

AIR POLLUTION CONTROL APCD
REGULATORY COMPLIANCE DIVISION

POLICIES AND PROCEDURES

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Topic: Enforcement Policy For Sources Operating Without A Permit

Distribution: All Policy Holders

The purpose of this policy and procedure is to provide guidance in the application of the permitting process and enforcement actions to sources discovered operating without valid APCD permits. Installing and operating a source of air pollution, which is not exempt, without first obtaining an Authority to Construct (ATC) and Permit to Operate (PTO) from the APCD, is a violation of APCD Rule 201 (Permits Required). Consistent with Regulatory Compliance Division (RCD) P&P VII.A (The Notice of Violation), all sources found operating in violation of APCD Rule 201 will be issued a written Notice of Violation (NOV). In addition to the issuance of an NOV, a Request to Apply for Permit (RTA - APCD Form # APCD-48) will be issued and the appropriate application forms will be provided to the source operator.

Upon discovery of a violation of APCD Rule 201, the Engineering Division and RCD staff will use the following procedure:

1. The inspector will issue the NOV and RTA and provide, to an appropriate person at the facility, the "Operating Without a Permit" brochure. This brochure explains the permitting requirements and states that the APCD will request the source enter into a settlement agreement which establishes enforceable deadlines to acquire an ATC and PTO.
2. If the operator on site is not the appropriate person to receive the NOV and RTA, the NOV and RTA will be sent to the appropriate person, via certified mail, return receipt requested.
3. RCD staff will transmit copies of the NOV, RTA, and inspection report to the New Source Review (NSR) Engineering Supervisor and to the Mutual Settlement Program Inspector.
4. Within three working days, Engineering Division staff will provide an appropriate person at the facility with the necessary application forms via certified mail, return receipt requested.
5. The NSR Engineering Supervisor will select an engineer to process the impending application.
6. The Mutual Settlement Program Inspector will complete the "Rule 201 Violation Settlement Agreement" template and submit the completed template, the inspection report, the NOV, and the RTA to the RCD Manager for review.

7. The agreement will contain a compliance schedule and a progressive penalty based on the source's adherence to the compliance schedule. The agreement will state that if APCD has not received a complete application by a date certain (as stated on the agreement), APCD will file a petition for an abatement order with the APCD Hearing Board.
8. The Mutual Settlement Program Inspector will hold an office conference with the source, at which time, the agreement will be signed.
9. When the source submits an application, the Permit Tracking System (PTS) will be updated and a source file established by the NSR Section.
10. The assigned NSR engineer will review the application for completeness and update the PTS when the application is deemed complete.
11. The enforcement supervisor will track the status of the application through the PTS. If the complete application has not been received within the time stipulated in the settlement agreement, the inspector will conduct an inspection of the source and if it is determined that the source is continuing to operate without a permit, the inspector will issue a second NOV and inform the source that each and every day of operation after this point constitutes a separate "emissions violation."
12. After the issuance of the second NOV, the enforcement supervisor of the inspector who issued the NOV will complete the "Petition for Order of Abatement for Violation of Rule 201," and submit the completed template to the RCD Manager.
13. The APCD will file the petition for order of abatement with the clerk of the Hearing Board, to be heard at its next scheduled meeting.
14. The Mutual Settlement Program Inspector will track the completeness status of the application via the PTS. The second NOV will not be settled through the Mutual Settlement Program until an application has been received and deemed complete by the APCD.
15. The inspector who discovered the source will track compliance with the compliance schedule stipulated on the settlement agreement.
16. Violations of any stipulation of the settlement agreement will be documented and all documentation will be submitted to the RCD Manager and the Mutual Settlement Program Inspector.