

AIR POLLUTION CONTROL DISTRICT
REGULATORY COMPLIANCE DIVISION

POLICIES AND PROCEDURES

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Topic: Nuisance

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This policy and procedure document provides guidance to District Enforcement personnel regarding the definition of a violation of Section 41700 of the Health and Safety Code, District Rule 303 and the enforcement actions applicable to such violations.

The California Health and Safety Code Section 41700 and District Rule 303 prohibit the discharge, from any source, of air contaminants in such quantities as to cause injury, detriment, nuisance or annoyance to any considerable number of persons.

It is District policy that any of the following conditions constitute a violation of District Rule 303 and Section 41700 of the Health and Safety Code:

1. Receipt of five (5) or more complaints, from five (5) or more different households within a twenty-four (24) hour period, in reference to a specific air pollution incident produced by any one source of air pollution.
2. Receipt of ten (10) or more complaints from ten (10) or more different households, over a ten (10) day period, in reference to ongoing or intermittent air pollutant emissions from any one source of air pollution.
3. Any verifiable incident of damage to private or public property caused by the emission produced by any single source of air pollution.
4. Any health or life threatening situation produced by air pollutant emissions from any single source if the hazard is substantiated as such by the Air Pollution Control Officer.

This policy does not apply to agricultural operations.

All of the following findings must be made in order for emissions causing the complaints to be attributed to a specific source:

1. The inspector has observed, on-site, that the wind direction is such that the emissions from the source could have dispersed in the direction of the complaint area.

2. The experiences described by the complainants are consistent with predictable impacts produced by the physical properties of the emissions from the source.
3. Wind direction and/or other evidence rules out the possibility that there are other sources of the air pollutant emissions responsible for the complaints.
4. The inspector is able to observe or experience the impact responsible for the complaints.

PROCEDURE:

The following procedures will be used when an inspector suspects a violation of Section 41700 of the California Health and Safety Code and District Rule 303:

1. If five (5) or more complaints are received within twenty-four (24) hours and all four findings have been made to attribute the emissions to a specific source, a NOV for violation of Section 41700 of the Health and Safety Code and Rule 303 will be issued to the source if it is a current permitted source of emissions. For current unpermitted sources of emissions, a NOV may be issued after review and approval by the Division Manager. The inspector will inform the source operators that every day in which that source has violated Section 41700 of the Health and Safety Code and District Rule 303 is a separate violation. The source operators will also be informed that the District Hearing Board cannot issue a variance from Section 41700 of the Health and Safety Code or Rule 303. If the nuisance continues for an unreasonable period or time or is repeated, the District will seek an Order of abatement from the Hearing Board or the Board of Directors. The Order of Abatement will be, in effect, an order to cease all operations which are or may be causing the nuisance.
2. If during a complaint investigation an inspector discovers that the District has received ten (10) or more complaints against a single source of air pollution in the last ten (10) days and, all four findings have been made to attribute the emissions to a specific source, the source will be issued a NOV for violation of Section 41700 of the Health and Safety Code and Rule 303 if it is a current permitted source of emissions. For current unpermitted sources of emissions, a NOV may be issued after review and approval by the Division Manager. The inspector will inform the source operators that each day during which that source has violated Section 41700 of the Health and Safety Code and District Rule 303 is a separate violation. As part of the enforcement actions taken in relation to this violation, the District will seek an Order of Abatement from the Hearing Board or Board of Directors.
3. If legal counsel concurs that evidence gathered during a complaint investigation shows that the air pollutant emissions from a source have damaged business or property and all four findings have been made to attribute the emissions to a specific

source, the source will be issued a NOV for violation of Section 41700 of the Health and Safety Code and District Rule 303 if it is a current permitted source of emissions. For current unpermitted sources of emissions, a NOV may be issued after review and approval by the Division Manager. The inspector will inform the source operators that each day in which emissions from that source cause or contribute to the damage of private or public property is a separate violation. The source operators will also be informed that the District Hearing Board can not issue a variance from Rule 303. If the emissions continue to damage property, the District will seek an Order of Abatement from the Hearing Board or Board of Directors.

4. If the Air Pollution Control Officer determines that emissions from a source of air pollution are a threat to the public health and all four findings have been made to attribute the emissions to a specific source, that source will be issued a NOV for violation of Section 41700 of the Health and Safety Code and Rule 303. If the emissions are causing an imminent and continuing threat to public health the District will contact the County Health Officer and Emergency Response Dispatch to report the incident. If the source does not cease operations of all processes which are producing emissions which threaten public health, the District will seek an Order of Abatement against the source from the District Hearing Board or Board of Directors.
5. Within 48 hours, the Control Officer will be notified of any threat to public health to determine if a "Prop 65" notice must be filed with the Board of Supervisors and local health officer.

