

Notice of Violation (NOV)

You've received a NOV...what's next?



A Message from the Spokane Regional Clean Air Agency

If you've received a NOV from Spokane Regional Clean Air Agency (Spokane Clean Air) please review this fact sheet. If you still have questions/concerns, please call the agency's Compliance Section Manager at (509) 477-4727, extension 102. If he/she is unavailable to take your call, please leave your name, business name if applicable, telephone number, the best time to reach you, and a brief description of what you wish to discuss. Your call will be returned as quickly as possible.

What is a Notice of Violation ?

When an air quality regulation is violated, Spokane Clean Air may issue a NOV as an official statement that a violation has occurred.

You've received a NOV...now what ?

Within 30 calendar days of receiving the NOV, you may provide the agency with pertinent information which may not have been apparent at the time the NOV was issued. The information may be provided in writing, by telephone, or in a meeting. To provide more information via telephone or in a meeting, call the Compliance Section Manager, at (509) 477-4727, extension 102. If you wish to provide more information in writing, please send correspondence to: Spokane Regional Clean Air Agency, Attn: Compliance Section Manager, 3104 E. Augusta Ave., Spokane, WA 99207 or fax correspondence to (509) 477-6828.

Thirty days after the issuance of the NOV, an assessment of a civil penalty (fine) typically follows. Penalty assessment worksheets are used to ensure consistency in the enforcement process.

The amount of the fine is determined based on a variety of factors, such as the seriousness of the offense, responsiveness in correcting the violation, compliance history, duration of the violation, and the economic benefit gained by not complying.

Although penalties may be up to \$10,000 per day, per violation, the typical range for a first-time, one-day offense with no quantifiable economic benefit is \$200-\$2,000. For an asbestos violation, the range is \$200-\$5,500. If there was a financial gain from non-compliance, the fine can be significantly greater.

The penalty notice is mailed out no earlier than 30 calendar days from the date you received the NOV, in order to give you the opportunity to provide more information as described earlier. A civil penalty is likely to be assessed unless it is determined, based on the information provided, that a violation did not occur.

On the back is information that is pertinent *after* you have received a penalty notice.

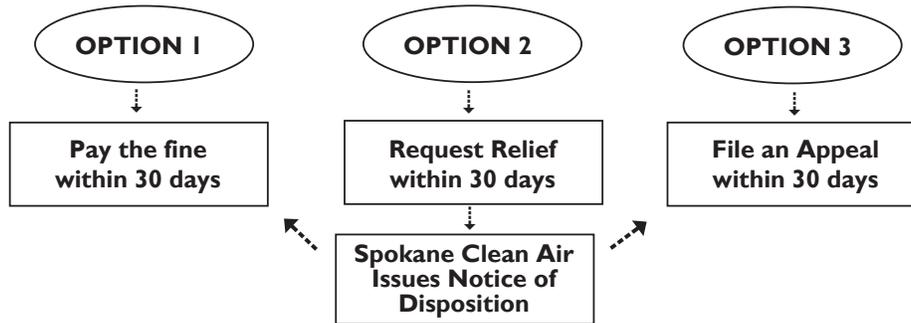
In accordance with RCW 43.21B.240, local air agencies are not granted the authority to hold adjudicative proceedings. Such hearings must be held by the state's Pollution Control Hearings Board. As such, the Spokane Clean Air Board of Directors does not interject itself into the enforcement process.

This fact sheet provides an overview of the enforcement process. It is not intended as legal advice or as a substitute to applicable laws and regulations. If you have any additional questions about this process, contact the Compliance Section Manager at (509) 477-4727, extension 102, or consult your attorney.

Notice & Order of Assessment of Civil Penalty

When you receive a fine, what's next?

You will need to choose one of these three options:



Option 1: Pay the Fine

Fines are assessed using a worksheet adopted by the agency's board of directors. A copy of the worksheet used for calculating your civil penalty is available by contacting Spokane Clean Air.

Fines must be paid within 30 calendar days of receipt of the penalty notice to resolve the matter. Unpaid balances are forwarded to a collection agency. Once the account is referred to collection, you'll be responsible for the principal amount as well as any additional collection service costs.

Submit payment to:

Spokane Regional Clean Air Agency
3104 E. Augusta Avenue, Spokane, WA 99207

Option 2: Request Relief

Submit a legible, handwritten or typed letter explaining the reasons the request for relief (more formally known as "mitigation" of the penalty) to Spokane Clean Air within 30 calendar days from the receipt of the penalty notice. Pursuant to RCW 43.21B.300, Spokane Clean Air "shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty."

The request should explain the relief requested (e.g. payment schedule, reduced penalty, etc.) and reasons the Director of Spokane Clean Air should consider such relief. If you are requesting reduction in the amount of the penalty, you should specify the proposed reduction amount. Any other mitigation request should clearly state what is being proposed. The mitigation process is described separately and included with the penalty notice.

The Director will review the request and issue a decision in writing (Notice of Disposition.) If you're satisfied with the decision, follow the terms of the Notice. If you're not satisfied, you may contact the Compliance Section Manager to discuss it further or file an appeal with the Pollution Control Hearings Board (PCHB) within 30 calendar days from receipt of the Notice of Disposition.

Option 3: File An Appeal

Before filing an appeal you should to first consider requesting relief (see option #2) as it is simple and more informal.

You may appeal a fine or Notice of Disposition by filing a Notice of Appeal with both Spokane Clean Air and the PCHB, which is not affiliated with Spokane Clean Air. The PCHB is a three-member board (one of which must be an attorney) appointed to six-year terms by the governor and confirmed by the state senate. Both entities must receive the written Notice of Appeal within 30 calendar days from the receipt of the penalty notice or Notice of Disposition.

The appeal process is explained in a separate information sheet included with the penalty notice. If an appeal is properly filed, the PCHB will set a formal hearing date. Most hearings are held in Spokane. The PCHB will also encourage involved parties to settle their dispute so there is no need to go to hearing. As part of the process, the PCHB offers a free mediation service.

More information about the PCHB and how to file an appeal (in person, via mail or by email) is at www.eluho.wa.gov/Board/PCHB.

July 2015