

**SAN JOAQUIN VALLEY UNIFIED
AIR POLLUTION CONTROL DISTRICT
COMPLIANCE DEPARTMENT**

COM 1170

APPROVED: _____ **SIGNED** _____ **DATE:** April 15, 2008
Jon Adams
Director of Compliance

TITLE: **NOTICE TO COMPLY & RECORD OF CORRECTIVE ACTION TAKEN**

SUBJECT: **WHEN TO ISSUE A NOTICE TO COMPLY (NTC) OR RECORD OF CORRECTIVE ACTION TAKEN (RCAT)**

OBJECTIVE:

There are a number of situations where an educational approach is more effective than enforcement action in achieving compliance with District rules and regulations. These situations generally involve first time violations committed by members of the general public or businesses that are not fully aware of District Rules and Regulations. Under certain situations, minor violations may be issued a Notice to Comply (NTC) or a Record of Corrective Action Taken (RCAT) in lieu of a Notice of Violation.

PURPOSE:

To establish District policy and procedures for the use of the NTC and RCAT. Also, to list the most common types of violations that may qualify for such action.

POLICY STATEMENT:

A NTC or RCAT may be issued in lieu of a Notice of Violation for any of the specific situations outlined in this policy. Other violations may qualify for a NTC as described in District Rule 1180 – *Notices to Comply*. Other minor violations that are not mentioned in this policy may be eligible for a NTC or RCAT if approved by a supervisor or manager.

- I. NOTICE TO COMPLY:** The NTC may be used at any Title V, major, or minor source in lieu of a Notice of Violation for **first time violations** in the following situations:

- A. RECORD KEEPING & REPORTS**

1. Inadvertent omissions or deficiencies in reports or record keeping that do not prohibit an overall compliance determination. The weight of evidence should indicate compliance, and the inspector must be able to determine compliance (even with the omissions) before an NTC may be issued.
2. Records not physically available at the time of inspection provided the records do exist and can be produced in a timely manner.
3. Certain reports (including some Title V reports) submitted to the District beyond the required due date may be eligible for an NTC if they are submitted within 15 days of the original due date. Late submittal of the any Title V reports must be accompanied by a deviation report for the late submittal. An NTC may not be issued for reports late a second time. Refer to COM 1142 Processing Title V Reports for details on which reports may qualify for an NTC.

B. PERMITS & PERMIT CONDITIONS

1. Failure to post an Authority to Construct (ATC) or a Permit to Operate (PTO) or have the ATC or PTO readily available on site during an inspection.
2. Failure to file a Transfer of Ownership for a small business as long as required Permits to Operate are otherwise current.
3. Equipment that was previously exempt from permits and there is no reasonable expectation that the source would have had knowledge of the loss of exemption. Give instructions that the District must receive a PTO application within 15 days of receipt of the NTC.
4. Failure of a gasoline dispensing facility to install the correct number of nozzles or tanks if fewer are installed than specified on the ATC. The source must apply for a modification to the ATC.
5. Minor discrepancies in equipment descriptions that do not result in excess emissions and do not interfere with the District's ability to evaluate sources of emissions or enforce the Rules and Regulations.

C. SOLVENT USAGE

1. Open containers of one gallon or less, or any container with an open access point of four inches or less in diameter, that contain unheated solvent and are located in work areas. Containers should be involved with production activities (i.e. not in storage) and not left unattended or unused for an extended duration.

2. Solvent-laden rags (paper or fabric) left exposed in the work area.
3. Cold cleaners left uncovered when not in use provided the solvent meets the District's low volatility requirements.

D. DRY CLEANING

1. Temperature gauge on refrigerated condenser is not easily visible to the operator or inspector.
2. Failure to order a part within two days after the operator detects and records a leak, but not longer than four days.
3. Training certificate of current trained operator, copy of certificate for separated trained operator or manufacturer's operating manual not physically available at time of inspection, provided that the certificate(s) and/or manual(s) exists and can be produced in a timely manner.

E. OPEN BURNING

1. Use of residential burn barrel or residential open burning of less than one-half cubic yard of waste unless it is a blatant violation where furniture, mattresses, carpet, plastic pile, tires, or other such materials are being burned. Residents should be required to remove burn barrels as a condition of the-NTC. Follow-up should be made to verify compliance.
2. Use of non-conforming warming fires.
3. Burns that involve material that otherwise would be authorized but is not specifically listed on the burn permit. There must, however, be a burn permit issued for the location where the burn took place, and provided that the burn does not occur in a zone where zero allocation has been declared. This provision does not apply to orchard or vineyard removals.

F. OTHER:

1. Burning prohibited fuel in a residential fireplace or stove.
2. Residential spray painting of automobiles in violation of District rules.
3. At construction sites that require a Dust Control Plan (DCP), provided that a DCP exists, a NTC may be issued for minor record keeping omissions. A NTC may be issued for failing to keep a copy of the DCP on site.

4. Conservation Management Practices Plan (CMPP) holders who have switched practices or crops and have not updated their CMPP, provided that an approved practice is being conducted in its place.
 5. An agricultural source that is not exempt from having a CMPP, and has not obtained one, provided that approved practices are being conducted.
- II.** Other violations not specifically included in this policy may meet the intent of Rule 1180 and may qualify for a NTC or RCAT. When an inspector believes that a violation not specifically listed in this policy qualifies for a NTC or RCAT the inspector shall discuss the violation with a Supervisor or Manager and receive approval prior to issuance of the NTC or RCAT.
- III.** A NTC may not be issued for failure to apply for a ATC or PTO except as specified in section B.
- IV.** Chronic violations or violations committed by a recalcitrant violator shall not be eligible for a NTC. See definitions for “Chronic Violation” and “Recalcitrant Violator”, District Rule 1180. A violation is considered chronic if the violation has been preceded by one violation of the same or similar nature documented by a NTC or Notice of Violation at the same facility (same facility ID) within the prior 36 months. Notices of Violation which have previously been dropped or NTC which have previously been successfully appealed shall not be counted in determining whether a violation is chronic. Prior to making a determination that a source is recalcitrant, the facility shall be notified of the pending finding and given an opportunity to respond to the allegation.
- V.** All recommendations and deadlines for compliance shall be documented on the NTC. A source shall have up to 30 calendar days (although fewer can be designated), from the date of receipt of the NTC, to correct the violation and come into compliance. If the source fails to comply with the conditions of the NTC a Notice of Violation shall be written for the original violation.
- VI.** Any source that has received a Notice of Violation and believes that it may qualify for a NTC may request that a Supervisor or Manager review the case. If it is determined that the violation qualifies for a NTC, the Notice of Violation shall be dropped and an NTC shall be issued.

- VII. RECORD OF CORRECTIVE ACTION TAKEN:** Per District Rule 1180, section 4.3, a NTC shall not be issued for any minor violation that was immediately corrected in the presence of the inspector. While the name “Record of Corrective Action Taken” is not specifically mentioned within Rule 1180, it is the District’s way of documenting a minor violation that was corrected within the presence of the inspector. **A RCAT can be used for any outlined violation mentioned earlier in this policy.**
- A. The inspector shall “check” the box adjacent to “Record of Corrective Action Taken” and note the infraction that was corrected in the body of the document.
 - B. Similar violations found at subsequent inspections that are corrected in the presence of the inspector are not eligible for a Notice to Comply or a Record of Corrective Action Taken.
- VIII.** The inspector shall issue the pink copy to the responsible party, the inspector shall keep the yellow copy, and the white copy may be submitted to a supervisor depending on the circumstances. The inspector should enter the information, including the violation and compliance achieved, into the NOV/NTC database. A copy of the NTC or RCAT shall be submitted with the facilities inspection report to be scanned into the Electronic Data Management System (EDMS). Only submit documents to be scanned into EDMS if there is a facility identification number within (PAS) for the facility.