

**PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY
TECHNICAL PROCEDURE**

POLICY NO: Technical Procedure, TECH-203

EFFECTIVE DATE: April 5, 2002

POLICY: COMPLIANCE AND ENFORCEMENT ACTIONS

The Pima County Department of Environmental Quality (PDEQ) is responsible for ensuring the health, safety and welfare of the citizens of Pima County and the protection of the environment.

PURPOSE: The purpose of this policy is to establish procedures to be utilized by enforcement and compliance personnel in implementing federal, state and county laws, rules and regulations in a fair, open, timely and legal manner. These procedures shall apply to the department's compliance and enforcement responsibilities in regulating hazardous waste, solid waste, liquid waste, water quality and air quality.

This policy is intended solely as guidance. It is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the State of Arizona or Pima County. While this policy is intended to provide consistency, nothing in this policy is intended to limit the enforcement discretion of PDEQ (Arizona Revised Statutes, Title 11; Pima County Code, Title 7 and 17; Arizona Revised Statutes, Title 49, Chapter 3, Article 3, Arizona Revised Statutes, Title 49.107).

PROCEDURE:

1. Determine if the source (an individual or a facility) is violating, or has violated any statute, rule or permit enforced by PDEQ, discovered during the course of an inspection.
2. Prepare a typed site Inspection Report. The Report will include the legal basis for alleging a violation of any statute, rule or permit, together with all relevant facts and circumstances. A copy of the Inspection Report shall be given to the regulated person or his representative **immediately upon completion of the Inspection Report. Updates on the progress of the Inspection Report shall be provided to the regulated person at least every thirty (30) days at the time of the inspection or within thirty (30) working days after the inspection.**
3. Confer with Compliance and Enforcement Supervisor regarding violations of any statute rule or permit found during the inspection and which of the following enforcement documents, if any, will be issued.
 - A. Letter of Compliance (LOC). A LOC is issued to the regulated person after the facility has been inspected and found to be in substantial compliance with all requirements of statute, rule or permit.
 - B. Compliance Status letter (CSL) also called Opportunities to Correct Deficiencies. A CSL may be used to correct minor deficiencies and violations. A CSL may require the regulated person to refrain from engaging in a certain course of conduct or may require the regulated person to perform activities designed to remedy the violation. A CSL shall require the regulated person to document compliance with the CSL within a prescribed time. Within thirty (30) days of receipt of notification from the regulated person that the compliance provisions of the CSL have been met, PDEQ shall determine if the regulated person is in substantial compliance and

- notify the regulated person, in writing, whether or not the regulated person is in substantial compliance with the provisions of the CSL. If the regulated person fails to correct identified deficiencies or fails to correct such deficiencies within a reasonable period of time, as determined by PDEQ, such failure may result in the issuance of a Notice of Violation or any other enforcement action authorized by law.
- C. Notice of Violation (NOV). A NOV is issued when PDEQ determines that any violations identified in the Inspection Report are (1) committed intentionally, or (2) not correctable within a reasonable period of time as determined by PDEQ, or (3) evidence of a pattern of noncompliance, or (4) a risk to any person, the public health, safety or welfare or the environment.
 - D. Order of Abatement (OOA). An OOA is issued for violations in conjunction with the issuance of a NOV. An OOA requires that the regulated person cease the specific activity and/or take specific action to remedy the violation.
4. Prepare a written DRAFT enforcement document based on determinations made in discussion with the Compliance and Enforcement Supervisor, including, at a minimum, the following information:
 - A. A description of the violation.
 - B. The legal authority upon which the violation is based.
 - C. A description of what constitutes compliance and how compliance is to be accomplished and documented.
 - D. A time frame for compliance to be achieved.
 5. Forward the DRAFT enforcement document, together with any supporting documentation, including Site Inspection Reports, photographs, logs and permits conditions, to the Compliance and Enforcement Supervisor for review and approval.
 6. Prepare FINAL enforcement document after the Compliance and Enforcement Supervisor has approved the DRAFT enforcement document as to form and content. The Compliance and Enforcement Supervisor shall approve and initial the FINAL enforcement document.
 7. Mail (by certified mail or hand deliver) the FINAL enforcement action to the responsible party. For hand-delivered documents, the inspector shall include a photocopy of the enforcement document to be signed by the person receiving the enforcement document. The inspector shall file the signed certified mail receipt or signed photocopy, stapled to a copy of the written notice, in the Compliance File after the person served with the enforcement document has received the enforcement document.
 8. Submit a copy of the enforcement action and any supporting documentation to the Complaint Coordinator, the same day the enforcement document is mailed or delivered to the regulated person, for filing and subsequent entry into the compliance database. The Complaint Coordinator is responsible for filing all enforcement documents in the secured compliance files.
 9. Retain all computer generated case documentation on the PDEQ network, in the appropriate folder in "g:/field/" prior to the issuance of an enforcement document.

In no event shall the PDEQ representative grant oral waivers or modifications. Waivers or modifications may only be granted in writing under such circumstances as authorized by law, and only as approved by the Compliance and Enforcement Supervisor, Division Manager or Director.

APPROVED BY:

Ursula Kramer Date
Director

Original Policy Approved: August 10, 1998
Date(s) Revised: April 5, 2002