



Ventura County
Air Pollution
Control District

669 County Square Drive
Ventura, California 93003

tel 805/645-1400
fax 805/645-1444
www.vcapcd.org

645-1440
Michael Villegas
Air Pollution Control Officer

RECEIVED

AUG 30 2005

VENTURA COUNTY GRAND JURY

August 22, 2005

Honorable John Smiley, Presiding Judge
Superior Court of California, Ventura County
Ventura County Hall of Justice
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: 2004 – 2005 VENTURA COUNTY GRAND JURY FINAL REPORT
RESPONSE

Dear Judge Smiley:

In accordance with Penal Code Section 933.05, the Ventura County Air Pollution Control District provides the following response to the Ventura County 2004 – 2005 Grand Jury Report entitled *Ventura County Air Pollution Control District*.

Findings F-01 through F-11: District staff concurs with the Grand Jury's findings.

Recommendation R-01: "A procedure for providing feedback to complainants and the public needs to be established by the APCD."

Response: The District's Complaint Response Policy has been revised to include provisions for providing feedback to complainants and the public.

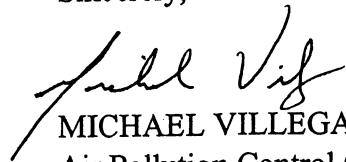
Recommendation R-02: "The APCD should create a better-defined prioritization procedure for public complaints."

Response: The District's Complaint Response Policy has been revised to include a prioritization procedure for public complaints.

Request re of revisions 9.13.05
9.14 will hand deliver to show actions revised

If you have any questions regarding this matter, please contact me at 805/645-1440.

Sincerely,


MICHAEL VILLEGAS
Air Pollution Control Officer

C: Ventura County Grand Jury
Superior Court Jury Services (2 copies)
Clerk of the Air Pollution Control Board

**VENTURA COUNTY
AIR POLLUTION CONTROL DISTRICT**

Memorandum

TO: Esther Bleuel
Ventura County Grand Jury

DATE: September 14, 2005

FROM: Mike Villegas *MV*
Air Pollution Control Officer

SUBJECT: REVISED AIR POLLUTION CONTROL DISTRICT (APCD)
COMPLAINT RESPONSE POLICES AND PROCEDURES.

Attached is APCD's revised Complaint Response Polices and Procedures, as per your request. The Polices and Procedures have been revised to implement both recommendations of the Ventura County 2004-2005 Grand Jury Report entitled *Ventura County Air Pollution Control District*. Regarding Recommendation R-01, reference subsection 4.3 of the revised procedures. Regarding Recommendation R-02, reference subsection 3.1 of the revised procedures.

If you have any questions regarding this matter, please call Keith Duval, APCD Compliance Division Manager, at 645-1410.

c. Keith Duval, APCD

*6 Services - Check
09/20/05*



VENTURA COUNTY AIR POLLUTION CONTROL DISTRICT

COMPLIANCE DIVISION
POLICIES AND PROCEDURES

Subject: Complaint Response

Date: April 11, 2002
Revised: August 17, 2005
No. C-6

1.0 INTRODUCTION

This policy and procedure document provides guidance to District Compliance Staff who receive, evaluate, respond to, and resolve air quality complaints.

An **Air Quality Complaint** is defined as a concern that is communicated to Ventura County Air Pollution Control District (the District) alleging an injury, detriment, nuisance, or annoyance occurring as a result of air contaminants or other materials, including, but not limited to:

- **Smoke** from exhaust, open and agricultural burning, nonspecific fires, or other combustion processes;
- **Dust and other Particulate Matter**, including (but not limited to) asbestos, ash, dirt, fugitive dust, fiberglass, ground rock, lead, paint overspray, sandblasting particles, sawdust, toxic metals or resins; or
- **Odors** from asphalt, burning substances, chemicals, cooking (frying, roasting, barbecuing, etc.), decomposing plants, drying, fiberglass resin, gasoline or diesel fuel, glue or adhesives, inks, metallic substances, motor oil, paints or solvents, plastics, roofing tar, residential and non-residential refuse, rubber, soil decontamination, stagnant water, sulfur (“rotten eggs”), and other malodorous compounds or substances of non-agricultural origin.

In addition, the District receives complaints that do not specifically allege any injury, detriment, nuisance, or annoyance occurring as a result of air contaminants, but which are intended to inform the District that a source may be out of compliance with District Rules and Regulations or permit conditions.

2.0 REPORTING AIR QUALITY COMPLAINTS

The District publishes a 24-hour complaint telephone number in telephone directories throughout Ventura County. The District also receives complaints by letter, fax, referral, and in person.

C-6 COMPLAINT RESPONSE

2.1 Reporting a Complaint

Complainants are asked to provide the following information about the alleged air quality incident that prompted them to contact the District:

- A. Time when the air quality problem was first noticed and whether the problem is still ongoing and/or occurring at the moment;
- B. Nature of complaint (smoke, dust, odor, or other);
- C. Whether the complainant has previously experienced this type of air quality problem;
- D. Name and address of the alleged source, and type of operation, if known.

Complainants' comments and concerns are noted, as are reports of physical symptoms of discomfort experienced by the complainants and/or their family members. Complaints Desk (CD) staff shall not agree nor disagree with complainants' experiences or opinions.

Complainants who are unable to provide sufficient information for effective complaint investigation are advised to note specific details regarding the time, nature, and location of additional air quality problems they experience so that future complaints may be handled more effectively.

Complainants are asked to provide their name, address, and telephone number to the Complaints Desk staff so that District Inspectors may verify complaint information, including any prior history of air quality problems involving the alleged source, and inform complainants of the results of their investigations.

District policy strictly prohibits the release of any information that would identify a complainant to an alleged source or to any other non-District personnel without the complainant's consent or a court order.

2.2 Air Quality Problems Exempt From District Authority

2.2.1 Agricultural Operations

As defined in the California Health & Safety Code (CHSC), §41705, an air quality nuisance "shall not apply to odors emanating from agricultural operations necessary for growing of crops or raising of fowl or animals". Agricultural related odors from, for example, pesticide spraying shall be referred to the Ventura County Agricultural Commissioner's office. California Health & Safety Code, §41704 provides exceptions from visible emission limits (CHSC §41701). These exceptions include outdoor fires for cooking of food, the use of orchard and citrus grove heaters and agricultural operations.

COMPLIANCE DIVISION POLICIES AND PROCEDURES

2.2.2 Composting Facilities

Odors emanating from Composting Facilities are also exempt from District authority. If a composting facility is determined to be the source of an alleged odor, the District will forward the complaint to the Ventura County Environmental Health Division.

3.0 COMPLAINT ASSIGNMENT AND DISPATCH

Complaints related to source facilities or generic complaints of dust, smoke, or odors not immediately associated with a specific source are assigned to a District Inspector by geographic sector for investigation. An updated Sector/Inspector assignment list is available upon request through the Complaints Desk.

Complaints Desk staff enters information about the complainant, the complaint, the sector, and the Inspector responsible for complaint resolution into the Permit Enforcement Engineering Tracking System (PEETS). PEETS generates a unique identifying number for each complaint. Complaints are linked to the source's permit number, if applicable, or linked to Unknown (UNKWN) if the source of the problem is not identified.

The complaint is then given to the assigned Inspector's Supervisor for review. The Supervising Inspector then:

- A. Contacts the assigned Inspector using the District provided 2-way radio system. Inspector can also be paged using this system.
- B. Informs Inspector of the details of the complaint.
- C. Determines if the Inspector will be able to respond in a timely manner.
- D. Refers the complaint to the appropriate agency if beyond the jurisdiction of the District. The complaint is then faxed to the appropriate agency or referred via a telephone conversation. Refer to Policy & Procedures No. A-5, Referring Information to Other Agencies.

3.1 Complaint Prioritization

It is the responsibility of the Supervising Inspector to prioritize complaints according to the nature and potential effect of the alleged emissions, and to communicate these priorities to the assigned Inspectors.

Complaints shall be prioritized and assigned for investigation in the following order:

- A. Allegations of injury or property damage referred by a public safety agency

C-6 COMPLAINT RESPONSE

- B. Citizen complaints alleging injury or property damage
- C. Citizen complaints of a non-injury or non-property damage nature
- D. All other complaints

3.2 Off-Hours Stationary Source Complaints

The District's 24-hour complaint number voicemail system records all air quality complaints received from 5:30 p. m. – 7:00 a.m. Monday through Friday, and on weekends and national holidays. All recorded complaints are received the next business day and then processed in the same manner as On-hours complaints.

4.0 COMPLAINT INVESTIGATION PROCEDURES

The following guidelines should be followed when an Inspector carries out a field investigation of a complaint:

- A. Complaint response will take precedence over all other Inspector assignments with the exception of violations in progress.
- B. When the Sector Inspector is unavailable, an alternate Inspector will be assigned to handle the complaint.
- C. After a complaint has been assigned, the Inspector must decide whether to investigate the source or make initial contact with the complainant.
- D. Upon arrival at the alleged complaint scene, every effort will be made by the Inspector to avoid obvious identification of the complainant and their location. The complainant will not be identified to anyone who is not an employee of the District.
- E. If the complainant is not at home the Inspector will leave a message/business card.

4.1 Inspector Conduct

The following guidelines will be followed when conferring with a complainant:

- A. Inspectors will identify themselves by name and agency in a friendly manner.
- B. Inspectors will be courteous and objective.

COMPLIANCE DIVISION POLICIES AND PROCEDURES

- C. The complainant will be allowed to tell their story without unnecessary interruptions. When facts appear, the Inspector should repeat them aloud for verification and write them down.
- D. After the complainants have expressed themselves, the inspector should proceed with a line of questioning which will determine the cause, nature, and source of the air pollution problem cited in the complaint.
- E. Inspectors will explain the laws involved and evidence necessary to proceed with legal action. Inspectors should inform complainants that a public nuisance is related to affecting a "considerable number" of persons, unless damage has occurred. Do not promise any legal action nor commit the District to any course of action.
- F. Do not solicit complaints.

4.2 Inspection of Alleged Source

When inspecting the source the Inspector should:

- A. Ask to see the responsible person at the source, e.g. Operations Manager
- B. Identify him/herself and explain that they are there to investigate an alleged complaint.
- C. Ask pertinent questions based on the information acquired from the investigation.
- D. Inspect the equipment and compare actual operating conditions, cycles, and times of operation with the times and frequencies of complaints.
- E. Obtain wind direction and velocity information if appropriate.
- F. Verify the problem at the complaint premises.
- G. Inspectors trained in asbestos will handle asbestos complaints. The Asbestos Inspector may collect samples from the complainant's premises as well as further samples from the alleged source. These samples are then submitted to an approved Laboratory for PLM and/or Point Count analysis. See Policy & Procedures No. E-6, Asbestos Containing Materials – Laboratory Analysis.

4.3 Complaint Follow-up

After the inspection has been completed, the Inspector must attempt to contact the complainant to discuss the findings of the investigation.

C-6 COMPLAINT RESPONSE

- A. If the Inspector discusses the complaint investigation and outcome with the complainant at the time of the investigation, no further follow-up is necessary.
- B. If personal contact with the complainant is not made at the time of the investigation, then follow-up contact should be made by telephone. Contact by telephone should be initiated within one working day of completing the complaint investigation.
- C. If a written complaint is received, the Inspector must contact and follow-up with the complainant in the same manner as if the complaint were received by telephone. Upon completing the investigation, the Inspector will prepare a response letter to the complainant for the Division Manager's signature. A written response will be made within five working days of completing the investigation.
- D. If a complaint investigation develops into a prolonged investigation or is not resolved within a short time frame, the Inspector must contact the complainant and advise him/her of such fact, and provide assurance that the District is continuing its investigation.

Occasionally a complainant or other interested party will ask for information regarding the status of our complaint investigation. Because a complaint investigation may result in the District initiating enforcement actions, it will be district policy to not divulge the status of a complaint investigation until the investigation is completed. If a Notice of Violation is issued, the complainant can be advised of that fact after the NOV is issued. In no event will a complainant be advised if an investigation is referred for prosecution, until any charges are filed.

5.0 COMPLAINT CONFIRMATION

A confirmed complaint means either an Inspector, another employee of the District, or a complainant must be able to testify that a particular operation or combination of operations is the source of the air contaminants. Confirmation may be accomplished in the following ways:

- A. Personal observation by an Inspector or another District employee with the complainant (face to face confirmation). This would require that the inspector trace the air contaminant from the complainant's residence or place of business to the alleged source.
- B. Personnel from other agencies (i.e., Environmental Health Department, Fire or Police Departments) who have knowledge of the problem may be used to confirm a complaint.
- C. **Please note it is against District policy for an Inspector to enter a residence at any time. Observations must be made from public property or in an open area on the complainant's property where the Inspector feels this can be safely done so.**

COMPLIANCE DIVISION POLICIES AND PROCEDURES

- D. The identification of a source of air contaminants, which is supported by data such as: operational records, wind charts and monitoring devices, which show a correlation between complaints and source activities.

6.0 COMPLAINT REFERRALS

The cause of the complaint may not always involve air pollution. Although most complaints are related to air pollution, some will concern problems over which the District has little or no control. For example; backyard feuds, naturally occurring contaminants, resentment towards a nearby source.

When the District does not have jurisdiction in a case, the inspector should refer the complaint to an appropriate agency. Additionally, the complainant must be informed of the District's actions.

7.0 PUBLIC NUISANCE

District Inspectors shall follow District Rule 51 and California Health and Safety Code, Section 41700, regarding nuisance.

- A. When a complaint is considered a public nuisance, the Inspector asks each complainant to complete and sign a public nuisance complaint form in his or her presence (Attachment 1). Inspectors must collect all complaint forms distributed for completion and signature to complainants, and must not leave any forms with complainants for use at a later date. If a complainant is unwilling to testify in court, the Inspector asks the complainant to complete the declaration on the reverse side of the form.
- B. Only one signed and completed public nuisance investigation form is required to substantiate a public nuisance violation where there is evidence of property damage, personal injury resulting in hospitalization, or where a responsible government agency has ordered an evacuation. However, and depending on the nature of the nuisance, a minimum of six to ten nuisance investigation forms obtained from separate households must be completed and signed before a Notice of Violation can be issued for a public nuisance based on allegations of personal injury not resulting in hospitalization. The Inspector must complete and sign each form submitted to substantiate a public nuisance, and must inform a Supervising Inspector prior to issuing a Notice of Violation.
- C. If, during a complaint investigation the inspector observes a violation of a District rule, a Notice of Violation shall be issued.

8.0 COMPLAINT INVESTIGATION REPORT AND OUTCOME

The Inspector shall submit a report of each complaint investigation to the appropriate Supervising Inspector for review and approval within 2 (two)-business days after the investigation of the complaint. The Supervising Inspector may grant an extension of the time for

C-6 COMPLAINT RESPONSE

completing and submitting the report upon request by the Inspector. At a minimum, the complaint investigation report must contain the following information:

- A. Complaint number and date received.
- B. Outcome of the complaint (i.e., In Compliance, No Further Action, NOV Issued, Problem Not a Violation, Unable to Verify Problem). The "Outcome" field must be updated in PEETS on the Complaint Screen.
- C. Source name, telephone number, and address (if known).
- D. Whether the complainant was contacted during the investigation or to report the outcome, and how the complainant was contacted - by telephone or in person.
- E. Source's statement.
- F. How the complaint was investigated.
- G. The District Inspector must also update the relevant fields and comments in PEETS pertinent to the complaint.

The Inspector is required to update the Supervising Inspector of the status and results of the complaint investigations, particularly when they involve a public nuisance, a politically sensitive situation, or circumstances likely to cause general public concern.

9.0 REQUEST FOR COMPLAINT INFORMATION FROM MEDIA

Under no circumstances may an Inspector make any statement to the media regarding the outcome of a complaint investigation. Requests for information from the media must be referred to the appropriate Supervising Inspector, the Compliance Division Manager, or the Public Information Division.

APPROVED



Keith Duval, Manager
Compliance Division