

A Guide to NDEE's Return to Compliance Process



DEPT. OF ENVIRONMENT AND ENERGY

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This guidance document is advisory in nature but is binding on an agency until amended by such agency. A guidance document does not include internal procedural documents that only affect the internal operations of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

To make compliance easy, the Nebraska Department of Environment and Energy (NDEE) has simplified its Return to Compliance process. If NDEE inspectors identify violations at your facility, you will receive a Letter of Non-Compliance (LNC) that communicates those violations, requests corrective action, and establishes a schedule to return to compliance. The LNC is NDEE's request for voluntary compliance on your part. Your prompt compliance will be considered in deciding whether further enforcement is necessary.

NDEE's vision is to see everyone living in, working in, and enjoying a healthy Nebraska environment. This is achieved through our mission: protect and improve human health, the environment, and energy resources.

This LNC reflects NDEE's mission; by using one compliance tool, NDEE promotes a swift return to compliance, which in turn helps protect the environment for all Nebraskans.

An LNC will provide certainty to Nebraska's regulated facilities, promote industry fairness, and create consistency among NDEE's divisions. This clear, concise feedback will reduce ambiguity and increase transparency on how NDEE's compliance process works. In addition to reducing steps toward compliance, it also allows for communication between NDEE and facilities as they work to find solutions.

Why change to the Letter of Non-Compliance?

In the past, NDEE used a variety of communications, depending on the severity of the violation, which made the compliance process complex and more time-consuming for both NDEE and the facility. Using a single compliance tool allows NDEE to streamline a return to compliance and communicate more effectively with facilities.

Receiving an LNC means there is an inspection- or reporting-related violation at your facility—regardless if the violation is big or small. Those who receive an LNC have the opportunity to discuss alleged violations and actions they can take to return to compliance.

How can I be proactive when it comes to environmental regulations?

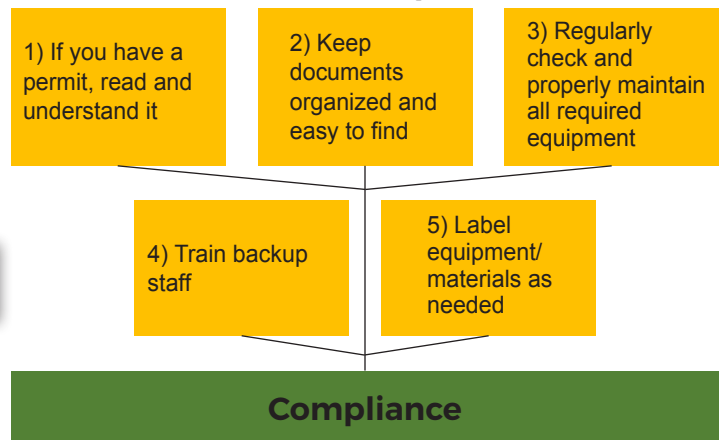
NDEE's Compliance Assistance Program can provide assistance across all agency divisions. This program is designed to help facilities and businesses understand their permits as well as applicable regulations and how to comply with them. Some areas of assis-

tance include:

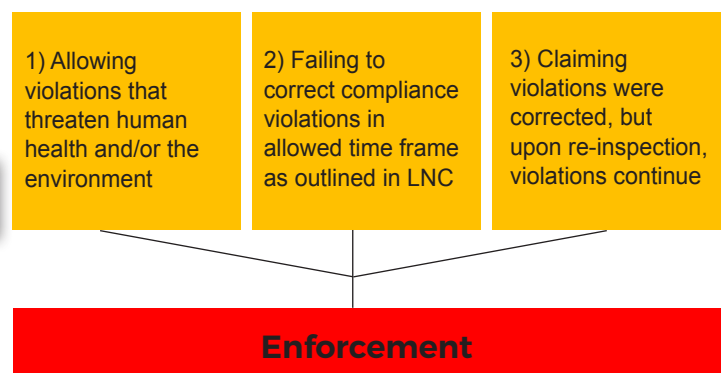
- Compliance Assistance Visits (CAVs), where NDEE staff will visit your facility to help you identify problems and give you the opportunity to address those issues without formal action being taken. However, if violations are found that are an imminent and substantial danger to human health and the environment, the CAV will end.
- Technical assistance for permit applications, emission inventories, discharge monitoring reports, excess emission reports, and other required documents.
- Explanations of regulations and their application to your situation.
- Fact sheets, guidance documents, pamphlets, web pages, and other environmental resources.

For more information or for assistance, call NDEE at (402) 471-2186, email NDEE.assistance@nebraska.gov, or visit <http://deq.ne.gov/Publica.nsf/pages/06-193>.

Paths to Compliance



Pitfalls to Avoid





How does the streamlined Return to Compliance process work?

Please refer to the process map below. Keep in mind, this map is intended to explain, in general, how you, as the facility, fit into the new Return to Compliance process. Please note that each step may not be followed in every instance, depending on facts and circumstances.

The numbers below correspond to steps on the Return to Compliance process map and describe different directions the process may take, depending on your facility's actions.

1) Review your Letter of Non-Compliance (LNC)

If you have questions after reviewing your LNC, contact your inspector, whose name and contact information should appear at the bottom of the letter. Gain a clear understanding of the violations identified, the corrective action(s) requested, and the time frame to return to compliance for each violation.

2) Can violations be corrected in the time frame allowed?

NDEE makes every effort to anticipate and develop a reasonable compliance schedule that allows each facility a successful and speedy return to compliance.

3) Return to Compliance

Take all necessary actions to correct the violations outlined in the LNC by the compliance dates listed in your schedule, or

as agreed upon in an alternative schedule. When you have corrected all violations, notify NDEE, as requested in the LNC.

4) Propose alternative schedule

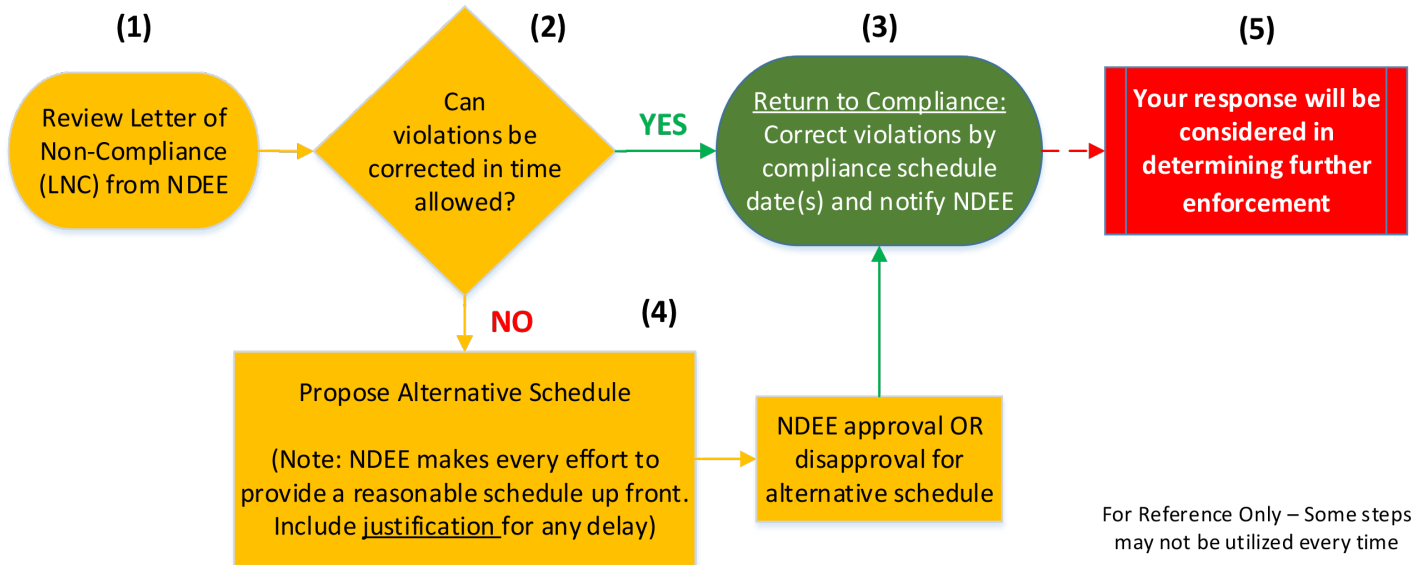
Facilities can propose an alternative schedule for NDEE's consideration. This is the facility's plan to return to compliance within an alternative time frame. This step allows facilities and NDEE to collaborate and find a workable solution that will bring the facility back to compliance promptly.

If you cannot provide justification for the alternative time frame, NDEE may reject the proposed alternative schedule and you will need to follow the original time frame listed in the LNC.

5) Further enforcement

If a facility does not return to compliance within the LNC schedule provided by NDEE, or within the alternative schedule, an NDEE program may refer the matter for enforcement. Enforcement action may include issuance of an administrative order or referral to the Attorney General. We encourage you to make every effort to comply with the LNC for the health and safety of Nebraska's citizens, the environment, and our energy resources.

NDEE's Return to Compliance Process



For Reference Only – Some steps may not be utilized every time