

Kansas Department of Health and Environment  
Bureau of Waste Management Policy 2014-P5  
**Classification of Non-Compliance with  
Solid Waste Statutes and Regulations**

**Purpose**

This policy describes the criteria that will be used to determine how non-compliance with a statute and/or regulation will be classified and addressed by inspectors conducting solid waste inspections.

**Background**

As part of the Kansas Department of Health and Environment (KDHE) mission to protect and improve the health and environment of all Kansans, the Bureau of Waste Management (BWM) conducts solid waste compliance inspections to ensure that facilities and persons are conforming to environmental laws and regulations. KDHE has the statutory authority to issue penalties and administrative orders to any person who violates Kansas environmental statutes and/or regulations.

Historically, the Bureau of Waste Management (BWM) has recorded any observed non-compliance with solid waste statutes, regulations, and permit conditions as a violation. Because the nature and extent of non-compliance can vary significantly from case to case, BWM has developed new compliance documentation protocols that more accurately reflect the extent of deviation from applicable standards.

**Action**

Any observed non-compliance will be classified by the inspector as either a “violation” or a “deficiency.” Non-compliance may also be addressed in comments for certain types of situations. All violations, deficiencies, and comments will be documented on the Notice of Compliance/Non-Compliance form and in the inspection report. The descriptions and methods of handling violations, deficiencies, and comments follow.

Violation

A violation will be cited for all moderate to major non-compliance. Violations typically include:

- Non-compliant practices that have caused actual impacts to public health or the environment or present imminent threats to public health or the environment;
- Moderate to major non-compliant practices that have not resulted in actual impacts to public health or the environment which, if uncorrected, could result in real impacts and/or clear and imminent threats to public health and the environment;
- Repeat deficiencies (unless very minor deficiencies); and
- Failure to comply with an Order or other directive.

Violations will be handled as follows:

- The inspector directs and oversees facility efforts to correct violations.
- Violations are recorded in BWM's compliance and enforcement database, nForce.

#### Deficiency

A deficiency will be cited for all minor non-compliance. Deficiencies typically include:

- Non-compliant practices that pose no threat or minimal threat to public health or the environment;
- Minimal deviation from a regulatory standard;
- Comments from the previous inspection that have not been addressed; and

Deficiencies will be handled as follows:

- The inspector oversees facility efforts to correct deficiencies.
- Deficiencies are not recorded in nForce.
- Failure to correct a deficiency may result in conversion of the deficiency to a violation, which would be recorded in nForce.
- A deficiency observed during a subsequent inspection (i.e., repeat deficiency) may be documented as a violation.

#### Comment


Comments will be used to document unusual observations or non-compliance caused by recent events beyond the facility's control, such as severe weather, equipment malfunctions, or loss of facility staff. The inspector will consider whether or not the owner or operator has taken any action to remedy the non-compliance when determining if the non-compliance will be classified as a comment. **Comments will not be used to describe non-compliance due to routine facility operations.**

Comments will be handled as follows:

- The inspector discusses comments with the facility but no follow-up is required.
- Comments are not recorded in nForce.
- Failure to address comments may result in future violations or deficiencies.



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Date