

BEFORE THE BOARD OF NORTHEAST TRI COUNTY HEALTH DISTRICT

RESOLUTION 07-2011

IN THE MATTER OF ADOPTING THE NORTHEAST )  
TRI COUNTY HEALTH DISTRICT PROCEDURE )  
POLICY FOR NOTICES TO PROPERTY TITLE )  
FOR NON-COMPLIANCE WITH PUBLIC HEALTH )  
REGULATIONS

IN THE MATTER OF ADOPTING THE  
NORTHEAST TRI COUNTY HEALTH  
DISTRICT PROCEDURE POLICY FOR  
NOTICES TO PROPERTY TITLE FOR  
NON-COMPLIANCE WITH PUBLIC  
HEALTH REGULATIONS


**WHEREAS**, the Board of Health of the Northeast Tri County Health District finds that there is a need for a Northeast Tri County Health District Procedure Policy for Notices to Property Title for Non-Compliance with Public Health Regulations; **AND**

**NOW, THEREFORE:**


**IT IS HEREBY RESOLVED** by the Board of Health of the Northeast Tri County Health District that the attached is adopted as the "Northeast Tri County Health District Procedure Policy for Notices to Property Title for Non-Compliance with Public Health Regulations".

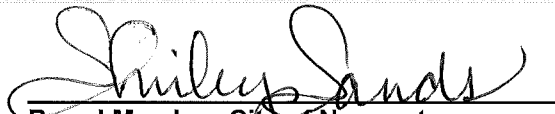
Done this 26<sup>th</sup> day of October, 2011 in Colville, Washington and effective immediately upon signatures as of this date.

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Board Member, City of Republic

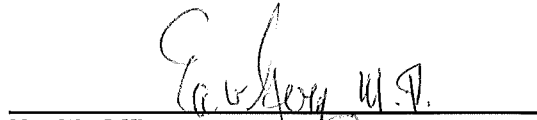
  
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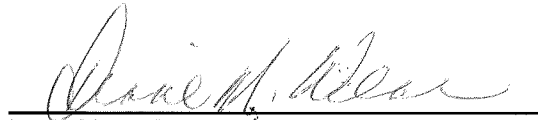
  
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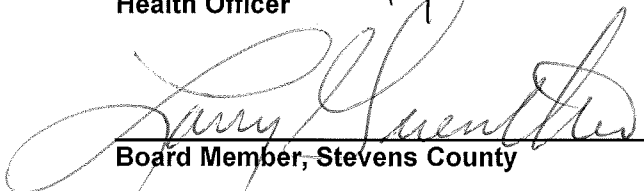
  
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Board Member, Ferry County

  
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Board Member, City of Newport

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Board Member, Pend Oreille County

  
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Health Officer

  
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Board Member, Pend Oreille County

  
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Board Member, Stevens County

  
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Board Member, Stevens County



## Northeast Tri County Health District Environmental Health Policy/Procedure

<b>Title:</b>	<b>Notices to Property Title for Non-Compliance with Public Health Regulations</b>	
<b>References:</b>	<b>NETCHD Procedure Policy "Health Officer Hearing and Appeal Board Hearings"</b>	
	<b>NETCHD Fee Schedule</b>	
<b>Effective Date:</b>		
<b>Supersedes:</b>	N/A	
<b>Northeast Tri County Health District Administrator</b>		<b>Date Approved</b>

### **POLICY INTENT**

It is the intent of this policy to establish a uniform method for attaching notices to property title for continued non-compliance with public health regulations. Additionally, this policy establishes a method to appeal the decision for attaching notices to property title, outline the process for attaching a notice of compliance to a property title when public health regulations have been subsequently met, and establish a method to cover costs associated with these activities.

### **PURPOSE STATEMENT/BACKGROUND**

Environmental Health staff is responsible for enforcing a multitude of public health rules and regulations. The primary means for gaining compliance is through education and voluntary cooperation. However, in some instances, property owners do not voluntarily comply with these standards, most notably on land use issues involving on-site sewage system violations and improper solid waste disposal.

NETCHD seeks compliance through a series of requests to the property owner, advising them of the nature of the violation, the applicable requirements, and timelines for compliance. Typically, this involves a series of three letters requesting compliance. When there is no effort on behalf of the property owner to correct the violation, a health officer order is issued to the property owner. The health officer order again identifies the violation, the applicable laws, and specific time frames for compliance. If the property owner fails to meet the requirements of the health officer, a request is sent to the county prosecuting attorney to file charges against the property owner of record. In some instances, achieving compliance is difficult and prolonged. As an additional tool to gain compliance with public health rules and regulations, NETCHD will record a "Certificate of Non-Compliance" on the property title. Taking this additional step will provide an incentive to comply with public health laws prior to referral to the prosecuting attorney, and will make it more likely that should the property be sold, everyone in the transaction has the same information and can make informed decisions.

## **PROCEDURE**

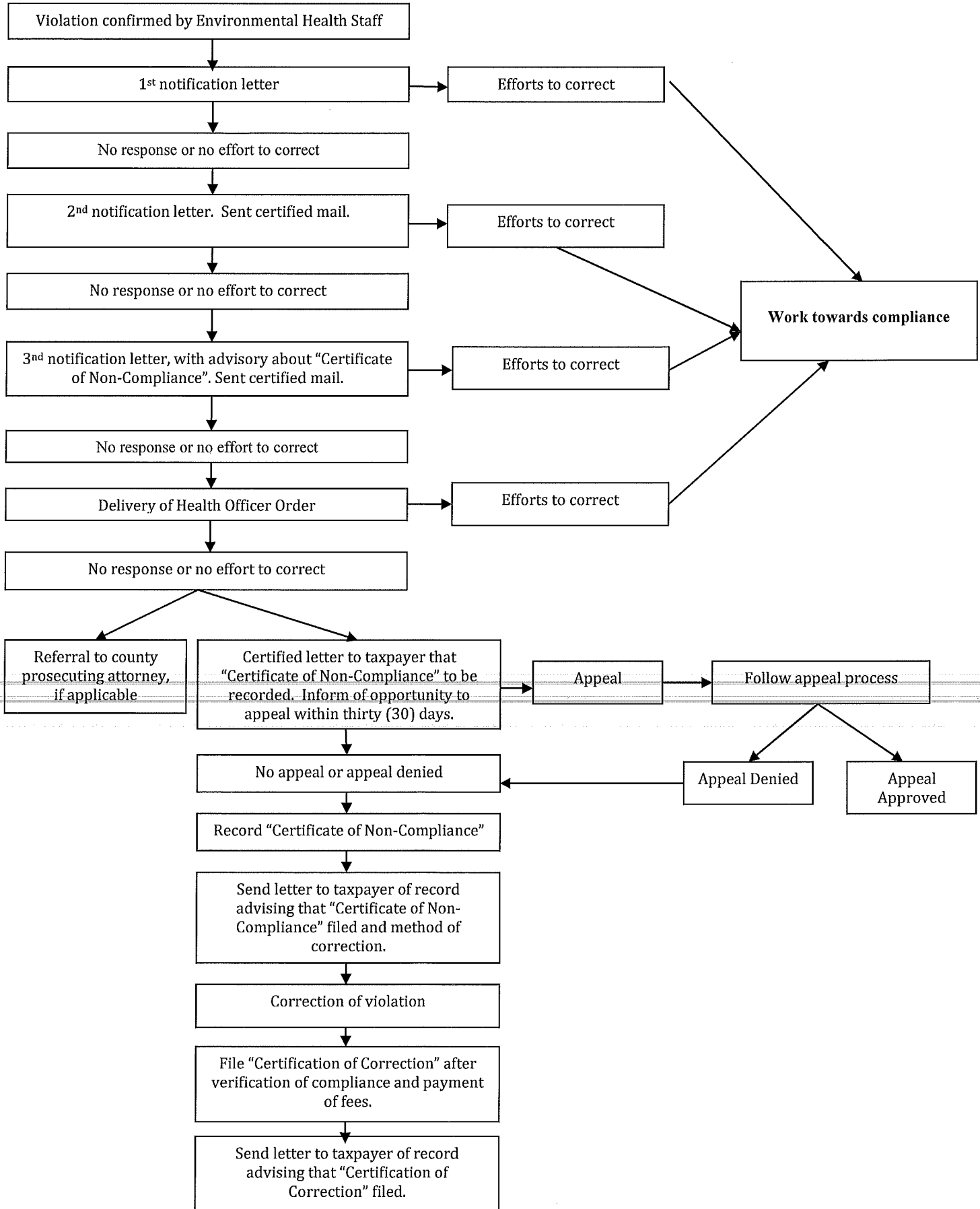
**Certificate of Non-Compliance:** For land use and property violations that are not resolved after all efforts by Environmental Health staff are exhausted, the following process may be implemented to record a "Certificate of Non-Compliance":

1. In the established process for correction of violations, and prior to a health officer order being issued, include information that advises the property owner that continued non-compliance may result in a "Certificate of Non-Compliance" being recorded to the property title.
2. Following issuance of a Health Officer Order, if no effort is made to achieve compliance, a certified letter (see Appendix A for example letter) will be mailed to the taxpayer of record, advising that a "Certificate of Non-Compliance" (see Appendix B for example) and copy of the Health Officer Order (see Appendix C for example) will be filed with the county auditor. The letter will advise of a thirty (30) day opportunity to appeal the decision and include a copy of NETCHD "Procedure Policy Health Officer Hearing and Appeal Board Hearing (Appendix D).
3. If there is no appeal or if the appeal is denied, and after consultation with the Environmental Health Director, the "Certificate of Non-Compliance" and health officer order will be filed with the county auditor. A subsequent letter (see Appendix E for example) will be sent to the taxpayer of record advising them of the recording and providing of copy of the "Certificate of Non-Compliance" and Health Officer Order.

**Certificate of Compliance:** When a "Certificate of Non-Compliance" has been filed and the violation has been corrected, the following process will be implemented to file a "Certificate of Compliance":

1. When the reason for non-compliance has been resolved, a subsequent "Certificate of Compliance" will be filed with the county auditor (see Appendix F for example.) The certificate will be signed by the Environmental Health Director and notarized.
2. Prior to filing the "Certificate of Compliance" the associated fees, as set in the most current NETCHD Fee Schedule must be paid. This includes the violation fee, if applicable and a recording fee for the "Certificate of Compliance." The "Certificate of Compliance" fee will be established by the NETCHD Board of Health, and will be based on the following costs:
  - a. Delivery fee(s) for Health Officer Order
  - b. All certified mailing costs
  - c. All recording fees
  - d. Staff time
3. Following verification of compliance and payment of fees, the "Certificate of Compliance" will be filed with the county auditor within fifteen (15) days.
4. A letter will be sent to the taxpayer of record advising them of the recording and providing a copy of the "Certificate of Compliance." See Appendix G for example.
5. In some cases it may be necessary to record a "Certificate of Compliance" prior to complete resolution, such as when money is set aside in escrow to resolve the violation during a transaction. Under these circumstances, the Environmental Health Director may use discretion in modifying the "Certificate of Compliance" to allow the transaction to close, provided that resolution is established to abate the violation.

## Notice to Title Flowchart (Typical)



## Appendix A- Example 3<sup>rd</sup> Violation Letter

Date

Address

RE: Violation and Legal Description

Dear:

On <Dates>, letters were mailed to you regarding the home we observed that had been placed on property you own described above in <County Name>, County, Washington. We have researched the sewage permit files and find there is no permit for an approved on-site sewage system to serve this structure.

The Northeast Tri-County Health District On-Site Sewage Regulation 01-2007 requires in Section 11, Permits Requirements, Subsection 1, that a permit application be submitted to the Health District for review by the health officer and a permit issued prior to beginning construction on the sewage system. The regulations further state that any structure from which waste water is generated must be connected to an approved on-site sewage system.

We are enclosing a sewage disposal system permit application for you to complete and return to our office along with the \$525.00 permit fee within ten (10) days of receipt of this letter. Please be advised that failure to correct this violation may result in the issuance of a health officer order, further enforcement action, and a notice of non-compliance filed with the county auditor.

If you have any questions or need additional information regarding the on-site sewage regulations, you may contact me at the Colville Environmental Health office.

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Sincerely,

<EHS Name>

cc: file  
enclosure

**Appendix B- Example of “Certificate of Non-Compliance” for property not served with an approved on-site sewage disposal system**

**Return Address**

Northeast Tri County Health District  
<Office Address>

**Certificate of Non-Compliance**  
**Unapproved Method of Sewage Treatment and Disposal**

**Filed By:** Northeast Tri County Health District  
**Property Owner Name:**  
**Reference Number:** <NETCHD Violation Tracking Number>  
**Property Tax Parcel Account Number:**  
**Site Address:**  
**Legal Description:**

The above referenced property does not have an approved method of sewage treatment and disposal, as further demonstrated in attached Health Officer Order. Due to the lack of the required approval, Northeast Tri County Health District cannot verify compliance with public health requirements.

Any interested party may apply to Northeast Tri County Health District to rescind this Certificate of Non-Compliance by submitting documentation demonstrating resolution of the underlying violation(s) and payment of the appropriate fee(s), if any.

This Certificate of Non-Compliance shall be filed with the <County Name> Auditor.

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Signature of NETCHD representative authorized to execute this instrument  
Date

## Appendix C: Example Health Officer Order

### NOTICE OF HEALTH OFFICER ORDER NORTHEAST TRI COUNTY HEALTH DISTRICT

In RE: ) On-Site Sewage Violation  
) ORDER  
<Taxpayer(s) of Record Name> )

WHEREAS, <Taxpayer(s) of record name> are listed in the <County Name> County Assessor records as owner of a parcel of land described as <Legal description and parcel number>, and

WHEREAS, There is an occupied structure on this property which is not served by an approved on-site sewage system, and

WHEREAS, Letters were mailed to <Taxpayer Name(s)> via standard and certified mail on November 17, 2009, December 2, 2009, March 17, 2010, April 17, 2010, April 22, 2010, May 10, 2010, June 14, 2010, June 30, 2010, January 31, 2011, February 14, 2011, and February 28, 2011, and

WHEREAS, The March 17, 2010, April 17, 2010, May 10, 2010, certified letters were received by <Name>, and

WHEREAS, A design for an on-site sewage system has not been submitted to the Health District for review and a permit has not been issued, and

WHEREAS, An approved on-site sewage system has not been installed to serve the occupied structure, and

WHEREAS, The improper disposal of sewage may present a public health hazard and is in violation of the State Board of Health Rules and Regulation for On-Site Sewage, WAC 246-272, and the Northeast Tri-County Health District Regulation for On-Site Sewage Disposal, NETCHD Regulation No. 01-2007, and

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WHEREAS, RCW 70.05.120 states that, "Any person violating any of the provisions of Chapter 70.05 RCW and RCW 70.46.020 through 70.46.090 or violating or refusing or neglecting to obey any of the rules regulations or orders made for the prevention, suppression, and control of dangerous contagious and infectious diseases by the local board of health,...shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars or to imprisonment in the county jail not to exceed ninety days or to both fine and imprisonment."

THEREFORE, It is hereby ordered that:

1. Within ten (10) days of receipt of this order a sewage system design meeting the minimum design criteria must be submitted to the Health District.
2. Within thirty (30) days of approval of the sewage system design and permit issuance the sewage system must be installed in accordance with the approved design and permit requirements.

**<Taxpayer(s) Name>  
Health Officer Order  
Page 2**

If the above corrective measures are not completed by the specified dates, the Northeast Tri-County Health District will commence legal action for the abatement of the situation. Such action may include either civil or criminal action as a violation of the regulations cited above and failure to comply with this Health Officer's order.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
E. W. Gray, M.D., Health Officer

Received on this \_\_\_\_\_ day of \_\_\_\_\_, 2011

Received by:  
  
\_\_\_\_\_



## **Appendix D: Example Letter Advising of Intent to Record Notice of Non-Compliance**

**Date**

**Address**

**Re:** Recording of Certificate of Non-Compliance  
Legal Description of Property, Parcel Number

Dear <Taxpayer of Record>:

This letter is to inform you that the enclosed "Certificate of Non-Compliance" and related Health Officer Order will be recorded with the <County Name> Auditor on or after <Date>. These recorded documents are public records and may be included in title reports. This recording is due to the uncorrected violation(s), listed below, at the above referenced property:

- <Brief description of violation(s)>

You may appeal this decision within thirty (30) days, as per the attached policy and procedures to request a Health Officer and Appeal Board Hearing. Any interested party may apply to Northeast Tri County Health District to rescind this Certificate of Non-Compliance by submitting documentation demonstrating resolution of the underlying violation(s) and payment of the appropriate fee(s), if any.

Sincerely,

<NETCHD Representative>

Enclosures: -Certificate of Non-Compliance  
-Health Officer Order  
-NETCHD Procedure Policy "Health Officer Hearing and Appeal Board Hearing"

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## Appendix E: Example Letter when Certificate of Non-Compliance Recorded

**Date**

**Address**

**Re:** Recording of Certificate of Non-Compliance  
Legal Description of Property, Parcel Number

Dear <Taxpayer of Record>:

This letter is to inform you that the enclosed "Certificate of Non-Compliance" and related Health Officer Order were recorded with the <County Name> Auditor on <Date>. These recorded documents are public records and may be included in title reports. This recording is due to the uncorrected violation(s), listed below, at the above referenced property:

- <Brief description of violation(s)>

Any interested party may apply to Northeast Tri County Health District to rescind this Certificate of Non-Compliance by submitting documentation demonstrating resolution of the underlying violation(s) and payment of the appropriate fee(s), if any.

Sincerely,

<NETCHD Representative>

Enclosures: -Certificate of Non-Compliance  
-Health Officer Order

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## Appendix F: Example of Certificate of Compliance

**Return Address**

Northeast Tri County Health District  
<Office Address>

### Certificate of Compliance Approved Method of Sewage Treatment and Disposal

**Filed By:** Northeast Tri County Health District  
**Property Owner Name:**  
**Reference Number:** <NETCHD Violation Tracking Number>  
**Property Tax Parcel Account Number:**  
**Site Address:**  
**Legal Description:**

The above referenced property is now served by approved method of sewage treatment and disposal.

This Certificate of Compliance rescinds the prior Certificate of Non-Compliance, filed <date> (recording #) pertaining to an unapproved method of sewage treatment and disposal.

This Certificate of Compliance shall be filed with the <County Name> Auditor.

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Signature of NETCHD representative authorized to execute this instrument      Date

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## Example G: Letter to Taxpayer of Record Regarding Certificate of Compliance

**Date**

**Address**

**Re:** Recording of Certificate of Compliance  
Legal Description of Property, Parcel Number

Dear <Taxpayer of Record>:

This letter is to inform you that the enclosed "Certificate of Compliance" was recorded with the <County Name> Auditor on <Date>. This recorded document is a public record and may be included in title reports. This recording is due to the correction of the below listed violation, at the above referenced property:

- <Brief description of violation(s)>

Thank you for your cooperation in resolving this issue.

Sincerely,

<NETCHD Representative>

Enclosures: -Certificate of Compliance

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