



Maricopa County

Air Quality Department

INTEROFFICE MEMORANDUM

Date: April 13, 2009
To: Air Quality Department staff
From: Lawrence Odle, Director
Subject: Notice to Comply Interim Policy

21 Notice to Comply Interim Policy

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21.1 EFFECTIVE DATE

This interim policy is effective beginning April 13, 2009, and shall remain in effect until terminated or superseded.

21.2 GENERAL PURPOSE

The purpose of this policy is to establish interim guidance to department staff concerning the use of a Notice to Comply, commonly referred to as an NTC, option as an additional tool for documenting activities or conditions that are not in compliance with statutes or regulations relating to air quality ("Noncompliance"). The NTC serves as both a formal notice of Noncompliance and directs that immediate conclusive action must occur to bring about compliance. The NTC is available to resolve administrative and procedural violations that do not have the immediate potential to contribute to emissions that would exceed a rule or permit condition. An NTC is a tool that allows staff to document the existence of administrative and procedural violations that may be readily corrected in the field or can be readily corrected through the completion of an administrative activity within a period of 24 hours. An NTC is formal documentation of actual Noncompliance activity. Even though an NTC may be issued, it does not eliminate the existence of a violation or a penalty that may be subsequently issued by the department, should the department determine it is in the interest of public policy to do so.

21.3 ISSUANCE

The NTC is an administrative/enforcement tool that is available to staff when Noncompliance is observed while conducting an inspection or reviewing required reports. The NTC is to be used only to document a violation of air quality rules and regulations. When conditions warrant, and at the discretion of the inspector, an NTC may be issued in lieu of a Notice of Violation.

Staff issuing an NTC shall inform the violator that compliance must occur within 24 hours and that a written response to the NTC is required within 5 days of issuance. The written response shall include, but not be limited to:

- NTC number (or copy of the NTC);
- Location of Noncompliance activity;
- Certification of truth, accuracy and completeness;
- A description of the Noncompliance activity, including its duration and cause;
- Identification of the responsible source contact;
- A description of what action has been taken to bring about compliance; and,
- Date and time complete compliance was achieved.

The written response to an NTC shall be submitted to the issuing staff.

An NTC shall not be issued for any Noncompliance activity that constitutes actual emissions violation or is/or would directly contribute to emissions that constitute a violation of a Rule or permit condition, e.g., observations of opacity in violation of a rule or emissions calculated to exceed a permit condition.

An NTC shall not be issued if the site has a history of significant or recurring Noncompliance. For the purposes of this policy, recurring Noncompliance is defined as 2 or more violations for the same or similar Noncompliance issue(s) within any 3-year consecutive period at any facility under the common ownership of the owner, or, under the common operation of the operator.

An NTC shall not be issued if the violation cannot be corrected immediately or in 24 hours for an administrative violation.

21.4 ENFORCEMENT

Failure of a party to correct the Noncompliance activity within 24 hours or failure of the party to submit a written response received by the Maricopa County Air Quality Department within 5 days of receipt of an NTC shall result in the automatic issuance of the NTC into a Notice of Violation and the application of the standard penalty assessment procedure. The NTC will remain issued and serve as historical documentation that formal notice of the need to comply was provided.