

Should Enforcement be Reported in CERS for Every Violation?

Should an Enforcement Action be Reported in CERS for Every Violation?

Answer: No. UPAs shall report all **formal** enforcement actions but they do not need to report Notices of Violation.

CERS provides for reporting Notices of Violation (NOV) as the only type of informal enforcement. Based on the Guidance Document for Inspection and Enforcement, April 15, 2008, CalEPA has determined that an NOV and the Notice to Comply (NTC) defined in Health and Safety Code section 25117.9.1 are both informal enforcement actions. Inspection records documenting minor and class II violations provided to a facility by the UPA at the conclusion of every inspection meet the criteria of either an NOV, NTC or both. CalEPA can determine the number of NOV's and NTC's issued by determining the number of minor and class II violations reported. Therefore, UPAs do not need to report informal enforcements (NOV's) in CERS.

Nothing in this FAQ is intended to suggest that a violation should not be subject to any other enforcement action the CUPA or PA deems necessary and prudent.

References

HSC 25117.9.1. "Notice to comply" means a written method of alleging a minor violation which is in compliance with all of the following requirements:

- (a) The notice to comply is written in the course of conducting an inspection of a facility by an authorized representative of the department or by a local officer or agency authorized to enforce this chapter pursuant to subdivision (a) of Section 25180.
- (b) A copy of the notice to comply is presented to a person who is an owner or employee of the facility being inspected at the time that the notice to comply is written.
- (c) The notice to comply clearly states the nature of the alleged minor violation, a means by which compliance with the permit conditions, rule, regulation, standard, or other requirement cited by the inspector may be achieved, and a time limit in which to comply, which shall not exceed 30 days.
- (d) The notice to comply shall contain the information specified in subdivision (h) of Section 25187.8 with regard to inspection of the facility.

Guidance Document for Inspection and Enforcement, Final April 15, 2008, UPAAG Inspection and Enforcement Committee,

Part IV, section H: A Notice of Violation (NOV) is defined as an informal enforcement resulting from an inspection that may be issued by the inspector. Violations and a specific time period for compliance are noted in the NOV.

Part IV section F: Informal enforcement, including NOV, is appropriate for Class II violations. A Notice to Comply is appropriate for minor violations.