

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
BUREAU OF WASTE MANAGEMENT**

DOCUMENT NUMBER: 250-4110-001

EFFECTIVE DATE: ~~September 17, 2005~~ Upon publication as final in the *Pennsylvania Bulletin*

TITLE: Notices of Violation (NOVs)

AUTHORITY: The Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97 as amended; the Municipal Waste Planning, Recycling and Waste Reduction Act, Act of 1988, P.L. 556, No. 101, as amended; ~~the Storage Tank and Spill Prevention Act (Tank Act) of 1989, P.L. 169, No. 32, as amended; and the Hazardous Sites Clean Up Act (HSCA) Act of October 18, 1988 P.L. 756, No. 108.~~

POLICY: It is the policy of the Bureau of Waste Management (BWM) to notify, in writing, any regulated facility of all violations of statutes, regulations, permit conditions or other enforceable documents noted during an inspection. The subject violations shall be noted verbally during the inspection, and in writing ~~at~~ after the completion of the inspection.

PURPOSE: The purpose of this policy is to establish a formal methodology to ensure that all BWM inspectors in all DEP regions across the Commonwealth cite similar violations in a similar manner. This policy shall also serve to ensure that all regulated facilities subject to inspection are notified of violations as soon as possible when such violations are noted.

APPLICABILITY: This document applies to all personnel and activities of the BWM including, but not limited to: -permitting, enforcement, resource recovery and planning, grants, monitoring, administration, ~~state and federal Superfund activities,~~ emergency response special programs and inter-agency bureau agreements.

DISCLAIMER: The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect existing statutory or regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give the rules in these policies that weight or deference. This document establishes the framework within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

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LOCATION: Volume 5, Tab 51

DEFINITIONS, TERMS AND ABBREVIATIONS:

eFACTS ~~—~~ The Environment, Facility, Application, Compliance Tracking System developed to combine electronic data from legacy systems into one department-wide database to provide the means for a holistic view of the clients and sites (including facilities) that DEP regulates.

Notice of Violation (NOV) ~~—~~ A written notification to a person that conditions exist that have been determined to be not in compliance with applicable regulations and/or statutes.

PROCEDURES: All conditions that are determined to be in violation of statute, regulation, permit condition or enforceable order by a BWM inspector while inspecting a regulated facility shall be cited verbally and in writing by the inspector ~~at the time of the inspection~~. The facility representative shall will be so notified during the inspection, while the inspector is conducting the inspection. The inspector shall will clearly explain why the existing condition is a violation.

~~Upon~~ After completion of the inspection, (an inspection may require more than one day to complete) the inspector shall will detail any violations in writing on ~~the~~ an inspection report. The violations shall will be noted on the checklist portion of the inspection report and also on the comments page ~~or on the Storage Tank System Report Form—Narrative Information (inspection form) as applicable~~. The inspector shall will clearly explain why the condition is a violation on the comments page or narrative portion of the inspection report. The inspector should also recommend that specific actions be taken by a specific date to abate the violations. A copy of the inspection report shall will be ~~left with~~ provided to an authorized facility representative, ~~prior to the inspector leaving the facility at the completion of the inspection~~.

If the violations were minor and corrected prior to completion of the inspection, ~~the~~ a copy of the inspection report left with the facility at the time of the inspection may serve as a Notice of Violation (NOV) to the facility. Often no further enforcement action may be necessary.

If the violations were minor, but the same or similar violations were noted on a previous inspection report, a letter NOV is required to be ~~mailed~~ sent to the facility. Prior to issuing an NOV, ~~by mail~~ the inspector must discuss the violations with the ~~ir~~ inspector's supervisor, and obtain the supervisor's concurrence. A letter NOV will should be issued to the facility within 14 days of completion of the inspection. The letter NOV will use the ~~department~~ DEP-approved format and will should recommend the same timeframe for correction of the violations as provided in the inspection report.

If the violations noted during the inspection were more significant or were not correctable during the inspection, a ~~re-inspection-follow-up inspection or administrative/file review inspection~~ will be performed and a letter NOV will should be issued. If the facility has not received an NOV during the previous 3 years, issuance of a letter NOV is not mandatory, and may be waived at the discretion of the inspector with concurrence of the ~~ir~~ inspector's supervisor and the ~~Regional Operations~~ or ~~Bureau Director~~ Program Manager as long as the facility is working toward correcting the current non-compliance in a timely manner.

When violations noted during an inspection were not correctable during the inspection or were of a more significant nature, the inspector ~~will~~should suggest or recommend a date by which the violations should be corrected on the comments page or narrative portion of the inspection report. The suggested date of correction should be based on the severity of the violation, ~~and except for Storage Tank Program record-keeping violations, and~~ the time to correct the violations should not extend beyond 30 days from the date of ~~the initial~~ inspection without concurrence of the inspector's supervisor ~~or; e~~Operations m~~Manager or section chief in the Tanks Program~~. The inspector should perform the appropriate ~~follow-up inspection or administrative/file review inspection follow-up, partial or case development inspection~~ within 30 days of the initial inspection for all violations that were not corrected during that initial inspection, or were not confirmed, corrected or resolved.

If the inspector determines, and the ~~s~~Supervisor concurs, that the violations cannot be corrected within the 30-day timeframe, the letter NOV should suggest a date by which the facility should begin to address the violations.

All violations found during the inspection ~~will~~should be entered into eFACTS by the inspector within 10 days of completion of the inspection.

All NOV's issued to a facility ~~will~~should be entered into eFACTS within 10 days after the mailing of the document. An inspection report notice that cited only minor or non-repeating violations that were corrected during the inspection need not be entered into eFACTS as an NOV. All violations cited during the inspection, however, should be entered into eFACTS to complete the facility record. When a facility that was issued an NOV is determined to have returned to compliance, the NOV should be closed out in eFACTS by entering a return to compliance date in the proper field in eFACTS. This should be entered within 10 days of the completion of the follow-up inspection.

The ~~r~~Regional ~~c~~Counsel need not be consulted when issuing an NOV.