

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

**DOCUMENT NUMBER:** 250-4000-004

**TITLE:** Program Implementation Guidance

**EFFECTIVE DATE:** April 15, 2023

**AUTHORITY:** The Solid Waste Management Act, Act of July 7, 1980. P.L. 380, No. 97, as amended; and the Resource Conservation and Recovery Act (RCRA) 42 U.S.C. §§6901 et seq. as amended.

**POLICY:** It is the policy of the Bureau of Waste Management (BWM or Bureau) to incorporate as internal guidance the following standards and guidance for identifying, tracking and resolving violations. The BWM is comprised of the hazardous waste, municipal waste, and residual waste programs; the hazardous waste program receives EPA authorization to implement the programs in the Commonwealth. This program operates with a Memorandum of Agreement (MOA) with the EPA, which provides a substantial portion of the funding for the program. The MOA is negotiated with the EPA and requires that Bureau staff complete certain actions at specific facilities within a Federal Fiscal Year. This document and other Bureau guidance reflect the MOA.

**PURPOSE:** The purpose of this policy is to establish a formalized methodology by which the BWM will implement a compliance and enforcement program throughout the Commonwealth.

**APPLICABILITY:** This guidance applies to all BWM central office and regional office personnel that conduct compliance and enforcement actions across the Commonwealth.

**DISCLAIMER:** The policies and procedures outlined in this guidance are intended to supplement existing requirements. Nothing in the policies or procedures shall affect 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. The policies and procedures merely announce the framework within which DEP will exercise its administrative discretion in having staff perform compliance duties in the Commonwealth. DEP reserves the discretion to deviate from this policy statement if circumstances warrant.

**PAGE LENGTH:** 4 Pages

**PROCEDURES:**

## **Identifying That A Violation Has Occurred**

### **A. On-Site Inspections**

1. Bureau Operations staff performs inspections of regulated facilities in accordance with applicable statutes, regulations and MOAs as referenced in this document.
2. Bureau Operations staff prepares for and conducts inspections as outlined in the attached inspection guidance.
3. Bureau Operations staff uses the appropriate inspection checklist for the inspection conducted as per the inspection guidance.
4. Operations staff enters inspection data into eFACTS as per program guidance.
5. Multi-media inspections are coordinated with other DEP programs whenever practical. The regional Operations Manager coordinates the multi-media inspection of facilities with their counterparts in the other programs participating in the inspection.
6. The Regional Director may reduce inspection frequency for facilities that have implemented a comprehensive environmental management system that is certified by a third party (e.g. ISO 14001).

### **B. Review of Information in Required Reports**

All programs should review all reports from the regulated community for compliance with reporting deadlines, completeness and accuracy. This includes annual reports, biennial reports, quarterly fee reports, manifests, third-party inspection reports, and other reports required by statute, regulation, permit or enforcement document.

### **C. Response to Complaints and Incidents, Including Those Referred from Other Agencies**

All complaints and incidents received by or assigned to the Bureau's programs should be managed in accordance with the Department's most recent standard operating procedures.

### **D. Evaluating the Information to Determine a Violation**

All Bureau programs should evaluate the information that they receive from on-site inspections, reports from the regulated community, response to a complaint or other sources to determine whether any violations of the regulations, statutes, permits or enforceable documents exist at that facility.

## **Notifying the Violator/Responsible Person That a Violation Has Occurred**

### **A. Violations Determined During Inspections**

Operations staff should follow the Bureau's guidance on conducting inspections and citing violations.

### **B. Notices of Violation (NOV)**

Inspection staff should follow the BWM guidance on issuing NOVs.

## **Tracking and Resolving Violations**

### **A. Tracking Violations**

The Bureau Operations staff should enter violations into eFACTS within ten working days as per the guidance on citing violations.

### **B. Resolution of Violations Via an Enforceable Document**

Compliance staff should follow the BWM enforcement guidance.

## **Enforcement, Penalty Determination and Collection, and Permit Bars**

- A. Criminal provisions in the Environmental Protection Acts allow for referring criminal cases to the Office of Attorney General. The Bureau has a process in place for referring such cases. This process is included as part of the BWM guidance.
- B. Violations or circumstances that warrant a Department civil action in State or Federal Court, and which court is used, is determined by the regional Litigation Office. The program defers to their judgment.
- C. The guidelines for the appropriate administrative enforcement action to be taken are determined by regional Operations and Litigation staff.
- D. When calculating civil penalties each program should use the penalty matrix approved by the program.
- E. Violations of obligations by a facility under an Order, Consent Order or other Department-issued administrative document are addressed with the assistance of the Regional Counsel.
- F. The Solid Waste Management Act allows imposition of a permit bar against a facility in violation of Department rules and regulations.

## **Authority Reserved for the Regional Program Manager**

The regional Program Manager has the authority to:

- A. Waive the issuance of an NOV if the facility has not received such a notice within the previous three years.
- B. Extend compliance periods for NOVs as long as the facility works toward correction of the violation.
- C. Extend negotiation time period beyond 180 days to finalize an enforcement document providing the company negotiates in good faith.

- D. Extend the timeframe for correcting violations of an Order or any other enforcement document, when failure to meet the timeframe of the document has not resulted from lack of due diligence on the part of the facility trying to correct the violation.
- E. All such extensions are reported to the Regional Director on a weekly basis.

#### **Employee Training and Internal Audits**

- A. The Bureau programs have no specific written training plan guidance at this time. Supervisors and/or senior inspectors serve as trainers to new staff. Environmental Trainees accompany the experienced inspectors until the Trainee demonstrates that they can adequately perform inspections. This is a requirement for the Trainee to reach Solid Waste Specialist status. The Supervisor or Operations Manager must approve a Trainee's work before they are allowed to perform an inspection independently.
- B. In addition to regional office training, Trainees must complete Department-required training specifically for new Environmental Trainees. Inspectors are also encouraged to attend any training that is provided by federal or other independent environmental agencies (EPA & NEEP) within the scope of BWM budgets.
- C. While the Bureau does not presently have a desk manual for all staff involved in determining violations, it does maintain a Bureau Desk Book containing copies of pertinent state and federal statutes and regulations.