

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

**COM 1142**

**APPROVED:** \_\_\_\_\_ **SIGNED** \_\_\_\_\_ **DATE:** August 14, 2008  
**Jon Adams**  
**Director of Compliance**

**TITLE: POLICY FOR DISTRICT COMPLIANCE STAFF RESPONDING TO  
TITLE V ISSUES**

**SUBJECT: PROCESSING TITLE V REPORTS AND DEVIATIONS**

**OBJECTIVE:**

This policy is intended to provide direction on how to process Title V reports, and how to respond to Title V deviations and discrepancies in reporting. It is intended to ensure uniform and consistent enforcement of Title V reporting requirements.

**PURPOSE:**

The Title V program is a federally mandated program. The District is charged with ensuring Title V sources comply with the requirements of Rule 2520, which implements Title V permitting requirements. The Title V program is unique in that sources must promptly report deviations from permit conditions to the District, submit a semi-annual report that lists deviations from required monitoring requirements (RRM), and submit an annual compliance certification (ACC) that details their compliance status with each permit condition.

Title V permitting has resulted in additional conditions being placed on permits, increased record keeping, and the submittal of additional reports, all of which has increased District staff's workload and has also increased the workload for affected facilities. Being that sources may be reporting non-compliance, it is imperative that inspectors give such reports prompt attention. Due to this increased workload with Title V permits, it is paramount we efficiently use our time.

**POLICY STATEMENT:**

This policy is intended to give guidance on processing reports and deviations to ensure consistency amongst staff and to ensure staff time is used efficiently. This policy is also intended to communicate the District's process for evaluating Title V reports and deviations to affected facilities.

## COMMON TITLE V TERMS

*Administrative Amendments* – Permit amendment that corrects a typographical error, changes a name or address in the permit, requires more frequent monitoring or reporting, changes ownership, or converts an Authority to Construct with Certificate of Conformity into a Title V permit. Sources may implement the changes addressed in an Administrative Amendment immediately upon submitting the application. Administrative Amendments are not Minor or Significant Modifications.

*Annual Compliance Certification (ACC) Report*- Under Section 9.16 of Rule 2520, each Title V source is required to submit an annual compliance certification that includes the compliance status for each permit term and condition, whether compliance was continuous or intermittent, the methods used for determining the compliance status, and any other information the District may need to determine compliance. The ACC report is a separate and distinct report from a deviation report or Report of Required Monitoring.

*Certificate of Conformity (COC)*- A condition on an Authority to Construct (ATC) stating that the ATC was issued in accordance with EPA requirements in 40 CFR part 70. Prior to issuing an ATC with COC, The District sends the proposed ATC to EPA for review. For significant modifications public notice is also required. EPA has 45 days to object to the conditions of the ATC. If there are no objections from EPA, the District may issue the ATC with COC to the source.

*Certification of Truth, Accuracy, and Completeness (CTA)*- a certification signed by a responsible official that must accompany any report, document, notification, application, or any other type of submittal to the District or EPA. The certification states that, based on information and belief formed after reasonable inquiry, the statements and information in the submittal are true, accurate, and complete.

*Deviation Report*- A prompt report required when a source fails to comply with any Title V Permit Condition. A deviation report is separate and distinct from an ACC report, RRM report, breakdown, or variance report.

*Federally Enforceable*- Conditions designated as Federally Enforceable are a part of the Title V permit and may be enforced by the District, EPA, and the public.

*Minor Modifications*- (See full definition in Section 3.20 of Rule 2520) Minor modifications are permit modifications that do not relax monitoring, reporting, or record keeping requirements; do not significantly change monitoring requirements; do not require or change a case-by-case determination of an emission limitation or

standard; do not seek to change or establish a condition with no underlying applicable requirement that the source has assumed to avoid an applicable requirement; and is not a Title I modification, a Section 111 modification, a Section 112 modification, or a PSD modification under the Federal Clean Air Act. Sources with an approved Authority to Construct for a Minor Modification may implement the change immediately upon submittal of the Minor Modification application.

*Report of Required Monitoring (RRM)* - A semiannual report (every six months) in which sources are required to report deviations found during required monitoring, and any failure to comply with the monitoring requirements of the permit. The RRM is a separate and distinct report from a deviation or ACC report.

*Responsible Official*- (See full definition in Rule 2520) For a corporation it may be the president, secretary, treasurer, or vice president in charge of the principal business, or another person delegated as the responsible official in a petition approved by the District. For a public agency it is either the executive officer or ranking elected official. For a partnership or sole proprietorship, it is the general partner or proprietor.

*Significant Modifications*- (See full definition in Rule 2520) Modifications, such as Title I modifications or reductions in monitoring that do not qualify as administrative amendments or minor modifications.

*Title I Modifications*- Modifications, as defined in 40 CFR part 51 of EPA regulations, that result in an emissions increase of 25 tons VOC, 25 tons NOx, 15 tons PM-10, or 40 tons SOx.

## **TITLE V DEVIATIONS**

### **Responding to Title V Deviations**

Rule 2520, section 9.5.2 requires a source to promptly report deviations from permit conditions. The report is to include the cause of the deviation, and any corrective actions or preventative measures taken. Rule 2520, section 10.0 requires that the report be signed by a responsible official certifying the report is accurate, truthful, and complete. Under this requirement, a source operating under a Title V permit is only required to report deviations from current Title V permit conditions. (Also note that a non-Title V violation as a result of an equipment breakdown needs to be reported per Rule 1100.)

When a source has a deviation, they must report it even if it is covered by a breakdown, discovered by District staff, or discovered by an authorized agent of the source. The reporting of the deviation can be included with a report of an equipment breakdown provided all information is included for both reports and is submitted within

10 days of discovery of the deviation. It is conceivable that a deviation report is due before the breakdown follow-up report is due, in which case the source may be required to submit separate reports.

When a source fails to report a deviation from a permit condition, it results in a second deviation. One is for the permit condition they initially violated and the second is for failing to report it as a deviation (provided there is condition stating deviations be reported, generally found on facility-wide permit).

Once a deviation is reported to the District, it shall be assigned to the source inspector for processing. If the deviation is for a procedural or CEMS violation that has been corrected, an inspection need not occur. If the deviation is for failing to monitor or record data, an inspection need not occur if the source provides copies of the recorded data that document a return to compliance.

If a deviation is reported that resulted in excess emissions, an inspection shall be conducted to verify the source is back in compliance. If an inspector is planning an inspection at the source in question within 15 days, the inspector may wait to investigate the deviation at the time of the previously planned inspection. If a source has multiple deviations that need inspections, the inspector may schedule a time when all the deviations can be inspected at one time provided the inspection is performed within 15 days of the first reported deviation. For multiple deviations, staff will issue one NOV and either utilize the NOV report form that allows inputting multiple deviations, or list each violation, in detail, within the Investigation Information section of the NOV report. This will save considerable time writing reports rather than issuing a NOV for each deviation and writing a report for each deviation.

When conducting inspections of Title V deviations, the inspector should conduct compliance inspections of other permitted equipment if such inspections are coming due.

#### Deviations Associated with New and Modified Units

For a unit that has undergone a minor or significant modification that is operating under an Authority to Construct with COC, deviations from the ATC with COC must also be reported. Operation under these documents is described in more detail in the Section entitled "Sources ability to make changes" below.

For a unit that has undergone a minor modification that is operating under a proposed permit being submitted to EPA as part of an application for minor modification (no COC), deviations from the proposed permit must also be submitted. Proposed permit numbers should be available to sources immediately after each minor modification is logged into the District Permit Administration System upon receipt of the application by the District. Alternatively, if the source operator is proposing that an ATC act as the

proposed permit for the modification (this is often the case), the ATC number may be referenced in the deviation report.

A unit that has undergone a significant modification without COC, cannot operate until the final modified permit is issued, so any deviations would, of course, reference the final modified permit.

For a unit that is operating under a proposed permit submitted to EPA as part of an application for administrative amendment, deviations from the proposed amended permit must also be submitted.

Because source operators are only required to report deviations from permit conditions, deviation reporting is not required for units added as “off-permit” changes under section 6.4.4. of Rule 2520. Off-permit changes under section 6.4.4. of Rule 2520 are described in more detail in the section entitled “Sources ability to make changes” below and in the rule itself.

In those very rare instances where Title V sources perform routine replacements without application as allowed under Section 8.0 of Rule 2201, deviation reporting is not required. However, Title V sources may only make these off-permit changes as allowed under Section 6.4 of Rule 2520.

## **SEMI-ANNUAL REPORTS OF REQUIRED MONITORING (RRM)**

### **Reviewing a RRM Report**

Rule 2520, section 9.4.2 requires that a source keep records of required monitoring for a period of at least five years. Rule 2520, section 9.5.1 requires that a source submit a report of required monitoring every six months. This report must include all instances of deviations from required monitoring. There are two types of monitoring deviations that need to be reported:

- a. When a source fails to monitor as required by a permit condition. Examples include failure to operate CEMS, failure to conduct alternative monitoring as required by Rule 4306 or 4702, logging values from pressure or flow rate indicators, baghouse differential pressure, and throughputs of raw material or product.
- b. When required monitoring indicates an exceedance of a permit limitation or deviation from the permit requirement.

When reviewing a RRM report, the inspector must also check the breakdown/deviation program for reported problems, whether any variance was granted during the review

period, and whether any NOV's were issued. These incidents that involve monitoring must be included in the report.

When a source includes deviations on the report, and they were not previously reported by the source or investigated by the District, it is imperative to determine whether these incidents have been corrected and to take appropriate enforcement action if necessary.

The inspector may need to conduct inspections to verify compliance.

## **ANNUAL COMPLIANCE CERTIFICATION (ACC) REPORTS**

### **Reviewing an ACC Report**

Rule 2520, section 9.16.3 requires this report to include the identification of Title V permit conditions, the compliance status, whether compliance was continuous or intermittent, methods of determining compliance, and other facts as required by the District.

The inspector needs to insure the correct permits are listed in the report and all applicable conditions for each permit are addressed. When reviewing an ACC report, check the breakdown/deviation program for reported problems, whether any variance was granted during the review period, and whether any NOV's were issued. These incidents that involve monitoring must also be included in the report along with deviations from permit conditions.

When an ACC report mentions intermittent compliance not covered by a breakdown or variance, the inspector needs to verify compliance was regained and take appropriate enforcement action if necessary. An inspection may be required to verify compliance, especially where excess emissions are involved.

## **RENEWING TITLE V PERMITS**

### **Renewal of Title V Permits**

The renewal of Title V permits is different from Non-Title V sources, in that the Title V sources must submit an application. Rule 2520, section 5.2 requires the source to apply to renew the permit 6-18 months prior to the existing permits expiration date. Permits are generally renewed every five years (Initial permits were issued for periods less than 5 years to avoid changing the renewal dates). An Inspector may determine the

period in which a source must renew their Title V permits by going to the comment section in the Detail screen found in the Districts Permit Administration System.

## **SOURCES ABILITY TO MAKE CHANGES**

### **When a Source May Operate Under an ATC (Minor Modification, No COC)**

For minor Title V modifications without COC, a source can construct or modify equipment with a valid ATC but may not operate without first submitting Title V modification application. Once the application for minor modification is submitted, the source can begin operation in accordance with a draft permit proposed in the application by the operator or prepared by the District Permitting Staff.

Before issuing a change order for an ATC, the inspector must also verify the source has submitted the Title V modification application. Generally, this requirement is listed as a condition on the ATC, and may also be determined in the District's Permit Administration System. Not all ATCs require a District startup inspection to be conducted prior to the issuance of the change order.

The source needs to be aware that draft Title V permits for modifications need to go through a 45-day EPA review after the District prepares the draft permit. EPA could object to the permit and require that the District change the conditions, and if so, the source could be subject to EPA enforcement action. It is for this reason the District recommends that sources submit a COC with the ATC application and go through the EPA review process before the ATC is issued.

Rule 2520, section 6.4.4 allows one exception to the requirement to submit the application for minor modification before operation. Under the provisions of 6.4.4, if a change to the facility (generally the installation of a small or mid-sized new unit) does not violate any existing permit conditions and meets certain other criteria, the source with the valid ATC may wait until the time of Title V renewal before applying to have the change formally written into the Title V permit. Because this delays EPA review of changes, it is also not recommended.

### **When a Source May Operate Under an ATC (Minor Modification or Significant Modification With COC)**

For these Title V modifications with COC, the source can install, but cannot operate under the ATC. The Source must submit a Title V administrative amendment application once the construction is completed and before operation. The source with ATC/COC can then be operated upon submittal of the Title V administrative amendment application. In order to receive a COC, the ATC must go thru a 45-day EPA comment period. The ATC with COC review is the District-recommended way to

go. Sources must start reporting deviations to the District upon operating under ATC with COC.

Before issuing a change order for an ATC with COC, the inspector must verify the source has submitted the Title V administrative amendment application (Check PAS). Generally, this requirement is listed as a condition on the ATC.

#### When a Source May Operate Under an ATC (Significant Modification. No COC)

For significant Title V modifications, the source can construct or modify equipment but cannot operate without all of the following happening first:

- a. Submitting Title V application,
- b. Having the District issue draft Title V permit,
- c. Waiting for EPA and Public Comment period to pass.
- d. Final Modified Title V permit issued (source can now operate)

Significant modifications are rare. Significant modifications generally occur when a source proposes to relax monitoring requirements.

### ENFORCEMENT ACTION

When issuing an Notice of Violation (NOV) for the above, the violations will generally be of Rule 2070, because the requirements will be listed as permit conditions. On the NOV, reference Rule 2070, section 7.0 and Rule 2520 and the appropriate section when a Title V violation occurs, and it is not listed as a permit condition, only reference Rule 2520 and the appropriate section. There may also be violations for which an NOV is issued that do not require a deviation report. (e.g. violations of new District prohibitory rule provision not yet added to the permit. In these cases, the prohibitory Rule section is referenced on the NOV.)

When a source has a deviation and fails to report it as required, one NOV is issued for these infractions. Compliance is achieved when the violation is corrected and a deviation is submitted. As with any other NOV, if the problems are not corrected within 10 days, a second NOV is issued. Failure to correct the violations after the second NOV requires involvement by a Supervising Air Quality Inspector. If a source corrects the problem that resulted in the deviation within 10 days, but fails to submit the deviation, the Inspector shall issue a second NOV for the lack of submittal.

When non-compliance has been reported by the source, whether Title V deviation, report of required monitoring, and annual compliance certification reports were not submitted as required, or whether Title V reports are incomplete, the inspector shall take appropriate action. The table listing on the next page lists the proper action to take for common non-compliance issues.

**The table on the next page does not cover all the non-compliance issues that could occur. It would not be practical to list all the possible non-compliance possibilities. If the table below does not include guidance for a particular problem and an Inspector is unsure how to proceed, the inspector should contact a supervising air quality inspector for direction. When a non-compliance issue becomes common, it will be added to the list below.**

#	SOURCE HAS THE 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). <sup>1</sup>
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). <sup>1</sup>
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). For first time violations, a 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). <sup>1</sup>
H	REPORTS DEVIATION LATE	NO	NO	YES	NOV issued for failing to report deviation promptly (Rule 2520, section 9.5.2).
I	INITIAL RRM NOT REPORTED	N/ A	YES	NO	NTC issued for failing to submit 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. <sup>1</sup>
J	SUBSEQUENT RRM's NOT SUBMITTED	N/A	NO	YES	NOV issued for failing to submit RRM report (Rule 2520, section 9.5.1).
K	RRM LATE (15 OR LESS DAYS LATE)	N/A	YES	NO	NTC issued for failing to submit RRM promptly (Rule 2520, section 9.5.1). <sup>1</sup>

#	SOURCE HAS THE FOLLOWING TITLE V ISSUE:	BREAKDOWN OR VARIANCE	NTC ISSUED	NOV ISSUED	NOTES:
L	RRM REPORTED BY DUE DATE, MISSING KEY INFO	N/A	NO	YES	NOV issued for failing to submit RRM in its entirety. (Rule 2520, section 9.5.1). For first time violations, a NTC, rather than an NOV, will be 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.
M	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). <sup>1</sup>
N	ACC NOT SUBMITTED	N/A	NO	YES	NOV issued for failing to submit ACC. (Rule 2520, section 9.16.1).
O	ACC SUBMITTED BY DUE DATE, MISSING KEY INFO	N/A	NO	YES	NOV issued for failing to submit ACC in its entirety (Rule 2520, section 9.16.1). For first time violations, a NTC, rather than an NOV, will be 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.
P	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).
Q	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.
R	FAILS TO SUBMIT CTA WITH ANY SUBMITTAL TO THE DISTRICT.	N/A	YES	NO	NTC issued for first time violations only (Rule 2520, sections 9.13.1 & 10.0) <sup>1</sup> .

<sup>1</sup>As with any NTC, compliance is required, and any future infraction of the same requirement will result in a NOV.