, places of worship, stadiums, museums, recreational facilities, etc.

All complaints received against an alleged source are investigated for confirmation, pursuant to the procedures specified at Section 3 above. However, for the purposes of Regulation 7 applicability, complaints need not be confirmed, if, based on facts and the weight of evidence through investigation, such complaints are considered legitimate and provided they are not related to one single event.

The standards remain in effect for any rolling 12 months from the date of the most recent complaint. If 12 months pass and no additional complaints are received, the facility is removed from the Regulation 7 list. However, the limits will become applicable again when the District receives alleged odor complaints from at least five or more complainants within a 90-day period.

B. Facility Notification

Once the requirements of Regulation 7 have been triggered, the facility must be notified in writing by the District that it is now subject to the provisions of Regulation 7.

A letter, which must be signed by the Director of Enforcement (see example at Exhibit 5), advises the persons responsible for the alleged source(s) that Regulation 7 is now in effect and will remain in effect for a period of 12 months from the date of the most recent complaint. A copy of Regulation 7 must accompany the letter.

Only after facility notification is accomplished can an odor bag sample be requested from the District's Technical Services Division.

C. Sampling Request

Once a facility is subject to the provisions of Regulation 7 (10 complaints have been received and proper notification has been made to the facility), upon receipt of any additional complaints, the inspector will proceed to the vicinity of the complaint to determine the viability of requesting a source test unit for the purpose of obtaining a bag sample. Factors that influence the viability of a Regulation 7 odor sampling are: commingling sources, strength of odor, wind stability, etc. The inspector may request an odor

bag sample for up to 72 hours, but should carefully weigh the factors before calling.

If an odor is present, the Inspector shall advise the supervising inspector to request the Technical Division Source Test Section staff to conduct a source test or collect odor bag samples. **All communication surrounding the request for an odor bag and potential odor panelists should be conducted in a secured manner (e.g., not by way of the ComCenter radio system. Nextel devices used in either the phone or direct connect mode are secure).**

D. Determination of Sampling Location

The inspector will be responsible for selection of an appropriate location for off-property odor sampling. The overriding basis for the selection shall be the assurance, that any sample collected, which may be deemed odorous after dilution at four to one, was emitted from the alleged source. Evaluation, by the inspector, of any odors directly upwind of the selected sampling location shall be conducted immediately prior to and immediately after sampling has been conducted.

If, in the opinion of the inspector on site, there is a potential that an odor directly upwind of the selected location may pose a potential interference to the collected sample, and no other appropriate downwind sampling location can be found to eliminate this potential interference, an upwind sample shall also be collected for evaluation pursuant to Section 404 of Regulation 7. Upon completion of sampling, the Inspector will sign the "Odor Field Data Sheet" (see Exhibit 6) provided by Source Test Section staff, verifying that all the pre-test and post-test upwind inspections were conducted.

E. Odorous Emissions Violation Criteria

See "Source Test Requests and Results Guidelines" of this Manual for processing of Source Test recommendations for Notice of Violation issuance.

6. COMPLAINT REPORTS

A. General

Verify the correct information was dispatched regarding complaint type and Site#.

Do **NOT** identify the complainant by either first or last name or by address within the body of the report. When referring to the complainant, identify him/her only by the C#.

B. Major Incident

In some situations, complaints are associated with an accidental release or a major incident. The inspector should follow the “Incident Response and Investigation Plan” Guidelines of this Policies and Procedures Manual and may need to prepare an Incident Report.

7. COMPLAINT FORMS

A. Complaint Report

A complaint report documenting the investigation of a complaint received will be written on the “Complaint Report” form (see Exhibit 1). If the Complainant has indicated a desire to receive a copy of the written report, that process will also be initiated. Copies of complaint reports resulting from ARB or EPA referral are sent to the referring agency.

B. Complaint Declaration

A “Complaint Declaration” form (see Exhibit 2) should be offered to a Complainant if the inspector and Complainant are unable to meet and identify the contaminant together (face to face), but the inspector is able to accomplish the following:

- Can arrive within 60 minutes of the time of the complaint occurrence at the location specified;
- Can independently detect the contaminant alleged by the complainant and trace it from the Complainant’s impacted location back to the alleged source/facility;
- Is reasonably certain the contaminant detected is the same contaminant alleged by the complainant, based upon at least one prior face-to-face confirmation with the same Complainant.

If the above criteria are met, then a “Complaint Declaration” form completed and returned by the Complainant for processing will be deemed to confirm a complaint (see Section 3(G) above).

If the above conditions have already been established for at least one complainant, the “Complaint Declaration” form may also be used in public situations where many people approach an inspector at once. The forms can be distributed, retrieved, and the complainants can be interviewed at a later time.

C. Odor Log

The “Odor Log” form (see Exhibit 3) is an information-gathering tool to gather correlating information when a source is unknown or to assist in building or strengthening an existing case. It should not be used instead of making a formal complaint (via telephone) or, where applicable,

completing a "Complaint Declaration" form. An "Odor Log" form should be used for the following circumstances:

- Complainants who wish to record daily and hourly observations of an air contaminant for which a complaint has already been called in to the District. This can be used when a Complainant wants to make more than one complaint in any single calendar day (see Section 1(G) above).
- Complainants who are family members of the same household where a Primary complaint has already been received for the same source on the same day (see Section 1(G) above).
- Complainants who have stated they want to assist in the investigation where the source/facility has not been determined.

These guidelines are intended to provide staff with standardized procedures. District staff may deviate from these guidelines following approval from District management. The guidelines do not modify District regulation or other applicable law, and do not create binding requirements on the APCO or any entity outside the District. In the event of a conflict between these guidelines and District regulation, the latter will govern.

COMPLAINT #

COMPLAINT REPORT

Routing		
	Init	Date
Supv Insp		
Radio Rm Update		

CHANGE

ALLEGED SOURCE

Name:	
Address:	
City:	Zip:

DESCRIPTION

<input type="checkbox"/>	Type: odor
<input type="checkbox"/>	Odor Description:
<input type="checkbox"/>	Occurrence Date: Time: hours <input type="checkbox"/> On-going
<input type="checkbox"/>	Pertinent Data:

COMPLAINANT

<input type="checkbox"/>	Last	First	<input type="checkbox"/> anonymous
<input type="checkbox"/>	Name:		
<input type="checkbox"/>	Address:		
<input type="checkbox"/>	City:	Zip:	
<input type="checkbox"/>	Home Phone: () -	<input type="checkbox"/> now	
<input type="checkbox"/>	Alternate Phone: () -	<input type="checkbox"/> now	
<input type="checkbox"/>	Referral: <input type="checkbox"/> EPA <input type="checkbox"/> ARB <input type="checkbox"/> Other Agency	Petition - # of people:	

RESPONSE

Contacted: 1-No- Do Not contact		
How Contacted:	Date:	Time: hours
Source: <input type="checkbox"/> confirmed as alleged	<input type="checkbox"/> unconfirmed	
Show exact confirmed source if different from alleged		
Name:		
Address:		
City:	Zip:	
Contact:		
Location: single family dwelling		
Site #:	NOV# (0=NONE):	

Note: Report on page 2

Inspector: _____ I# _____ Date: _____

C #

I. INTRODUCTION

II. OBSERVATIONS

III. STATEMENTS

IV. CONCLUSIONS

A confirmed complaint does not automatically indicate a violation of the state or Federal law or BAAQMD regulation.

Inspector:

#

Date of Report:

 <p style="margin: 0;">BAY AREA AIR QUALITY MANAGEMENT DISTRICT</p>	<p style="margin: 0;">COMPLIANCE & ENFORCEMENT DIVISION</p>	<p style="margin: 0;">Complaint Declaration</p> <p style="margin: 0;">C# _____</p>
--	--	---

Person Making Complaint

Name:		
Home Address:		
Mailing Address, if different:		
Home Phone:	Alternate Daytime Phone:	(cell? Yes <input type="checkbox"/> No <input type="checkbox"/>

Time of Emission

Date emission was observed:		
Time when emission was observed:	From _____ AM/PM	To _____ AM/PM
Was the emission continuous or intermittent during that time?		

Location of Emission

Was this location different from the above home address? Yes <input type="checkbox"/> No <input type="checkbox"/>	
Location where the emission was observed if other than above. Give address if possible	
Suspected source Company name, if known:	
Direction the wind was blowing from , if noticed: N-- <input type="checkbox"/> NE-- <input type="checkbox"/> E-- <input type="checkbox"/> SE-- <input type="checkbox"/> S-- <input type="checkbox"/> SW-- <input type="checkbox"/> W-- <input type="checkbox"/> NW-- <input type="checkbox"/>	

Description of Emission

Odor--- <input type="checkbox"/> Smoke--- <input type="checkbox"/> Dust--- <input type="checkbox"/> Asbestos--- <input type="checkbox"/> Other--- <input type="checkbox"/>
If Other , please describe:
If Odor , please describe (see <i>Instructions on reverse</i>)
Odor Intensity: Very Strong--- <input type="checkbox"/> Strong--- <input type="checkbox"/> Easily Noticeable--- <input type="checkbox"/> Faint--- <input type="checkbox"/> Very Faint--- <input type="checkbox"/>

Impact of Emission

How did the emission affect you?
Other useful information, comments:
Will you testify in court? Yes <input type="checkbox"/> No <input type="checkbox"/>

Declaration

I declare under penalty of perjury that the above information is true and correct.
Executed on: _____ 20__ at _____, California
_____ Signature of Complainant


See page Two for General Information and Specific Instructions

General Information

- This form should be obtained from a District Inspector during the course of complaint investigation in order to establish the connection between a complaint and the case being investigated.
- The Inspector will interview the Complainant either at the time of the complaint or when this Complaint Declaration form is collected.

Instructions

- **ALL:** Every box must be completed. If the information is not known or is not applicable, the Complainant will indicate “not known” or “not applicable” in the space provided.
- **COMPLAINANT INFORMATION:** The Complainant must list a residence location, not a post office box number. At least one of the telephone numbers must allow contact with the Complainant from 8:30 AM to 5:00 PM Monday through Friday.
- **ODOR DESCRIPTION:** If possible, the Complainant can relate the emission to a more familiar odor. Some examples are:
 - skunk, rotten eggs, sewage, tar/asphalt, sulfur
 - solvent, paint, gasoline, petroleum, oil
 - burning, burning wood, burning pot handles, burning brakes/clutch
 - garbage, dead animal, rotten meat, vomit, cooking vegetables
 - chemical, musty, metallic
- **IMPACT OF EMISSIONS:** The Complainant must state the way in which the emissions impacted or had a result/effect on him/her.
- **DECLARATION:** The inspector will check that the signature is the Complainant’s legal name.

 <p>Compliance and Enforcement Division</p>	<p><i>To Report an Air Pollution Complaint, call the Toll-Free, Multi-Lingual Complaint Line:</i> <u>1-800-334-ODOR [6367]</u></p> <p><i>To Report a Natural Gas Odor to PG&E:</i> <u>1-800-743-5000</u></p> <p><i>To Report any EMERGENCY: <u>Dial 9-1-1</u></i></p>	<p>Odor Log</p> <p>Week of: _____</p> <p>through _____</p> <p>C# _____</p> <p>(if applicable)</p>
---	---	--

Name of Alleged Odorous Facility: _____ Unknown

Address of Alleged Odorous Facility: _____

Address Location for Log: _____

Mo/Date	Sun. __/__/__	Mon. __/__/__	Tues. __/__/__	Wed. __/__/__	Thurs. __/__/__	Fri. __/__/__	Sat. __/__/__
6 – 9 AM							
Intensity							
Description							
Wind From:							
9 - 12 PM							
Intensity							
Description							
Wind From:							
12 - 3 PM							
Intensity							
Description							
Wind From:							
3 - 6 PM							
Intensity							
Description							
Wind From:							
6 - 9 PM							
Intensity							
Description							
Wind From:							
9 - 12 AM							
Intensity							
Description							
Wind From:							
12 – 3 AM							
Intensity							
Description							
Wind From:							
3- 6 AM							
Intensity							
Description							
Wind From:							

This form is an information-gathering tool to collect correlating data when a source is unknown or to assist in building or strengthening an existing case. It should not be used instead of making a complaint via telephone.

See Reverse for Instructions and Completion

Comments:	
Name of Person Completing Form:	Keep Confidential? Y___ N___
Signed _____	Date _____
Address of Person Completing Form:	

General Instructions for Completing Odor Log

The form should be filled out by only one adult in the household to insure uniformity. The location can be anywhere the odor is detected, but it must be the location used consistently per log. Each log contains a week’s period, with eight 3-hour spaces for recording odors on each 24-hour day. For each log, make entries as follow:

- Under “Week of” enter Sunday’s date of the week in which the log was started. Any portion of the week may be recorded or left blank.
- Next to each day of the week, enter the abbreviated month/date.
- In the first row under each time slot, labeled “Intensity,” select a number (1) through (5) which indicates the strength of the odor. See **Odor Intensity** below. If you do not detect any odor during any time slot, leave that slot blank.
- In the second row under each time slot, labeled “Character,” select a letter (A) through (P) which best describes the type of odor you detected. You may use more than one letter, if necessary. See **Odor Descriptions** below:
- In the third row under each time slot, labeled “Wind From.” list the compass point direction from which the wind was blowing, e.g., E or NW.

Under the comments area, add any information you feel may be helpful, such as wind speed, weather conditions, further description of the odor, etc.

Odor Intensity	Odor Descriptions
1 – Very faint	A – Chemical
2 – Faint	B – Paint-like, solvent
3 – Easily noticeable	C – Natural gas, household stove
4 – Strong	D – Sewage, fecal matter, manure
5 – Very strong	E – Gasoline, diesel, kerosene, oily
	F – Tar-like, asphalt
	G – Rotten egg (H2S), skunk
	H – Sulfur, lighting match
	I – Vomit, rotten meat, dead animal, putrid
	J – Sour, acid, vinegar
	K – Sweet, acrid, pungent
	L – Musty, metallic
	M – Burning brakes, clutch, pot handle
	N – Burning wood, cardboard, paper
	O - Compost, rotting vegetation
	P – Other, specify in comments area

**Sorry!
I missed you**



**Bay Area Air Quality
Management District**

939 Ellis Street
San Francisco CA 94109
(415) 771-6000

Please see other side.

DATE

NAME

While you were out, our Air Quality
Inspector stopped by to see you

- at your request
- will call you at: will stop by to see you at:

TIME

DATE

- message _____

- please call our office at the phone number
listed below during regular business hours
Mon-Fri 8:30 - 5:00. Ask for the Inspector
whose name is on the business card.

Exhibit 4

Date _____

Facility Name
Address
City

Dear _____:

This letter is to advise you that the Bay Area air Quality Management District has received a sufficient number of complaints from citizens alleging objectionable odors from your facility during the 90-day period commencing on _____ and ending on _____.

As a result of these complaints, your facility is now subject to the provisions of District Regulation 7, Odorous Substances. A copy of the regulation is enclosed for your review. Your facility will remain subject to this regulation until such time as the District has confirmed no citizen complaint for a period of 12 months from the date of this letter.

The District would be please to discuss with you the nature of the complaints, and assist you in identifying and eliminating or reducing the offending odor from your facility. It is our hope that this matter can be resolved to everyone's satisfaction and that further enforcement action will not be necessary. Please contact _____, Supervising Air Quality Inspector, at (415) 749-xxxx to arrange such a discussion, or to obtain additional information.

Thank you for your attention to this matter.

Very truly yours,

Kelly Wee
Director, Compliance and Enforcement

KW
Enclosure

**Bay Area Air Quality Management District
Source Test Section**

Odor Field Data Sheet

Company Name:	Plant #
Plant Contact:	Title:
Test Date:	Test Times:

Sample Site Location:		
Wind Velocity:	MPH Out of	° Magnetic

Source Test Section

I extracted this sample at the above identified time and location. I have followed all pertinent quality assurance procedures with regard to sampling methodology.

Signed: _____ **Title:** _____

Inspection Section

I have verified that other than the company identified above, there are no other odor sources upwind which may have contributed to any violation based on the sample collected during this Source Test.

Signed: _____ **Title:** _____

Exhibit 6

INVESTIGATOR BAY AREA AIR QUALITY MANAGEMENT DISTRICT 939 Ellis Street, San Francisco, CA 94109	
COMPLIANCE and ENFORCEMENT DIVISION	
<small>The person identified here is an authorized investigator for the Bay Area Air Quality Management District, and shall have the right of entry as provided for by the California Health and Safety Code Section 41510, and Title 13, Part 3, California Code of Civil Procedures.</small>	
Name of Investigator	Signature
<i>[Handwritten Signature]</i> Director of Enforcement	<i>[Handwritten Signature]</i>
Date:	
	PHOTO

California Health and Safety Code Section 41510 provides that a District investigator, "upon presentation of his/her credentials or, if necessary under the circumstances, after obtaining an inspection warrant...shall have the right of entry to any premises on which an air pollution emission source is located for the purpose of inspecting said source including securing samples therefrom, or any records required to be maintained in connection therewith by the state board or any district".