



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

AIR QUALITY COMPLAINT POLICY & PROCEDURES

Table of Contents

Introduction.....	1
Inspector Safety.....	1
Air District Authority.....	2
Equity and Inclusion	2
Accessibility and Non-Discrimination Provision	2
Complaint Confidentiality.....	3
Air Quality Complaint Reporting and Processing	3
How Complaints are Reported	3
Complaint Reporting and Processing Requirements.....	3
Requesting Complaint Information	4
Air Quality Complaints with Contact Information.....	4
Air Quality Complaints without Contact Information (Anonymous Complaints).....	4
Language Interpretation Assistance	5
Complaint Response and Investigation	5
Complaints Regarding Asbestos and Gasoline Dispensing Facilities	5
Wood Smoke Complaints from Fireplaces and Woodstoves	6
Complaint Response.....	6
Complaint Investigation.....	7
Complaint Status and Enforcement Actions	11
Confirmed Complaints.....	11
Unconfirmed Complaints.....	11
Enforcement Actions	12
Complaint Investigation Follow-up with Complainant.....	13
Complaint Report Requests.....	13
Complaint Coordination with Other Public Agencies.....	14
Complaints Received from Schools (H&SC § 42301.8).....	14
Odors from Compost Operations (H&SC § 41705).....	14
Complaints that Allege Health Effects.....	14
Complaints Regarding Indoor Air Quality.....	15
Staff Training	15

Introduction

The Bay Area Air Quality Management District (Air District) is committed to protecting air quality, public health and the global climate. The Air Quality Complaint Program is one of the Agency's core programs and is intended to provide an avenue for members of the public to communicate air quality concerns in the Bay Area.

This Air Quality Complaint Policy and Procedures document provides a comprehensive overview of the program and is intended to guide Air District Inspectors (Inspectors) when responding to and investigating potential and ongoing releases of air emissions. Members of the public are often the first to become aware of an air quality issue and can assist the Air District in locating potential sources of emissions. The Air District investigates every air pollution complaint received to achieve early intervention in resolving air quality problems and identifying violations of State or Federal law or Air District regulations. Air pollution complaints are an important part of the daily work of Inspectors, and it is essential that complaint investigations are handled in an objective, efficient, and professional manner. The Air District investigates all air pollution complaints as an impartial party to determine facts and circumstances surrounding alleged air emission releases and takes appropriate enforcement actions for violations of air quality regulations.

The Complaint Policy and Procedures is intended to provide Air District inspection staff with standards and guidelines for investigating air quality complaints. There may be instances that require inspection staff to deviate from this policy following approval from Air District management. The Complaint Policy and Procedures does not modify Air District regulations or other applicable law and does not create binding requirements on the Executive Officer/Air Pollution Control Officer or any entity outside the Air District. In the event of a conflict between the Policy and Procedures and Air District regulations, the latter will govern.

Inspector Safety

Inspectors must conduct themselves in accordance with the Air District's 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 the Air District's intent to provide a safe workplace, proper safety equipment and guidance and always establish and insist upon safe work methods and practices. At the first sign of danger or threat to safety, Inspectors should remove themselves from harm's way as quickly and safely as possible. Any staff who believes that he/she has been endangered shall immediately report the incident to his/her Supervisor.

There may be cases during an Inspector's normal work when 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 shall notify his/her Supervisor to obtain guidance on how to proceed.

Air District Authority

The Air District is tasked with regulating stationary sources of air pollution in the nine Bay Area counties: Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Marin, Napa, southwestern Sonoma, and southern Solano. The Air District regulates stationary sources of air pollution, such as petroleum refineries, power plants, coating operations, foundry operations, wastewater treatment plants, gasoline dispensing facilities, asbestos and many other commercial, manufacturing and industrial facilities. The Air District also has delegated authority from the California Air Resources Board (CARB) to enforce regulations pertaining to portable equipment and mobile sources. These sources of operations can generate air emissions such as odors, dust and particulates, smoke, and other air quality concerns that are identified in air quality complaints.

The Air District occasionally receives complaints that do not fall within its regulatory authority, such as complaints about aircraft emissions, mold, insect infestation, noise, illegal dumping of hazardous waste, chemtrails, residential barbeques, vaping and cigarette smoke, agricultural odors or dust associated with crop growing or livestock, odors associated with composting, indoor air quality, and water quality. Complaints regarding items that fall outside the Air District's authority are referred to the appropriate public agency.

Equity and Inclusion

The Air District is dedicated to protecting and improving air quality in the many diverse communities and neighborhoods of the Bay Area. The agency's core values include the right for all Bay Area residents to breathe clean air, irrespective of gender, ethnicity, or socioeconomic status, and the willingness to involve, listen to, and engage all stakeholders to create broad acceptance for healthy air solutions.

Accessibility and Non-Discrimination Provision

From time to time, the Air District may receive an air quality complaint in which the complainant states that they believe they or others were denied full and equal access to an Air District program or activity because of a protected status, including those identified in the Air District's Accessibility and Non-Discrimination Policy, which prohibits discrimination on the basis of race, national origin, ethnic group identification, ancestry, religion, age, sex, sexual orientation, gender identity, gender expression, color, genetic information, medical condition, or mental or physical disability, and other protected statuses.

Air District staff who receive or investigate such a complaint shall promptly notify their manager of the allegation and the manager shall refer the complaint to the Air District Non-Discrimination Coordinator.

Complaint Confidentiality

The Air District will maintain complainant confidentiality to the fullest extent permitted by law, such as the name, address, telephone number provided by the complainant. Such information may only be released under very limited circumstances and is not routinely released.

Air Quality Complaint Reporting and Processing

How Complaints are Reported

The public may report air quality complaints to the Air District 24 hours a day, 7 days a week. General air quality complaints can be reported through the Air District's toll-free complaint line at 1-800-334-ODOR (1-800-334-6367). Wood smoke complaints can be submitted by calling 1-877-4NO-BURN (1-877-466-2876). Smoking vehicle complaints can be submitted by calling 1-800-EXHAUST (1-800-394-2878) or via the Spare the Air mobile app. Complaints may also be submitted through the Air District's website via the online complaint form at www.baaqmd.gov/complaints.

During core business hours, Monday through Friday, 7:30 a.m. to 6:00 p.m., complaints are received through the Air District's Dispatch Center and dispatched to Inspectors for investigation. Each complaint is assigned a complaint reference number (C#), which is provided to the complainant and can be used to obtain the complaint investigation details and final report.

Complaints received on weekends, holidays, and outside of core business hours are processed through a third-party answering service. During these times, the Air District has on-call staff available to respond to and investigate air pollution incidents that have the potential for significant air emission impacts.

Complaint Reporting and Processing Requirements

Complaints must be self-generated and self-reported, and should be based on independent, personal observations and/or experiences to establish how the individual was personally impacted. Complaints generated through the media, social media, phone trees, or other avenues will be investigated; however, the Air District will further evaluate and determine if the complainant was personally impacted and whether the complaint can be used for enforcement purposes, if enforcement action is warranted.

Individuals may report one air quality complaint per household in a calendar day, unless the site alleged is different for each complaint. Dispatchers should not generate a new C# for any additional complaints alleging the same site received from the same individual or household in the same calendar day. These additional complaints should be recorded as a message and referred to the assigned Inspector for follow-up under the original C#. Results from the investigation will follow the original C# assigned. Occasionally, the Air District may receive a complaint referral from another regulatory agency that matches a complaint already received by the Air District. If the Air District can verify that a duplicate complaint was received alleging the same site and occurrence date, the Air District will not issue a second C# for the

complaint received. The Inspector should check with the Dispatcher and/or Supervisor to determine whether a second C# was inadvertently issued and thus warrants a cancellation.

Requesting Complaint Information

Air District Dispatchers and Inspectors should encourage complainants to provide as much information as possible when reporting an air quality complaint. Specific details provided by the complainant can help locate the source of emissions and identify compliance issues. Staff should request the complainants to provide detailed descriptions of their complaints:

- Type of complaint (*e.g.* odor, dust, smoke, asbestos, etc.)
- Name and address of the alleged emission source or site, if known
- Location where the alleged emission was observed
- Emission occurrence date and time
- Whether the emission is ongoing
- Details of individual observations

Air District staff should ask the complainant to be as specific as possible in describing the complaint and to include details such as where and when emissions were observed and their frequency. Obtaining the name, address of the business, or even nearest landmark or cross street can help Inspectors locate the potential source of emissions. A specific description of the emissions allows Inspectors to better understand what the complainant is observing and assess whether nearby sources may be the cause. For odor complaints, Dispatchers and Inspectors should encourage the complainant to associate the odor with a commonly known odorous substance (*e.g.* rotten eggs) and to avoid generic descriptions such as “bad” or “terrible”. Inspectors may also request photos or videos that document visible emissions as supporting evidence to document violations.

Air Quality Complaints with Contact Information

Complainants may choose to provide their personal contact information, such as name, phone number, and home address, when reporting an air quality complaint. This information allows the Inspector to contact the complainant directly, either by phone or in person, to gather more information for the complaint investigation. All personal information is kept confidential by the Air District and should never be shared with the alleged sites or other parties who may be involved in the complaint. Please refer to the Complaint Confidentiality section for more details.

Air Quality Complaints without Contact Information (Anonymous Complaints)

Complainants may also choose to report an air quality complaint without disclosing personal contact information if the complainant wants to maintain anonymity. Anonymous complaints will be investigated following the same comprehensive investigation guidelines as complaints filed with personal contact information. Although the Inspector will not be able to contact the complainant to

gather additional information, an investigation should be conducted based on the information and description reported by the complainant.

Language Interpretation Assistance

Inspectors are provided access to a language interpretation service in over 150 languages to assist individuals whose primary language is not English. Inspectors needing to access this service may call 1-800-822-5552 and provide the Air District passcode. Members of the public may also request this service by calling the Air District's general complaint line at 1-800-334-ODOR and following prompts or by specifying the preferred language after connecting with a Dispatcher.

Complaint Response and Investigation

The Air District strives to promptly respond to and investigate all air quality complaints received and recognizes the importance in prioritizing complaint investigations due to the unpredictable nature of complaints, duration of emissions, and potential public health and air quality impacts. Responding quickly can help identify sources of air emissions and allow Inspectors to investigate and determine whether violations of air quality regulations have occurred. In situations where multiple complaints are received at the same time alleging similar emissions or site, additional staff resources may be needed for the investigations. The Inspector should notify his or her Supervisor to determine if additional Inspectors can assist to ensure timely complaint response and investigations. The Supervisor may evaluate whether an enhanced response is needed, which may include assignment of overtime shift work and/or additional staff coverage during and after business hours, weekends, and holidays. **Table 1** below shows the Air District's complaint response time goals.

TABLE 1. COMPLAINT RESPONSE TIME GOALS

TYPES OF COMPLAINTS	AIR DISTRICT RESPONSE TIME GOALS
Complaints with ongoing emissions	30 minutes
Complaints from schools, preschools, daycares, and senior care centers	30 minutes
Complaints that do not have ongoing emissions	30 minutes - 2 hours
Gasoline Dispensing Facility	24 hours
Residential Wood Smoke	See Residential Wood Smoke Policy

Complaints Regarding Asbestos and Gasoline Dispensing Facilities

For complaints alleging asbestos or gasoline dispensing facilities, Inspectors should refer to the respective Asbestos or Gasoline Dispensing Facilities Policies and Procedures.

Wood Smoke Complaints from Fireplaces and Woodstoves

Inspectors should refer to the Air District's Wood Smoke Operating Procedures for wood smoke complaints from fireplaces or woodstoves and follow the specific guidelines for investigation. Informational material concerning the air pollution impacts of wood smoke will be mailed to the alleged addresses and additional patrols will be conducted to document violations when a Spare the Air alert is issued, and a mandatory burn ban is in effect.

Complaint Response

Providing a timely complaint response is important and can help identify emission sources and ensure corrective actions and mitigation measures are taken. Upon being dispatched a complaint, the Inspector should review the complaint information and attempt to contact the complainant by phone. If the complainant's primary language is not English, the Inspector should use the Air District's over-the-phone translation services to communicate with the complainant.

When contacting the complainant by phone, the Inspector should request additional information relevant to the complaint and assess whether the emission is ongoing. This information helps the Inspector determine the steps for responding and investigating the complaint. The following are examples of questions the Inspector should ask to obtain additional information:

- a. When and where did you observe the emission?
- b. Is the emission still ongoing? Has the emission intensity changed from when you first observed it?
- c. Is this a chronic or intermittent problem?
- d. Is there a pattern of emission occurrences?
- e. Are you available to meet in person? If so, what is the best location and time to meet?

If the complainant is available by phone and states that the emission is ongoing, the Inspector should request to arrange a meeting in person, typically at the location where the emission was observed. When arranging a meeting location with the complainant, the Inspector should ensure the complainant's identity and personal information remain confidential and protected to the best extent possible. This is especially important when the complainant's location is nearby the alleged site. The Inspector should use his/her judgment and consider an alternative location to meet with the complainant, if needed, to protect the individual's identity.

If the complainant is unavailable or cannot be reached by phone, the Inspector should leave a voice message and proceed with the complaint investigation. Similarly, if the complainant is unable to meet with the Inspector in person, anonymous, or if a complainant specifically requests not to be contacted, the Inspector should proceed by conducting an area patrol and an investigation at the alleged site or at another suspected source of emissions.

Complaint Investigation

For each air quality complaint received, a comprehensive investigation will be conducted. The steps and order of an investigation are guided by the information provided by the complainant and determined by a variety of factors. Inspectors should evaluate whether the emission is ongoing at the time of the Inspector's investigation, the number of complaints received alleging the same emission/facility, whether the complainant is available to meet in person with the Inspector, the magnitude of potential emission impacts and other factors. A consideration of these factors may determine the order of an investigation, such as proceeding with investigations at the complainant's location, conducting an area patrol in the community, or proceeding directly to the alleged site and potential source of emissions. Inspectors should review the information gathered during their investigation and utilize their training and expertise to best locate the source of the emissions.

Complaint investigations are conducted using the human senses, complemented by Inspectors' training and expertise. Inspectors will use their vision and senses of smell and hearing, in combination with their knowledge of area sources, field expertise, and relevant meteorology, to help identify whether an emission is present at the time of investigation. Inspectors are required to maintain a Visible Emission Evaluation (VEE) certification with the California Air Resources Board every six months in order to determine compliance with the Air District's visible emission standard. For odor complaint investigations, Inspectors use their sense of smell to determine whether an odor is present at the complainant's location and at the alleged site. While the Air District continuously evaluates opportunities to onboard new technologies that may aid in identifying and quantifying detectable odors, human olfactory receptors remain the best means for odor detection and source tracing.

Meeting with Complainant

If possible, Inspectors should meet with the complainant at his/her residence or at the location of the complainant's air quality concern if she or he is available. Inspectors should document their observations and verify whether they are consistent with the complainant's concern if it is ongoing. An in-person meeting and complainant interview could help the Inspector quickly trace and identify the source of emissions and potentially help minimize emissions sooner. The following guidelines should be used for prearranged meetings with the complainant:

- a. **Contact the Complainant by Phone Upon Arrival** - Request to meet the complainant outside of the complainant's residence or at the location where the emission was observed. If the alleged site is near the complainant's location, the Inspector should first independently determine if the emission is present at the complainant's reported location, then meet with the complainant at another location that allows the complainant to maintain confidentiality.
- b. **Provide Identification** - Identify him/herself by name and by credentials, such as the Inspector's badge and/or business card.

- c. **Gather Complaint Information** - Explain the purpose of the meeting and allow the complainant to provide details of the complaint. Clarify facts with the complainant and take notes of statements and observations.
- d. **Ask Questions** - Ask follow-up questions, as needed, during the interview to help determine the cause, nature, and source of the air pollution problem alleged in the complaint. The following are examples of questions that may be asked by the Inspector to help determine the potential source of emissions and document a violation, if one is identified:
- Is the emission present? If odors, what are you smelling? If visible emissions, are they still occurring?
 - If the emission is no longer ongoing, how long did it last?
 - Describe how you came across the emission. Where did you first observe it and were there other areas or locations where you observed it?
 - How frequent is the emission problem?
 - Where are the emissions coming from? How do you know?
 - Do you have other information such as pictures and/or videos, that may be helpful to the investigation?
- e. **Make Independent Observations** - During the investigation, the Inspector should note if there are ongoing emissions, document his/her observations, such as any potential sources causing the emissions nearby or current meteorological conditions, and determine whether the complainant's location is downwind of the alleged site.
- f. **Explain Air District Complaint Policy** - Inform the complainant about the Air District's Complaint Policy and investigation process. Make sure the complainant has the assigned C # and advise the complainant that he/she can ask to receive a copy of the complaint report and/or request a follow-up call from the Inspector regarding the complaint status and investigation findings.
- g. **Provide Assistance** - Answer questions the complainant may have about the investigation process and provide assistance to the best extent possible. If the complaint is not within the Air District's regulatory authority, the Inspector should refer the complaint to the appropriate agency and/or provide the complainant with the agency's contact information.

During an investigation, members of the public may approach the Inspector and request to also report an air quality complaint. The Inspector should exercise discretion in advising how to report an air quality complaint. If an individual does not have access to a phone or the Air District's online complaint reporting system, the Inspector should allow the individual to complete a paper copy of the Air Quality Complaint Form, providing their name and contact information, details about the complaint, and a description of the alleged emissions. The form may be completed immediately and returned to the Inspector, mailed,

or emailed to the Inspector. The Inspector will submit completed forms to the Dispatchers for processing and assignment of C#.

Area Patrol

As part of the complaint investigation, the Inspector should conduct an area patrol around the alleged site, if known, and in the surrounding neighborhood. An area patrol can help the Inspector locate the potential source of emissions, determine the magnitude of the emissions' impact, and gather additional supporting evidence.

An area patrol may include driving or walking around where the complainant observed the emission and in the surrounding community to look for ongoing emissions, monitor meteorological conditions that could influence emission trajectory, and identify whether there are areas that may be impacted by the emissions. If the complainant provides the name or address of the alleged emissions source, the Inspector should also go upwind and downwind of that alleged source to observe and determine whether any ongoing emissions can be attributed to it. Area patrols can help locate sources of emissions and rule out sources that are not the cause.

Investigation and Inspection at Alleged or Suspected Site

An important part of a complaint investigation is the Inspector's investigation at the alleged or suspected site. Most on-site facility investigations occur after the initial complaint response and conversation with the complainant. However, if the Inspector observes ongoing emissions during the course of his/her work, the Inspector can proceed directly to the alleged or suspected site to document emissions and potential violations in an attempt to quickly minimize off-site impact. The on-site facility investigation may include a compliance inspection to ensure compliance with air quality regulations and/or permit requirements. This may include an inspection of operational equipment, abatement devices, monitoring and controls, and facility records. The Inspector should document any observed emissions, determine whether they match the complaint description, and note if they can be attributed to a specific source or operation at the facility. If a violation is discovered, the Inspector should determine what enforcement actions are appropriate or, if unsure, consult with his/her Supervisor.

The Inspector should follow these guidelines when conducting an investigation at an alleged site or potential source of emissions:

- a. **Provide Identification** - The Inspector should provide identification and credentials such as the Inspector's badge and/or business card and request to meet with the owner/operator or environmental contact/representative of the facility regarding the complaint investigation.
- b. **Explain Purpose of Investigation/Inspection** - The Inspector should explain the intent of the visit and let the owner/operator/representative of the facility know that an air quality complaint was received by the Air District. The Inspector should provide a general description of the complaint and request to conduct an inspection of the facility's operations. If the facility owner/operator/representative asks the Inspector where the emission was observed, the Inspector

will only provide the general area(s), such as landmarks or cross-streets, where the emission was observed, and will never disclose the complainant's personal contact information, such as name, address and phone number.

- c. **Review Permit and Operating Requirements** - During the site visit, the Inspector should determine whether the facility has a valid Air District Permit to Operate (PO). If a facility does not have a valid PO, the Inspector should review facility operations, processes and equipment, and determine whether one may be required. If the facility does have a PO, the Inspector should review the applicable permit and operating requirements. The Inspector should try to identify potential sources that are likely to have caused the emission and off-site impact and look for unpermitted sources that may have caused the emission.
- d. **Compliance Review and Inspection of Facility Operations** - Inspectors should conduct a compliance inspection of facility sources, operations and equipment to identify compliance concerns, such as odors and visible emissions. Sources should be inspected to ensure they are operating in compliance with the facility's permit and all applicable regulations and requirements. This may include reviewing facility information such as material usage, maintenance logs, monitoring charts and other records that ensure the facility's abatement equipment are operating. The Inspector may request copies of relevant records and take pictures or videos to document violations, if needed. Facility information may be requested by the Inspector to determine compliance with regulatory requirements during the inspection or at a later date.
- e. **Ask Questions** - During the inspection, the Inspector should ask questions about the facility's equipment, abatement and control device(s). Asking questions about the facility's schedule of operations, and whether the facility has experienced a process upset, change in operation, or equipment malfunction, can help identify potential emission sources of concern. The Inspector may also request to speak to other facility operators and staff to investigate further.
- f. **Document Observations and Findings** - The Inspector should take note of any odors or visible emissions and take pictures and/or videos to document potential violations. The Inspector should also observe and document meteorological conditions during the inspection, which could provide insight on potential emission impacts to surrounding areas, especially if the emissions are fugitive and ongoing. These observations will be used to assess whether a violation has occurred and if taking enforcement action is appropriate.

Phone Investigation

There may be complaint situations that arise in which an Inspector will only conduct a phone investigation with the complainant and/or the alleged site. For example, if a considerable number of complaints are received within a 24-hour period and are found to be associated with the same emission source, the Inspector may proceed with only a phone investigation following an evaluation of the complaint information and approval of the assigned Supervisor. Complaints received after business

hours, weekends or holidays may also warrant a phone investigation, pending an evaluation by the on-call Supervisor, and a follow-up in-person investigation may be conducted the next business day.

Complaint Status and Enforcement Actions

Following the Inspector's complaint investigation, each complaint will be assigned a final complaint status of "confirmed" or "unconfirmed." The Inspector must also determine whether any applicable State or Federal law or Air District regulations and/or permit requirements were violated and, if so, take appropriate enforcement actions.

Confirmed Complaints

A "confirmed" complaint status is determined when the Inspector observes the emission in person and can trace the emission to a source. Confirmed complaints are established under one of the following complaint response and investigation scenarios:

1. Emission Present and Traced to Source:

- Inspector meets with complainant face-to-face, determines the emission is present at the time of investigation, and the emission is traced to a specific site or source.
- The complainant is unavailable to meet face-to-face with the Inspector; however, the Inspector is able to observe the emission during the investigation, and the Inspector is able to trace the emission to a source based on the specific information and descriptions provided by the complainant.

2. Other Evidence:

- For certain emission sources (*e.g.*, asbestos), the Inspector can identify the source of the emission through sample analysis. The Inspector may evaluate supporting data, such as recording-chart data, wind data, flaring data, or data from monitoring devices, which can be correlated with the time of complaint. Confirmation may also be accomplished using observations from other public agencies, such as a local fire department.

Unconfirmed Complaints

An "unconfirmed" complaint status is determined when an Inspector is unable to verify the emission at the time of investigation. An unconfirmed complaint status may result from the following complaint response and investigation scenarios:

1. Emission No Longer Present:

- Inspector meets with complainant face-to-face and determines the emission is no longer present;

- Complainant is unavailable to meet face-to-face with the Inspector or requests not to meet, and the Inspector determines the emission is no longer present at the time of investigation;
- Inspector makes phone contact with the complainant and the complainant states that the emission is no longer present; or
- Inspector is unable to reach the complainant by phone (*i.e.*, Inspector leaves a voicemail and/or is unable to get a hold of the complainant) and determines the emission is no longer present.

2. Complaints Outside of Air District Authority:

- The complainant provides information that indicates the complaint does not involve sources of air pollution within the Air District's authority. Inspectors may investigate by phone and refer the complaint to the appropriate agency.

Enforcement Actions

Following the completion of an investigation, the Inspector determines whether a violation has occurred and what enforcement action, if needed, is appropriate. A confirmed complaint alone does not automatically constitute a violation or trigger an enforcement action unless the Inspector discovers compliance issues that violate air quality regulations. Conversely, an unconfirmed complaint status does not mean the complaint is invalid or is not further investigated. Inspectors must investigate every received complaint and take enforcement action when a violation is discovered. For a list of Air District regulations, please visit www.baaqmd.gov/rules.

There are three types of enforcement actions:

1. **Violation of State or Federal Law or Air District Regulations** – The Inspector may conduct a comprehensive inspection to determine compliance with applicable State or Federal law or Air District regulations or permit requirements. A Notice of Violation is issued when the Inspector discovers operational or administrative non-compliance.
2. **Public Nuisance** – The Inspector may determine that a violation of Air District Regulation 1-301, Public Nuisance, is warranted depending on the magnitude of impact caused by a facility or source's emissions.

Public nuisances are evaluated on a case-by-case basis with the Air District's Compliance & Enforcement management and the Legal Division based on information provided by complainants, Inspector observations and investigation findings, and/or other supporting documentation from a public agency. Even if a complaint does not reach the level of a public nuisance violation, each air quality complaint will still be thoroughly investigated and could still result in violations of other Air District regulations and/or permit requirements.

A Public Nuisance is defined in BAAQMD Regulation 1-301:

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 the public; or which endangers the comfort, repose, health, or safety of any such persons or the public, or which causes, or has a natural tendency to cause, injury or damage to business or property. BAAQMD Regulation 1-301; consistent with California Health and Safety Code (H&SC) Section 41700.

For emission releases that impact a considerable number of persons and meet the definition of Air District Regulation 1-301 and/or H&SC Section 41700, the Inspector may issue a Notice of Violation for a Public Nuisance to the owner/operator of the responsible source or facility.

Regulation 1-301 shall not apply to sources listed under Regulation 1-110, Exclusions. However, some operations could still be cited under H&SC Section 41700 with the approval of Air District's Compliance & Enforcement management.

3. **Notice to Comply** – A Notice to Comply may be issued by the Inspector if de minimis violations are documented. These may involve procedural, administrative, or recordkeeping omissions that do not indicate a violation of air emissions. Inspectors should consult with the assigned Supervisor prior to issuing a Notice to Comply, if needed.

Complaint Investigation Follow-up with Complainant

After the completion of a complaint investigation, the Inspector should contact the complainant and inform him/her of the investigation outcome unless the complaint is anonymous, or the complainant requested that they not be contacted. If the investigation is still ongoing, the Inspector should update the complainant at the end of the day and again as soon as the investigation is completed. The complainant should be informed of the complaint status (confirmed or unconfirmed) and the investigation findings and/or resolution of the complaint, if any.

Complaint Report Requests

Inspectors should inform complainants that they may request a copy of the complaint investigation report by doing one of the following:

- Select the "Request Complaint Report" option on the Air Quality Online Reporting System page when reporting a complaint;
- Contact the assigned Inspector; or
- Submit a Public Records Request - For public records requests, the Air District redacts all personal information, such as the complainant's name, address, and phone number. Complainants may submit a Public Record Request by visiting www.baaqmd.gov/contact-us/request-public-records and providing the C#.

Complaint Coordination with Other Public Agencies

Complaints Received from Schools (H&SC § 42301.8)

Air quality complaints reported by the principal or an authorized representative of a school are treated as high priority and require a timely response. When the Air District receives a complaint from a school official, the Inspector will notify the appropriate city or county agency responsible for enforcing and managing hazardous materials and the fire department having jurisdiction over the school, within 24 hours of receiving the complaint.

Odors from Compost Operations (H&SC § 41705)

Odors originating from compost operations are exempt from the public nuisance provision of Air District Regulation 1 and Regulation 7. Odors emanating from compost operations are also exempt from H&SC Section 41700 pursuant to H&SC Section 41705:

Section 41700 does not apply to odors emanating from...[o]perations that produce, manufacture, or handle compost, as defined in Section 40116 of the Public Resources Code, if the odors emanate directly from the compost facility or operations. H&SC § 41705.

“Compost” is defined as:

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 hazardous waste. PRC § 40116.

All odor complaints that allege or are determined to be compost-related shall be reported to the designated “local enforcement agency” (LEA), as discussed in Public Resource Code Section 43200 *et seq.*, within 24 hours or the next working day.

If an odor complaint is alleging a facility with multiple operations and potential odor sources, including composting operations, the Inspector shall conduct an investigation and attempt to identify the source of the odor. If there are commingling odors from compost operations and other sources within the Air District’s authority, the Inspector shall document their observations and investigation findings, coordinate with the LEA, and forward the information to the Inspector’s Supervisor and their Manager for review and determination of appropriate enforcement actions.

Complaints that Allege Health Effects

Air District staff do not have the medical expertise to determine if complaints of physical symptoms are caused by exposure to specific air contaminants. When complaints alleging health concerns are reported to the Air District, the Inspector will document these statements and refer the complaint to the local

health department. The Inspector will also encourage the complainant to contact his/her own health care provider regarding the alleged health effects.

Complaints Regarding Indoor Air Quality

The Air District occasionally receives complaints concerning indoor air contaminants, which do not fall under its authority. The Air District has “the primary responsibility for control of air pollution from all sources, other than emissions from vehicular sources.” See H&SC § 40000. An “air pollutant” is defined by H&SC § 39013 as “any discharge, release, or other propagation *into the atmosphere*.” See H&SC § 39013 (emphasis added). Although the Air District is prohibited from citing sources that do not emit air pollutants directly to the atmosphere, each complaint received will be reviewed and investigated. Asbestos demolition and renovation operations are an exception and fall under Air District authority.

For complaints that allege indoor air contaminants, the Air District may refer complaints to the California Division of Occupational Safety and Health (Cal OSHA) or the local health department, if applicable.

Staff Training

The Air District recognizes the importance of serving Bay Area communities by thoroughly investigating and quickly resolving air quality concerns. To ensure timely and consistent approaches to our complaint response and investigations, staff training on the Air Quality Complaint Policy and Procedures will be conducted routinely to ensure the highest level of service and commitment to the public.