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Mr. Jon Adams, Director of Compliance
San Joaquin Valley Air Pollution Control District
1990 East Gettysburg Avenue
Fresno, CA 93724-0244

Subject: **Comments on District COM 1142, Policy for District Compliance Staff Responding to Title V Issues (2-8-07)**

Dear Mr. Adams:

Chevron is assisting the Western States Petroleum Association (WSPA) in preparing comments on the draft policy COM 1170, Notice to Comply & Record of Corrective Action Taken. In review of COM 1170, Chevron notes that related policy COM 1142, Policy for District Compliance Staff Responding to Title V Issues (2-8-07) contains similar language to COM 1170, which is the subject of the WSPA comments. Although policy COM 1142 has not been identified as being in draft form, Chevron believes commenting on COM 1142 is appropriate at this time because the COM 1170 and COM 1142 are related policies. Therefore, Chevron is hereby submitting comments on COM 1142 and requests the policy be updated in accordance with the requested changes.

Chevron's comments on COM 1142 can be summarized with the statement that we believe that administrative omissions on Title V reports, where the omitted information does not hinder the District's ability to determine compliance, should at most be subject to a Notice to Comply (NTC) not a Notice of Violation (NOV). There are three parts to this comment.

A. In the table included at the end of the subject policy (and included at the end of these comments for reference), Line Item Q (addressing Annual Compliance Certifications (ACCs) reads:

“NOV issued for failing to submit ACC (Rule 2520, section 9.16.1). An NTC, rather than an NOV, is issued if compliance status with the permit condition through the reporting period is correctly identified in the report, but additional information (e.g. methods to determine compliance, date, signature, etc) is inadvertently omitted and the omission does not hinder the District's ability to ultimately determine compliance.”

Line Item N in the table (addressing Reports of Required Monitoring) reads:

“NOV issued for failing to report RRM properly (Rule 2520, section 9.5.1). An NTC, rather than an NOV, is issued if information is inadvertently omitted and the omission does not hinder the District’s ability to ultimately determine compliance.”

Line Item Q includes additional language over Line Item N in that Line Item Q requires the “Compliance Status” to be properly identified in the report.

Chevron suggests changing Line Item Q to mirror Line Item N as follows:

“NOV issued for failing to submit ACC (Rule 2520, section 9.16.1). An NTC, rather than an NOV, is issued if information is inadvertently omitted and the omission does not hinder the District’s ability to ultimately determine compliance.”

Chevron believes an NTC, not an NOV, is appropriate when either an ACC or RRM is submitted, but information is inadvertently omitted, and the omitted information does not hinder the District’s ability to determine compliance. An example of such an omission is a situation where a condition associated with a deviation was not identified on a RRM or ACC, but the deviation itself had been properly reported (with 10 days of discovery). Another example involves new or modified Federally Enforceable conditions associated with an implemented Authority to Construct (ATC) being omitted from an ACC, but the Title V application was properly submitted for the ATC in accordance with the timelines in Rule 2520. In these scenarios, we believe the inadvertently omitted information does not hinder the District’s ability to determine compliance since the proper Title V paperwork for the deviation and implemented ATC had already been provided.

B. End note #1 for the table reads:

“As with any NTC, compliance required, and any future infraction of the same requirement will result in an NOV”

Chevron suggests the end note wording be changed to reflect that NTCs should be used for administrative omissions on Title V reports where the omitted information does not hinder the District’s ability to determine compliance. Suggested wording is as follows:

“As with any NTC, compliance required, and except for administrative omissions on Title V reports where the omitted information does not hinder the District’s ability to determine compliance, any future infraction of the same requirement will result in an NOV”

C. In addition, it is noted that the Western States Petroleum Association (WSPA) submitted comments on a prior draft of this policy, in March of 2006, in part stating the following:

“WSPA believes that administrative errors should be treated as NTCs not NOVs. One example of an administrative error is data inadvertently missing from reports. Should NTCs not be resolved in a reasonable amount of time, they could become NOVs.”

Chevron reiterates this comment.

#	SOURCE HAS FOLLOWING TITLE V ISSUE:	BREAKDOWN OR VARIANCE	NTC ISSUED	NOV ISSUED	NOTES:
A	PROPERLY REPORTS DEVIATION	YES	NO	NO	
B	PROPERLY REPORTS DEVIATION	NO	NO	YES	NOV issued for permit condition violation (Rule 2070 section 7.0).
C	FAILS TO REPORT DEVIATION	YES	YES	NO	NTC issued for failing to report deviation (Rule 2520 section 9.5.2). ¹
D	FAILS TO REPORT DEVIATION	NO	NO	YES	NOV issued for permit condition violation and failing to properly report deviation (Rule 2520, 9. 5. 2).
E	PROMPTLY REPORTS DEVIATION, LACKS INFO	YES	YES	NO	NTC issued for failing to fully comply with reporting requirements (Rule 2520, 9. 5.2).
F	PROMPTLY REPORTS DEVIATION, LACKS KEY INFO NECESSARY TO DETERMINE COMPLIANCE	NO	NO	YES	NOV issued for permit condition violation and failing to properly report deviation (Rule 2520, 9.5.2). An NTC, rather than an NOV, is issued if deviation from permit condition is identified in report, but additional information (e. g. necessary information regarding the cause, corrective action, or preventive measures, date, signature, etc) is inadvertently omitted and the omission does not hinder the District's ability to ultimately determine compliance.
G	REPORTS DEVIATION LATE	YES	YES	NO	NTC issued for failing to report deviation promptly (Rule 2520, section 9.5.2).
H	REPORTS DEVIATION LATE	NO	NO	YES	NOV issued for failing to report deviation promptly (Rule 2520, section 9.5.2).
K	INITIAL RRM NOT REPORTED	N/A	YES	NO	NTC issued for failing to report RRM (Rule 2520, section 9.5.1). On NTC be sure to inform source that RRM's are to be reported every six months, an ACC is reported annually, and that the ACC is separate and distinct from the two semi- annual RRM's. An RRM cannot replace an ACC.
L	SUBSEQUENT RRM's NOT SUBMITTED	N/A	NO	YES	NOV issued for failing to submit RRM report (Rule 2520, section 9.5.1)
M	RRM LATE (15 OR LESS DAYS LATE)	N/A	YES	NO	NTC issued for failing to report RRM promptly (Rule 2520, section 9.5.1).
N	RRM REPORTED BY DUE DATE, MISSING KEY INFO	N/A	NO	YES	NOV issued for failing to report RRM properly (Rule 2520, section 9.5.1).). An NTC, rather than an NOV,

					is issued if information is inadvertently omitted and the omission does not hinder the District's ability to ultimately determine compliance.
O	ACC SUBMITTED 15 DAYS OR LESS AFTER DUE DATE	N/A	YES	NO	NTC issued for failing to submit ACC promptly (Rule 2520, section 9.16.1).
P	ACC NOT SUBMITTED	N/A	NO	YES	NOV issued for failing to submit ACC. (Rule 2520, section 9.16.1).
Q	ACC SUBMITTED BY DUE DATE, MISSING KEY INFO	N/A	NO	YES	NOV issued for failing to submit ACC (Rule 2520, section 9.16.1). An NTC, rather than an NOV, is issued if compliance status with the permit condition through the reporting period is correctly identified in report, but additional information (e. g. methods to determine compliance, date, signature, etc) is inadvertently omitted and the omission does not hinder the District's ability to ultimately determine compliance.
S	FAILS TO APPLY TO APPLY TO RENEW ACTIVE PTOS TIMELY	N/A	NO	YES	NOV issued for failing apply to renew permits (Rule 2520, section 5.2).
T	FAILS TO APPLY FOR MODIFICATION AS REQUIRED UNDER RULE 2520	N/A	NO	YES	NOV issued for failing to apply for modifications subject to Rule 2520, section 6.0.

As with any NTC, compliance required, and any future infraction of the same requirement will result in NOV.

Chevron appreciates the District working with industry to develop reasonable and appropriate enforcement guidance, and would be willing to meet with District staff to discuss the comments contained herein.

Please contact Mr. Steve Tomlin at (661) 654-7718 or Mr. John Gruber at (661) 654-7144 if you have any questions.

Sincerely,



Michael B. Jennings
 Manager, Health, Environment & Safety

Attachments