

2018

*CITY OF COLUMBUS
CONSTRUCTION STORMWATER
OPERATIONS GUIDE*

MCM #4



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Introduction to National Pollutant Discharge Elimination System (NPDES) History

The Federal Water Pollution Control Act (FWPCA) (P.L. 80-845, 62 Stat. 1155) of 1948 was the first major law enacted by Congress to address the problems of water pollution in the United States. Legislators had made numerous attempts, totaling over 100 bills, to pass legislation over the previous half century, but without success. By 1948 the industrial and urban growth that was fueled by World War II had led to the obvious, and often notorious, pollution of the country's rivers, streams, and lakes, impelling Congress finally to confront the issue. Unfortunately, the act was not well designed and achieved very little. It did not generally prohibit pollution, and gave only limited authority to the Federal Government, and provided an extremely cumbersome enforcement mechanism. In 1972 Congress totally rewrote the act to provide adequate protection for the nation's waters.

Before 1948 various minor laws dealt with aspects of water pollution. The only notable law was the Refuse Act of 1899, which actually is a section of the Rivers and Harbors Appropriations Act of 1899. The Refuse Act was not aimed at preventing water pollution but rather at preventing the dumping of materials that might impede navigation. Although the Clean Water Act now predominates in the regulation of surface water pollution, the Rivers and Harbors Act remains a valid law. It provides useful supplemental jurisdiction for addressing certain kinds of water pollution, and especially for dredge and fill activities. In the postwar period, attention again turned to the country's polluted waters. It was reported in 1945 that over 3,500 communities pumped 2.5 billion tons of raw sewage into streams, lakes, and coastal waters every day. Nevertheless, it was difficult to gain political support for a water pollution proposal. Legislators generally considered the control of water bodies a responsibility of the states and viewed federal regulation with suspicion. Still, some conservationists and public officials recognized the need for action at the federal level. After years of failed bills, the 80th Congress in 1948 achieved a legislative compromise with the support of President Harry S. Truman.

Although there was general consensus on the need to clean up polluted water, there was strong disagreement on the extent of waters to be covered, the rights of the states, and the role of the federal government. Some legislators envisioned extending protection not only to interstate waters (waters that came in contact with more than one state), but also to intrastate waters (rivers and tributaries within individual states) that might contribute pollution to interstate waters. They urged that both intrastate and interstate waters be protected by a strong federal program with substantial enforcement authorities.

However, the final bill that reached the House floor at the end of the legislative session, under a gag rule permitting no amendments, was far weaker. The legislation applied only to interstate waters, eliminating from protection under the act heavily polluted waters that were wholly contained within one state, and it restricted the role of the federal government. These weaknesses led members of Congress who had worked long and hard on a water protection bill to speak and vote against the legislation. Nevertheless, many proponents of broader legislation felt that a weak bill was better than no bill at all. The bill was passed the House of Representatives by a vote of 138 to 14.

Congress then declared that the act's purpose was "to provide a comprehensive program for preventing, abating, and controlling water pollution," and that it was congressional policy "to recognize, preserve, and protect the primary responsibilities and rights of the States in controlling water pollution." The act gave individual states most of the responsibility for abating water pollution and encouraged interstate agreements. In addition to preserving states' control of their waterways, the act limited federal authority for the most part to preparing pollution abatement plans and providing support to the states. It also established federal technical services and grants to state and interstate government bodies. The law did not specifically prohibit polluting activities, set standards, or limit new sources of pollution.

Although the act did declare pollution of interstate waters a public nuisance subject to abatement, this applied only when water pollution endangered "the health or welfare of persons in a State other than that in which the discharge originates." When this situation

occurred, the Surgeon General of the United States was authorized to bring an abatement action, but only after a cumbersome process and with the permission of the state where the pollution originated. This provision gave the states virtually unlimited power to override a federal action to prevent water pollution. Not surprisingly, in the following twenty years there were essentially no enforcement actions filed under the act.

The Federal Water Pollution Control Act was not effective in preventing and abating water pollution. Because of the federal government's inability to require any direct reduction in discharges, pollution continued to increase and the quality of the nation's waters did not significantly improve. However, the act demonstrated both popular and political support for pollution control efforts. It also established the basic framework for water pollution control, which Congress subsequently amended. Congress changed the act six times before completely rewriting it in the 1972 Federal Water Pollution Control Act Amendments. Today the statute is commonly known as the Clean Water Act and bears little resemblance to its 1948 ancestor.

*The 1960's were a pivotal time in our nation's history for environmental awareness. In 1962 Rachel Carson wrote a book entitled *Silent Spring* which made people aware of environmental protection. The book was one of the major contributors of the environmental movements across our nation in the 1960's and 70's. In the late 60's, after the environmental movements began there was excessive water pollution that was the cause of the death of fish and wildlife. As an example over 90% of Lake Erie's aquatic life died due to the excessive water pollution which caused the lack of oxygen in the water. On June 22, 1969, an oil slick on the Cuyahoga River, caught fire. By the time the fire was extinguished, twenty minutes later, severe damage had been done to two railroad trestles. The 1969 fire caught the attention of the national press that was led by *Time* magazine, which reported: "Some river! Chocolate-brown, oily, bubbling with subsurface gases, it oozes rather than flows. The resulting publicity was a significant factor in the passage of important environmental legislation.*

Growing public awareness and concern for controlling water pollution led to sweeping amendments in 1972. The law became commonly known as the Clean Water Act (CWA).

The 1972 amendments were established as the basic structure for regulating pollutant discharges into the waters of the United States. It also gave the Environmental Protection Agency (EPA) the authority to implement pollution control programs such as setting wastewater standards for industry and maintained existing requirements to set water quality standards for all contaminants of surface waters. It also made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under those provisions. This also funded the construction of sewage treatment plants under the construction grants program and recognized the need for planning to address the critical problems posed by nonpoint source pollution. After these amendments were set in place the Environmental Protection Agency (EPA) performed a study from 1979 to 1983 called the Nationwide Urban Runoff Program (NURP). Which was the first comprehensive study of urban stormwater pollution across the United States.

From the Nationwide Urban Runoff Program (NURP) study, it was determined that what was causing that sediment was polluting the waters and was primarily from residential, commercial, and industrial construction activities. Due to these findings the National Pollutant Discharge Elimination System (NPDES) Clean Water Act was modified and a section focusing specifically on stormwater from construction activity was added.

In the late 1990's environmental groups began taking legal action against the Environmental Protection Agency (EPA) wanting an accurate list of impaired waters. Soon after the Environmental Protection Agency (EPA) began testing and documenting the quality of stormwater that was being discharged into waters impaired by both point sources and nonpoint sources. In 1990 after the studies were concluded and the results were in, Phase I of the Municipal Separate Storm Sewer System (MS4) was implemented.

A Municipal Separate Storm Sewer System (MS4) is a conveyance or system of conveyances that is owned by a state, city, town, village, or other public entity that discharges to waters of the U.S... It is designed or used to collect or convey stormwater

(e.g., storm drains, pipes, ditches), not a combined sewer (sanitary and storm water) and not part of a sewage treatment plant, or publicly owned treatment works (POTW).

This program is in place to prevent harmful pollutants from being washed or dumped into Municipal Separate Storm Sewer System (MS4's). Certain operators are required to obtain National Pollutant Discharge Elimination System (NPDES) permits and develop Stormwater Management Programs (SWMPs). The SWMP describes the stormwater control practices that will be implemented consistent with permit requirements to minimize the discharge of pollutants from the sewer system.

The 1999 Phase II of the regulation requires that small Municipal Separate Storm Sewer System (MS4's) as defined in the U.S. Census Bureau as urbanized areas, as well as MS4s designated by the permitting authority, to obtain National Pollutant Discharge Elimination System (NPDES) permit coverage for their stormwater discharges. Phase II also includes non-traditional Municipal Separate Storm Sewer System (MS4's) such as public universities, departments of transportation, hospitals and prisons.

In 2007 Nebraska H2O was formed in conjunction with the Nebraska Stormwater Cooperative, to educate the public of the importance of keeping Nebraska's waterways pollutant free. The Nebraska Stormwater Cooperative consists of 10 sMS4 Phase II cities including Grand Island, Beatrice, Columbus, Fremont, Hastings, Kearney, Lexington, Norfolk, North Platte and Scottsbluff. For more information visit www.nebraskah20.org.

In 2018 the City of Columbus renewed through the Nebraska Department of Environmental Quality (NDEQ) for their Authorization to discharge into the waters of the United States. This will expire in 2023 when the City will again need to renew the permit. The NDEQ also approved the cities Stormwater Management Plan (SWMP) in 2018 which is encouraged to be continually updated.

Overview of the Program

Mission and Goals of the Good Housekeeping & Pollution Prevention Program

The mission of the Good Housekeeping & Pollution Program (GHPP) is to reduce or eliminate the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, outdoor storage areas and salt/sand storage locations as well as snow disposal areas which the City of Columbus operates.

The City of Columbus will continue the educational efforts for training municipal employees and key City staff on how the performance of their duties can affect Stormwater runoff quality. The city will focus on operations with the greatest likelihood to cause pollution to Stormwater runoff. These identified operations will be addressed in training focusing on methods to reduce pollutants to the maximum extents practical.

The goal of the Good Housekeeping & Pollution Program (GHPP) Program is to engage public employees and public properties in the best practices of Stormwater protection.

The goals of the Good Housekeeping & Pollution Program (GHPP) Program are to describe the procedures that the City of Columbus performs to properly dispose of waste removed from the MS4 including accumulated sediments, floatables and other debris. The intent is to have the precautions that the City of Columbus performs be as transparent as possible and easily identifiable.

Chapter 1

Target Pollutants of Concern

The City of Columbus has clearly defined the term 'Pollutant' multiple times in the City's Code. As it relates to Construction Stormwater, the definition is unchanged. Chapter 54, Section 53.01, defines "Pollutant", as:

Pollutant: *Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides; herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; wastes and residues that result from mobile washing operations; and noxious or offensive matter of any kind.*

As it pertains to the Construction Stormwater Program in The City of Columbus, this definition covers all types of development and construction.

Chapter 1

Mission and Goals of the Construction Stormwater Program

The goal of the Construction Stormwater Program is to reduce the amount of pollutants in stormwater runoff from construction activities that result in land disturbance and inform the development community of implementable methods to aid in this goal. The City of Columbus hopes to continually educate the development community about the importance of reducing pollutants in stormwater runoff from construction activities. This education comes in several forms, from having the material available upon request to having an established training and education process. Educational materials for educating contractors and members of the development community will have been created and/or purchased. Involving members of the development community and contractors along with engineering consultants in the development of this program is a high priority. The development of this program is continuous and depends on several components to succeed, knowledgeable municipal staff and an informed development community

The mission of the Construction Stormwater Program is to create Standard Operation Procedures for construction site inspection and plan review of construction projects that involve land disturbing activities. Design Standards for structural and non-structural BMP's meeting the requirements of the NDEQ and NPDES Stormwater Permit for construction sites have been developed and are available on the City website (www.columbusne.us) as well as at the Engineering Department. As a part of this program, an Erosion and Sediment Control Ordinance has been developed and is the basis for the Construction Site Stormwater Runoff Controls Program. Regulating the contribution of pollutants to the MS4 by stormwater discharges from construction activity and development is the main objective of the program. This objective is being obtained by guiding, regulating, and controlling the design, construction, use and maintenance of any development that disturbs or breaks topsoil.

Chapter 2

Erosion and Sediment Control Authority

The City of Columbus has created Ordinance Number 18-32 that states "The City shall designate appointed personnel with authority to conduct inspection, issues notices of violations and implement other enforcement actions under this Chapter 54, Section 54.12 as provided by the City."

Chapter 3

Stormwater Pollution Prevention Plan (SWPPP) Review

The City of Columbus clearly defines the term “Stormwater Pollution Prevention Plan” in Chapter 54, Section 54.02 of our City Code.

"Storm Water Pollution Prevention Plan (SWPPP): A document which describes the Best Management Practices and activities to be implemented by a person during the construction activities, which identifies sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters."

Chapter 3

Essential Staff

City Administrator

City Engineer

Community Development Director

Engineering Project Manager

Chapter 3

Design Guidance

The City of Columbus Municipal Code describes the SWPPP process in detail in Chapter 54, "Construction Storm Water Pollution Prevention Plan (SWPPP)." In this ordinance the acceptable process and method of implementing the SWPPP for a project are identified as Erosion Controls, Sediment Controls, Waste/Good Housekeeping and Post-Construction/Stormwater Conveyance.

Chapter 3

Erosion Controls

The City of Columbus Engineering Department are responsible for aiding and informing the development community about erosion controls on any size of project, from home construction (less than an acre) to subdivision development (greater than an acre). Erosion control design of both sizes can be found at the City Offices. Brochures on perimeter controls can be found at the Community Development Department when applying for a building permit and there is at least one required inspection to verify that the erosion control plan is in place for projects less than an acre.

For projects greater than an acre, The City of Columbus requires perimeter controls on all projects to ensure the topsoil from construction activity doesn't flow leave the project site and into the storm sewer. The definitions for 'erosion' and 'erosion control' are listed below:

Erosion: *The detachment and movement of soil or rock fragments by water, wind, ice or gravity."*

"Erosion Control: *Measures that prevent soil erosion to the maximum extent practicable."*

Chapter 3

Sediment Controls

The City of Columbus Engineering Department is responsible for aiding and informing the development community about sediment controls on any size of project, from home construction (less than an acre) to subdivision development (greater than an acre). Sediment control design of both sizes can be found with the City. Brochures on sediment control BMP's can be found at development services when applying for a building permit.

For projects greater than an acre, The City of Columbus has sediment control designs and reference material for projects to ensure the topsoil from construction activity doesn't leave the project site and into the storm sewer. The definitions for 'sediment' and 'sediment control' are listed below:

Sediment: *Soil (or mud) that has been disturbed or eroded and transported naturally by water, wind, or gravity, or mechanically by any person."*

Sediment Control: *Measures that prevent eroded sediment from leaving the site.*

Chapter 3

Waste/Good Housekeeping Practices

The City of Columbus implements, and has available to the development community, Standard Specifications regarding Waste Disposal and other Good Housekeeping Practices. These Standards can be found in Chapter 54, starting at 54.08. Concrete Washout, Entrance/Exit Maintenance, Erosion Control Maintenance, General BMP Maintenance, Spill Prevention Control Practices...etc. and are identified and described in the document.

Chapter 3

Post-Construction/Stormwater Conveyance

The City of Columbus has a timeline implemented that addresses a Post-Construction Stormwater Maintenance Plan (PCSMP) and its many attributes. The Post-Construction Stormwater Maintenance Plan (PCSMP) is located in the Stormwater Management Plan (SWMP) as MCM #5. Section 3 of the Post-Construction Stormwater Maintenance Plan (PCSMP) is devoted to Platting and Site Plan Review. Stormwater Treatment Facilities (STFs) must be accounted for in any development that is platted after March 1st, 2019.

The City of Columbus has provided reference to design manuals for the desired Stormwater Treatment Facilities (STFs), taken from the selection of Regional Facilities, Rain Gardens, Sediment Forebays, and Bio-Swales, amongst others. Included in the Post-Construction Stormwater Maintenance Plan (PSCMP) is a 'Submittal Checklist' that requires proper identification of STFs on the plans, along with calculations, agreements, and certifications of STFs.

Chapter 3

Design Review

Land Disturbance Over 1 Acre

In The City of Columbus Municipal Code it requires that a "SWPPP shall be prepared and updated in accordance with locally-approved technical standards, specification, and guidance for construction activity within the City and shall include an erosion and sediment control plan for land disturbance "may be found in Chapter 54, Section 54.08. The ordinance also states that "Land disturbing activities may not proceed until approval of the erosion and sediment control plan is provided to the City. These provisions apply to all portions of any common plan of development which would cause the disturbance of at least on acre of soil."

Chapter 3

Approval Notifications Process

The City of Columbus implements a 'Plan Review' process for inspecting if 'Erosion and Sediment Control Plan' sheets contain the proper Best Management Practices. When a developer follows through with their project, once a plan has gone through DRT then they proceed with the design and bring it forth through each department (Engineering, Utilities, Park and Recreation, Development Services, Electrical supplier) to ensure that each of their respective aspects of the project are accounted for. This is another opportunity for more feedback, to ensure the developer complies with required objectives of each department. It is at this process that the Engineering Department assesses the design for detention cell requirements and that proper BMP's are installed on the 'Erosion and Sediment Control Plan' sheet. Depending on the topography of the site there are very simple regulations: protect existing inlets throughout the project, protect newly created inlets once constructed, have some sort of perimeter control, and control the track-out of the construction activity.

Chapter 3

Request for Modifications Process

The City of Columbus implements a 'Plan Review' process for inspecting if 'Erosion and Sediment Control Plan' sheets contain the proper Best Management Practices. When a developer follows through with their project, to ensure that each of their respective aspects of the project are accounted for. This is another opportunity for more feedback, to ensure the developer complies with required objectives of each department. It is at this process that the Engineering Department assesses the design for detention cell requirements and that proper BMP's are installed on the 'Erosion and Sediment Control Plan' sheet. Depending on the topography of the site there are very simple regulations: protect existing inlets throughout the project, protect newly created inlets once constructed, have some sort of perimeter control, and control the track-out of the construction activity.

Chapter 3

Land Disturbance less than 1 acre

Building Permit Language

The City of Columbus Code specifically requires a SWPPP to be submitted with the application of a building permit with land disturbance of greater than one acre.

Any person who engages in construction activity is responsible for compliance with this Article and all applicable terms and conditions of the approved construction activity and SWPPP as it relates to the building phase of development. The following information shall be included with the application for a building permit and be submitted to the Community Development Department. A certification that the building phase of development for the property described on the application for a building permit will be conducted in conformance with this Article and the Construction Activity SWPPP.

Chapter 3

Individual Lot Notice of Intent

*The City of Columbus requires an 'Individual Lot Notice of Intent,' as in conformance with a SWPPP, for each Building Permit per Chapter 54, Section 54.08 "B". This section is entitled 'Requirements for the Building Phase of Development. The 'Columbus Small Lot Notice of Intent' can be found as **Appendix "A"**.*

Chapter 3

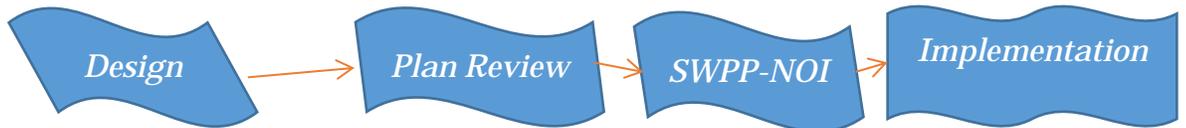
Review Process

The 'Columbus Small Lot Notice of Intent' applications are reviewed when they are received with the Building Permit Application. If the 'Columbus Small Lot Notice of Intent' is not completed properly or incomplete then the applicant is not awarded the Building Permit.

Chapter 3

Flowchart/Decision Tree

Projects Greater Than One Acre



Projects Less Than One Acre



Chapter 4

Construction Stormwater Inspection and Tracking

Essential Staff & Duties

Engineering Project Manager: *The City of Columbus employs a full time position in the Engineering Department devoted to ensuring the Stormwater Management Plan (SWMP) is implemented to the maximum extent practicable. This includes:*

MCM 1: *Actively educating the public on good habits to minimize their effect on stormwater pollution.*

MCM 2: *Identifying individuals or groups that are actively involved in environmentally friendly events and supporting them.*

MCM 3: *Following a Spill Response Plan in the event an illicit discharge occurs within our municipality as well as accounting for the location and maintenance of every storm inlet and storm pipe within our municipality.*

MCM 4: *Having a construction stormwater program ensuring best management practices at all levels of development that the development community follows.*

MCM 5: *Having a program that requires installation of stormwater treatment facilities to improve water quality post-construction.*

MCM 6: *Having a program that educates our municipal workers on department-specific best management practices to reduce the effect of their work on stormwater pollution.*

Chapter 4

The Engineering Project Manager position is also responsible for working with State and Federal entities on a regular basis to ensure compliance of multiple permits that cover stormwater. When there is a municipal capital improvement project the Engineering Project Manager or City Engineer are responsible for creating a Notice of Intent and the Stormwater Pollution Prevention Plan (SWPPP) and sending it to the NDEQ for an Authorization Letter. Then, upon completion of a project, sending in the Notice of Termination letter to the NDEQ. This position also performs inspections of all public and private projects greater than one acre. There is communication between the Engineering Project Manager and the Building Inspectors in the Community Development Department that handles projects smaller than an acre.

Chapter 4

City Code Inspector: *The City of Columbus Community Development Department employs a Code Inspector to work with Erosion and Sediment Control issues amongst 'less than an acre' development. This position conducts Erosion and Sediment Control inspections and deals with all necessary enforcement which is then documented in City Hall. There is communication between the Code Inspector and the Engineering Project Manager that handle projects greater than an acre.*

Chapter 4

Inspection Process

City/Capital Improvement Projects

The City of Columbus is required to conduct inspections on City/Capital Improvement Projects based on its MS4 Permit. As is written in our City Code Chapter 54, Section 54.08 C 6a (Ord. 10-25, passed 9-20-10) inspections are "conducted by an individual or who is knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity." For The City of Columbus, that 'individual' is the position of the Engineering Project Manager in the Engineering Department.

A SWPPP Inspection Report consists of 4 parts:

- 1) General Information; project name, location, date and time of inspection, inspector's name and contact information and type of inspection.*
- 2) SWPPP Information; acknowledging the availability of the SWPPP Document, NM, Authorization Letter, and NPDES Permit Copy.*
- 3) BMP/Housekeeping Information; identifying the required BMP's and their effectiveness*
- 4) Detailed Report; If any aspects in the BMP/Housekeeping Information is non-compliant this section addresses that.*

A copy of the SWPPP Inspection Report is sent to the General Contractor, with pictures, if there are issues of non-compliance. The original inspection is kept with all the other documents for that specific Capital Project in a folder in the Engineering Department.

Chapter 4

Private Development Projects

Within The City of Columbus there are Private Development Projects that consist of disturbing more than one acre of land. The private developer must go through the same process that The City of Columbus does when it comes to obtaining SWPPP Certification from the NDEQ. They are also the responsible party for inspecting the project. More often than not the owner/developer subcontract out the SWPPP Administration and Inspection responsibilities but they are still the 'Certifying Official.

The Engineering Project Manager position in the Engineering Department is responsible for monitoring these Private Development Projects. This 'monitoring' consists of:

- 1) Requesting a copy of the Notice of Intent during the initial inspection*
- 2) Reviewing the applicable erosion and sediment control plan to conduct a thorough site inspection to determine if BMP's have been installed properly;*
- 3) Assessing compliance with the City's ordinances and permits*

Based on site inspection findings, all necessary follow-up actions (i.e., re-inspections, enforcement) will be taken and documented with a Private Development Tracking Form.

Chapter 4

Individual Lot Inspections

*The City of Columbus cannot verify if equitable compliance rules and standards have occurred without a valid inspection program. Since the City is not issuing a separate stormwater permit for construction activity on small lots, site inspections are an essential component of the enforceable program. Within The City of Columbus there are Small Development Projects that consist of disturbing less than one acre of land. The small developer must go through a process of obtaining a Building Permit with The City of Columbus Community Development Department and with that is also required an Individual Lot NOI **Appendix "A"**.*

The Code Inspector position in the Community Development Department is responsible for monitoring these Small Development Projects. This 'monitoring' consists of:

- 1) Requesting a copy of the Individual Lot Notice of Intent during the initial inspection*
- 2) Reviewing the applicable erosion and sediment control plan to conduct a thorough site inspection to determine if BMP's have been installed properly*
- 3) Assessing compliance with the City's ordinances and permits*

Based on site inspection findings, all necessary follow-up actions (i.e., re-inspections, enforcement) will be taken and documented.

Chapter 4

Inspection Frequency

City/Capital Improvement Projects

All City of Columbus Capital Improvement Projects are operated under an NDEQ Construction Stormwater NER310000 Permit. This permit requires regular inspections. Our City Code has adopted the permits language in requiring regularly scheduled inspections. Chapter 54, Section 54.08 states:

(6) The SWPPP shall include a description of routine site inspections.

(a) The owner or their representatives shall inspect all BMPs at intervals of no greater than fourteen (14) calendar days and within twenty-four (24) hours after any precipitation event of at least one half (1/2) inch.

(b) Inspections of BMP's shall be conducted by an individual or person knowledgeable in the principals and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity.

(c) Inspection reports shall provide the name and qualifications of the inspector, date of the evaluation, risks to storm water quality identified and all corrective actions necessary to prevent storm water pollution.

(7) Based on inspections performed by the owner, operator, authorized City personnel, State or Federal regulators modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter. In this case, the owner shall meet with an appointed official of the City to determine the appropriate modifications. All required modification shall be completed within seven (7) calendar days of receiving notice of inspection findings, and shall be recorded in the SWPPP.

Chapter 4

Private Development Projects

All City of Columbus Capital Improvement Projects are operated under an NDEQ Construction Stormwater NER310000 Permit. This permit requires regular inspections. Our City Code has adopted the permits language in requiring regularly scheduled inspections. Chapter 54, Section 54.08, Ord. No. 10-25, passed 9-20-10 states:

(6) The SWPPP shall include a description of routine site inspections.

(a) The owner or their representatives shall inspect all BMPs at intervals of no greater than fourteen (14) calendar days and within twenty-four (24) hours after any precipitation event of at least one half (1/2) inch.

(b) Inspections of BMP's shall be conducted by an individual or person knowledgeable in the principals and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site that could impact storm water quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of storm water discharges from the construction activity.

(c) Inspection reports shall provide the name and qualifications of the inspector, date of the evaluation, risks to storm water quality identified and all corrective actions necessary to prevent storm water pollution.

(7) Based on inspections performed by the owner, operator, authorized City personnel, State or Federal regulators modifications to the SWPPP will be necessary if at any time the specified BMPs do not meet the objectives of this chapter. In this case, the owner shall meet with an appointed official of the City to determine the appropriate modifications. All required modification shall be completed within seven (7) calendar days of receiving notice of inspection findings, and shall be recorded in the SWPPP.

The authorized City personnel responsible for monitoring the Private Development Projects less than one acre is the Property Maintenance Building Inspectors in the Community Development Department. For all projects that are greater than an acre and require a SWPPP the City Project Manager will monitor these sites. The frequency for which these Private Development projects are monitored is dependent on a visual test and the severity of the weather. If it's an exceptionally rainy season and the BMPs in place are not adequate, then the contractor is notified and the Enforcement Response Plan is followed. Another factor affecting the frequency is the duration of the project. Some projects take weeks and others take years. An initial comprehensive inspection is conducted by the Engineering Project Manager at least once during the first 30 days of active construction to ensure the NOI is available and the Erosion and Sediment Control Plan sheet is implemented. Follow-up inspections would ensue with improper implementation and maintenance of the Erosion and Sediment Control Plan. Final site inspections will be conducted by the Engineering Project Manager for sites greater than one (1) acre before and Property Maintenance Building Inspectors for a construction site less than one acre. Before the operator is released from obligation to manage stormwater runoff.

Chapter 4

Individual Lots

The City of Columbus Development Services Code Inspector that is responsible for Erosion and Sediment Control Inspections determines frequency at which Individual Lot inspections are performed. The Property Maintenance Building Inspectors regularly inspects these locations at least twice per calendar month, more depending if a re-inspection or enforcement is required. Basic site inspections will be conducted by the Development Services Code Inspector any time they are on a site with active construction.

Chapter 4

Determination description for compliance vs. non-compliance

The City of Columbus Development Services Department has inspectors of varying phases of general construction. One of these phases is 'Erosion and Sediment Control.' There is an inspector position that evaluates the status of all building permit holders within The City of Columbus. When a group or individual applies for a building permit at Development Services, they also fill out a 'Lot Level SWPPP' and a 'Lot Level NOI.' These two documents identify their responsibilities as it pertains to Erosion and Sediment Control on their jobsite. The 'Erosion and Sediment Control' inspector does frequent inspections of each site. Our SWMP states private projects will be inspected at a frequency of at least once every three months (Quarterly). This inspection consists of reviewing the site to ensure that there is no track-out leaving the site; that downstream curb inlets are protected; and that perimeter controls are installed as needed. These perimeter controls are needed on the downslope edge, prior to leaving the site and flowing onto adjoining properties. The inspector acknowledges these issues in the inspection form software after each inspection/evaluation. When there is a permit holder that does not cooperate with The City of Columbus's 'Lot Level NOI' and 'Lot level SWPPP' then other general construction inspections are withheld until compliance is met.

Chapter 5

Enforcement

The City of Columbus uses an Enforcement Response Plan (ERP) and ordinances written into our City Code to ensure that our Construction Stormwater Program is followed.

Enforcement Response Plan (ERP)

The City of Columbus has in place an Enforcement Response Plan (ERP) that it utilizes to enforce the Construction Stormwater ordinance.

*These can be found in **Appendix “B”** and on the City of Columbus Website (www.columbusne.us).*

Chapter 6

Training and Education

Define Target Pollutants of Concern

The City of Columbus has clearly defined the term 'Pollutant' multiple times in City Code. As it relates to Construction Stormwater, the definition is in Chapter 54, Section 54.02 defines "Pollutant" as:

Pollutant: *Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides; herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; wastes and residues that result from mobile washing operations; and noxious or offensive matter of any kind.*

As it pertains to Training and Education for the Construction Stormwater Program, Target Pollutants will be taken from this definition and associated with their Target Audiences.

Chapter 6

Define Target Audience

The City of Columbus has employees that deal with the development community on a daily basis. These employees are responsible for inspections of development projects of varying sizes from small lot construction to Municipal/Capital Improvement Projects. At times, these employees are telling contractors/developers what is acceptable or not as Erosion and Sediment Control (ESC) Best Management Practices (BMPs).

The positions the City employs to do this are: The Engineering Project Manager, Building Inspectors and Building Inspectors.

Training Municipal Staff

Erosion and Sediment Control Code (ESC) Inspectors must meet the minimum standards of a "qualified inspector" as stated in the NPDES Construction Stormwater Permit and The City of Columbus Municipal Code. This means that all Erosion and Sediment Control Code (ESC) Inspectors will attend training recognized, approved or sponsored by the NDEQ regarding Erosion and Sediment Control. All Building Inspectors will attend meetings with the Engineering Project Manager to discuss inspections, findings, and problem areas.

In general, qualified inspectors are knowledgeable in the principles and practice of erosion and sediment controls and possess the skills to assess conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any erosion and sediment control measures selected to control the quality of stormwater discharges from the construction activity.

Chapter 6

Outline of Target Messages to convey in

Training & Education

The City of Columbus has several messages it tries to convey during its training and educational processes. The biggest challenge is identifying target audiences and ensuring that the message directed towards them is appropriate for the service they perform.

- 1) *Municipal Employees*
 - a) *Spill Response Plan*
 - b) *Illicit Discharge Cleanup*
 - c) *Department Specific BMP's*
- 2) *General Contractors*
 - a) *Erosion and Sediment Control BMP's*
 - b) *Procedural Information*
 - c) *New Programs*
- 3) *Trade Contractors*
 - a) *Lawn and Landscape*
 - b) *Restaurant Owners*
 - c) *Concrete Companies*
 - d) *Mobile Cleaning*
 - e) *Automotive Repair*
- 4) *General Public*
 - a) *Children*
 - b) *Adults*

Chapter 6

Delivery of Training & Education

Municipal Staff

The City of Columbus targets specific departments when it considers which employees to train and targets ALL City employees when it comes to education. Training of employees whose regular duties consist of working with hazardous materials is a high priority. The training consists of several formats. DVD's addressing municipal processes such as fleet and maintenance, utilities, storm sewer maintenance, and sanitation are used for training every other year. There are semi-annual newsletters that are sent out concerning a variety of subjects like Good Housekeeping, Fueling Operations, Facility Runoff Control Plans, Spill Response Plan, Illicit Discharge Reporting, Storm Inlet protection, an introduction to the SWMP...etc.

For educational purposes all municipal employees are considered target audiences. The thought is that more general stormwater pollution topics will be addressed, such as lawn and landscaping practices, pet waste, automotive does and don'ts ...etc. This informs the municipal employees of the many ways the average citizen contributes to stormwater pollution and the different ways they can help minimize the effect they have.

Developers & Designers

The City of Columbus has a very good relationship with the local developers, designers and engineers. When The City of Columbus amends City Code it is at City Council meetings held the first and third Monday of the month. The agenda for these meetings is made clear to the public well in advance and when these amendments are presented there is the opportunity for the public to make comments or ask questions.

Chapter 6

General Contractors

Site Inspections provide the opportunity to educate construction site operators about required actions, document compliance issues, verify that City standards are being met, and initiate enforcement actions when required.

Trade Contractors

The City of Columbus has contact lists of Trade Contractors operating in the Columbus area. The Public Education and Outreach strategy of the Stormwater Management Program sends educational newsletters to each trade, automotive, concrete, landscaping, restaurant, and mobile cleansing.

Chapter 6

General Public

As part of the compliance with the NDEQ NER310000 MS4 Permit the City of Columbus has created a 'Public Education and Outreach Program.' This program is used to distribute educational materials to the community and conduct equivalent outreach activities about the impacts of polluted stormwater discharges on water bodies and the steps our community is taking to minimize the pollutants in those discharges. The public are a necessary component in the fight against stormwater pollution. Creating venues of interaction between professionals with knowledge of stormwater issues and the public is a key way in increasing their awareness on the subject.

For The City of Columbus to get an idea of how much the public knows about the efforts being undertaken, several types of interactions have been continuously performed, door to door surveys, public service announcements, newspaper articles, commercials, websites, and conferences are just some examples of ways of informing the public on the subject of stormwater's impacts. These activities identify specific Target Pollutants dependent on Target Audiences being addressed.

Chapter 6

Building Permit Review Process

*The City of Columbus Community Development Department is responsible for the Building Permit Review Process. Along with the Building Permit application there is required an 'Individual Lot NOI' and an 'Individual Lot SWPPP'. This 'Individual Lot NOI' and 'Individual Lot SWPPP' can be found in this document as **Appendix "A"**. The purpose of these forms is to allow for coverage under the Federal Clean Water Act. There is a Site Plan that is to be used as an example in **Appendix "A"** The acknowledgement of BMP construction, implementation and maintenance responsibility is addressed. There are brochures on all types of erosion and sediment control plans for general guidance on BMP installation. Also, the Community Development Director, Building/Electrical and Property Maintenance Building Inspectors are available for answering any questions the applicant may have.*

Interactions with Builders

The City of Columbus has many interactive opportunities with the builders of the region. Whether they are working on small scale development, private construction on subdivisions, or Municipal/Capital improvements, the opportunities for our City employees to correspond with builders is widespread.

When a small scale development project begins the developers/builders must apply for a building permit/Individual Lot NOI/individual Lot SWPPP prior to construction with the Community Development Department at City Hall. Throughout the construction process there are many inspections performed on the building- electrical-plumbing- and erosion control aspects. Each of these inspections is a great chance for communication between the City and builder. Prior to completion of the project, and allowed permanent occupancy, there is a completed checklist of acceptable compliance issues that must be completed.

Chapter 6

Interactions with Builders (continued)

When a developer wishes to make a private development they must send in a 'Notice of Intent' and proposed SWPPP to the NDEQ and wait for an 'Authorization Letter' prior to beginning construction. The SWPPP must be followed by the 'Certifying Official' who signed it. There are random inspections performed by the Engineering Project Manager to ensure compliance with the NDEQ permit (however, enforcement of the permit is not solely the responsibility of The City of Columbus).

Projects that are being constructed for The City of Columbus as capital improvement projects must abide by a SWPPP that The City of Columbus Engineering Department fills out and sends, along with a Notice of Intent, to the NDEQ. Once The City of Columbus receives an 'Authorization Letter' from the NDEQ then the construction may commence. The Engineering Project Manager or a representative performs the required inspections every two (2) weeks and after each rain event of .50" or more. There does not need to be a reason for any City of Columbus employee to enter a capital improvement site. This allows for great interaction with the onsite builders.

Appendix “A”

Individual Lot SWPPP Forms



Office Use Only

Construction Stormwater Permit # _____
 Received by: _____

Individual Lot Notice of Intent (NOI)

For Coverage under the Federal Clean Water Act
 For Construction Activity that is Part of a Larger Common Plan of Development or Sale

Submission of this form supersedes any prior Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) for the lot indicated in the application and fulfills the notification and discharge authorization procedures for individual lots, as required. The applicant assumes sole responsibility for the building phase of development for this lot.

At the time of application, 2 copies of this form are required:
 One copy will be retained by the City of Columbus, One copy will be retained by the Applicant

I. Applicant Information

Name of Applicant: _____ Legal Interest in the Land: _____
 Company Name: _____
 Contact Person: _____ Phone: _____
 Mailing Address: _____
 City: _____ State: _____ Zip Code: _____

Lot Owner (if different from Applicant)

Name: _____ Phone: _____
 Mailing Address: _____
 City: _____ State: _____ Zip Code: _____

II. Legal Description

Name of Subdivision: _____ Lot No: _____ Block No: _____
 Construction Site Address: _____
 City: _____ State: _____ Zip Code: _____

III. Construction Activity Information

Estimated Start Date	Estimated Completion Date	Estimated Disturbed Acreage
_____	_____	_____

IV. Certification

I certify under penalty of law, that I am familiar with and agree to comply with the terms and conditions provided in this Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) and that I am solely responsible for the individual lot covered by this NOI and SWPPP. I understand that the City of Columbus is authorized to inspect the site at reasonable times pursuant to Columbus Municipal Code, Chapter 54.

Signature: _____ Date: _____



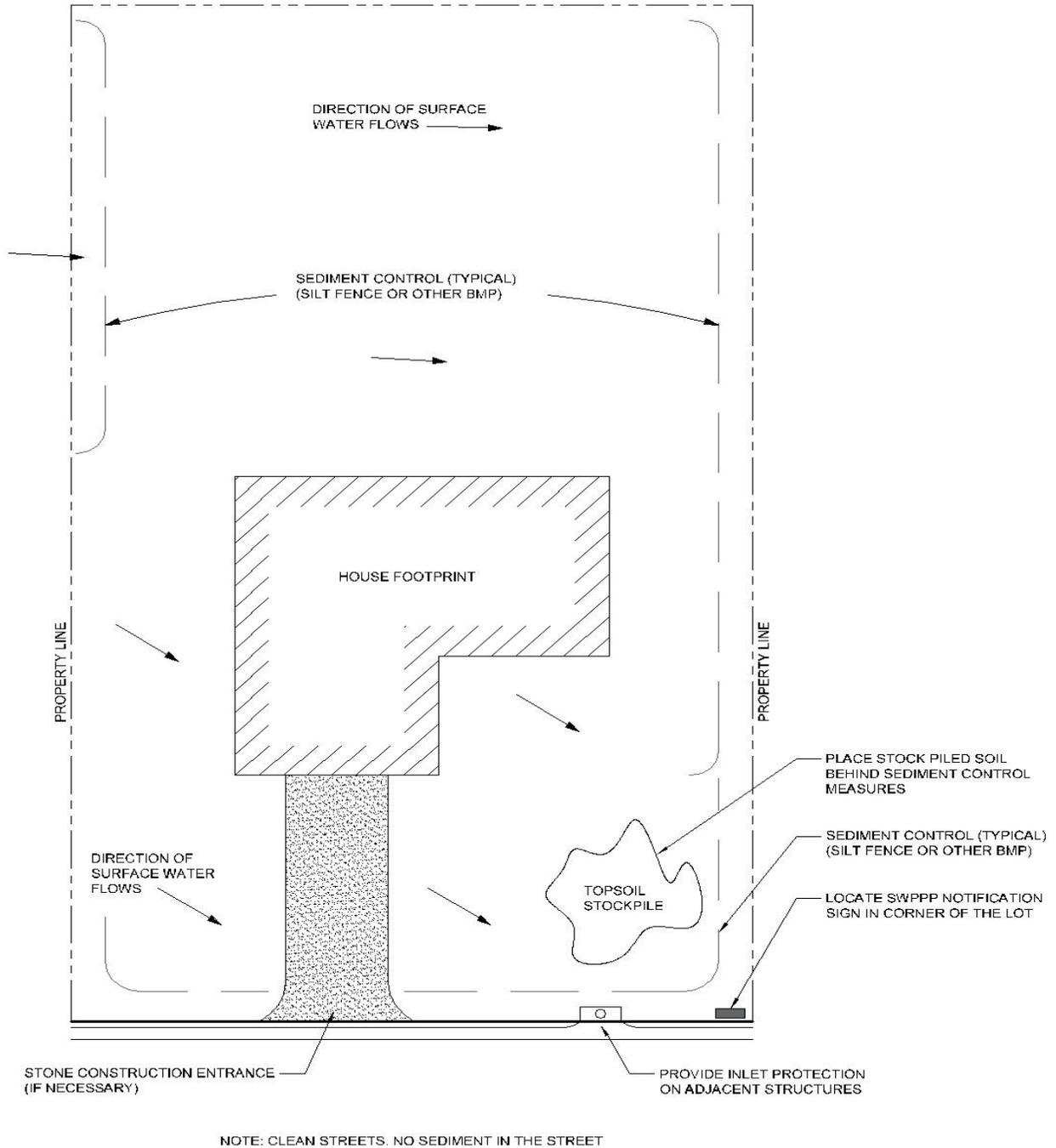
Building Phase of Development
Individual Lot SWPPP (Stormwater Pollution Prevention Plan)
For Construction Activity that is under one acre and Part of a Larger Common Plan of
Development or Sale (subdivision).

Initial on each line to indicate that you have read and understand the following

- 1 _____ Received an example of site plan to fulfill the SWPPP requirements set forth in Columbus Municipal Code, Chapter 54
- 2 _____ All BMPs will be constructed, installed, and maintained according to the minimum standards and specifications set forth in either the City's ESC Manual, the NPDES States General Permit, or in accordance with locally-approved technical standards, specifications, and guidance for construction activity, and will be in place and in working order prior to any construction activity.
- 3 _____ BMPs will be installed, operated, and maintained to protect public ROW, streams, rivers, ponds, and wetlands from sedimentation and a spill prevention plan will be followed for any spills or illicit discharges that may leave the site.
- 4 _____ Proposed BMPs are shown on the attached Site Plan. The construction details, application schedule, procedures, operations, and maintenance of the proposed BMPs shall be in conformance with locally approved standards.
- 5 _____ If applicable, any features of the site that are vulnerable to erosion, as well as BMPs implemented for these features are shown on the attached Site Plan
- 6 _____ All BMPs will be inspected by qualified personnel at least once every fourteen calendar days during active construction and within twenty-four hours after any storm event greater than 0.5 inches during a 24-hour period. Any necessary repairs or clean-up to maintain the effectiveness of the BMPs shall be made within 72 hours and/or prior to the next storm event whenever practicable. If implementation before the next storm event is impracticable, the situation will be documented in the Site Plan and alternative BMPs will be implemented as soon as possible.
- 7 _____ Sediment deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or public ground will be removed within 48 hours. A contingency plan will be implemented for unforeseen erosion or sediment problems, including emergency situations caused by storms.
- 8 _____ Following any construction activity, final or temporary stabilization shall be completed as soon as practicable, but in no case more than fourteen days, to the surface of all perimeter controls, topsoil stockpiles, and any other disturbed or graded areas on the project site which are not being used for material storage, or on which actual construction activity is not being performed.
- 9 _____ Either the lot will be stabilized by the builder at the end of construction, or the homeowner will be informed in writing of the need for final stabilization.
- 10 _____ This form must be available on the construction site.

SITE PLAN FOR INDIVIDUAL LOTS

NOT TO SCALE



Notes:

- *Reduce sediment leaving your construction site by implementing Best Management Practices (BMPs) such as:*
 - ❖ *Limit mud track-out into private or public streets by parking on paved streets or driveways whenever possible. If necessary, utilize a temporary rock drive.*
 - ❖ *Clean up any mud that has been tracked off the construction site with 48 hours.*
 - ❖ *Implement sediment controls along the lower sides of the property to protect adjacent waterways, storm drains, public ROW and neighboring property from sedimentation.*
 - ❖ *Keep a clean site. Dispose of construction waste materials and debris in a dumpster or containment device. Store all hazardous materials indoors.*
 - ❖ *Portable toilet must be stacked and anchored away from any storm drain inlets.*
 - ❖ *Inspect your site bi-weekly and after rain events to find any potential problems and keep your Best Management Practices repaired and in good working order.*
 - ❖ *For more information on erosion and sediment control BMPs, contact the City of Columbus, Engineering Project Manager 402-562-4237*
- ***Disclaimer: The City of Columbus incurs no liability for the use or misuse of this site plan.***

Appendix “B”

ENFORCEMENT RESPONSE PLAN (ERP)

INTRODUCTION

Under the terms of 40 CFR Part 122.34(b)(4)(ii), the City of Columbus is required to develop and implement adequate enforcement authority for construction activity that takes place within the boundaries of the Municipal Separate Storm Sewer System (MS4). The purpose of this Enforcement Response Plan is to communicate how the enforcement tools available to the City will be used to achieve compliance. The Enforcement Response Plan also specifies criteria by which City personnel can determine the enforcement action most appropriate to instances of non-compliance. This plan is a document of the City's procedure to be followed when a construction stormwater violation is discovered.

The procedures are developed with the following objectives in mind:

- The City is not responsible for enforcing the Nebraska Department of Environmental Quality Construction Stormwater Permit.*
- Prevent pollutants from entering the MS4 and causing environmental harm.*
- Ensure that violators return to compliance in a timely manner.*
- Communicate definitions for non-compliance.*
- Penalize non-compliant construction site operators for violations.*
- Provide equitable and consistent enforcement actions to the extent possible.*
- Deter non-compliance through education and compliance assistance first and, if necessary, penalties second.*
- Recover costs incurred by the City due to construction site operator non-compliance.*

Nothing in this plan shall affect the City of Columbus's authority to bring enforcement actions for violations pursuant to any portion of the Municipal Code.

ACRONYMS

The following acronyms shall have the following meaning:

AF: Administrative Fine

AO: Administrative Order

CAT: City Attorney

CAD: City Administrator

ESC: Erosion and Sediment Control

JA: Judicial Action

MS4: Municipal Separate Storm Sewer System

NPDES: National Pollutant Discharge Elimination System

NOI: Notice of Intent

NOV: Notice of Violation

PC: Personal Contact or Phone Conversation

STOP: Stop Work Order

SWPM: Storm Water Program Manager

SWPPP: Storm Water Pollution Prevention Plan

FUNCTIONS OF GUIDE

This guide serves two main functions:

- *Establish appropriate enforcement action based on the nature and severity of the violation.*
- *Promote consistent and timely use of enforcement remedies.*

The enforcement process consists of three basic steps:

- *Identify the violation*
- *Determine if the violation is significant or non-significant.*
- *Select the appropriate response.*

Criteria to decide type of Violation: Explains how to determine whether a violation is significant or non-significant.

Types of Responses: Outlines the types of responses.

***Enforcement Responsibilities:** Discusses the various enforcement responsibilities for City of Columbus personnel.*

- *Violations and Range of Actions: Describes the type of violations and ranges of enforcement actions for each.*
- *Time frames for Enforcement Actions: Summarizes the time frames associated with various aspects of violations and enforcement actions.*

CRITERIA TO DECIDE TYPE OF VIOLATION

The enforcement process begins by identifying a construction site operator's violation. Once a violation is identified it must be determined whether the violation should be considered significant or non-significant. Next, the most appropriate response is determined. Each violation must be documented even if the decision is to take no action. Documentation must explain why such action was/was not taken.

To determine if a violation is significant or non-significant the following criteria must be considered:

Magnitude

Generally, a minor isolated instance of non-compliance can be considered non-significant and dealt with by informal responses, such as a Personal Contact or Phone Conversation (PC) or notice of violation (NOV).

However, some isolated incidents may cause damage to the MS4 and/or the health and welfare of the public and city personnel. Situations like these would be significant and necessitate a formal enforcement action such as a Stop Work Order (STOP) or an Administrative Order (AO),

Duration

The construction site operator will be subject to escalated enforcement actions if violations, regardless of severity, continue over prolonged periods of time. Chronic violations and/or failures to comply with administrative orders will be considered significant violations and may result in enforcement actions including, but not limited to, termination of permits, fines and/or court orders.

Effect on the Environment

One objective of Chapter 9, Article 16 of the municipal code is to prevent pollutants from entering the MS4 and/or entering a receiving waterbody and causing environmental harm. Environmental harm will be presumed whenever a construction site directly discharges pollutants into an adjacent receiving waterbody or fails to implement BMPs that prevent sediment from leaving the site and entering the City's MS4. These violations will be considered significant.

At a minimum, responses to these circumstances require issuance of an Administrative Order (AO) and possible issuance of Administrative Fines (AF).

Compliance History of the Operator

The construction operator's compliance history will be an important factor in determining the appropriate remedy to apply. The city has the authority to issue informal notices for the less severe violation if the violator has a good compliance history.

Recurring violations by a construction operator may indicate that their treatment system is inadequate or that the operator has taken a casual approach to operating and maintaining its treatment system.

Chronic compliance problems such as late reports, lack of treatment controls or other missing program elements indicate a disdainful attitude and the possibility of future significant violations.

Good Faith of the Operator

“Good Faith” is defined as the operator's honest intention to remedy its non-compliance evidenced by actions which give support to this intention. Good faith shall be demonstrated by cooperation and completion of corrective measures in a timely manner. Compliance with a previous enforcement order is not in itself necessarily good faith.

The construction site operator's good faith in correcting its noncompliance is a factor in determining which enforcement response is suitable. However, good faith does not eliminate the construction site operator from enforcement action. For example, if the City must pay to install necessary Erosion and Sediment Control (ESC) measures, it should recover its costs regardless of prior good faith. Once the severity of the violation is determined, it will then be necessary to initiate the proper response.

TYPES OF RESPONSES

There are three types of enforcement responses:

- *Informal - may be a telephone contact, personal contact, or a notice of violation (NOV) when violations are non-significant or when the construction site operator is cooperative in resolving the problem.*
- *Formal - may be an Administrative Order (AO) or Administrative Fine (AF) when the construction site operator does not promptly undertake Corrective Actions (CA) or has recurring violations.*
- *Judicial - Civil or criminal prosecution when a violation is significant and/or the construction site operator is uncooperative.*

The enforcement response selected must be appropriate to the violation. For example, telephone calls are appropriate for late reports or BMPs that need maintenance, but failure to receive approval for construction activity or failing to install BMPs would require a more immediate and stringent response. Knowledge of requirements and intent to cause violation by the construction site operator should be considered when determining the severity of the action to be taken.

Informal

The City will pursue compliance assistance through multiple, informal methods whenever reasonable. These methods are appropriate for situations where education is needed, violations do not pose a significant danger to human health or the environment, or the City believes that compliance can be achieved by measures described below. Use of informal measures often establishes the documentation trail necessary for formal enforcement action and should therefore be sufficient to support the burden of proof.

- **Telephone/Personal Notification**

*Telephone contact or personal contact with the construction site operator may be chosen to obtain information and resolve isolated or infrequent violations. The contact will take place within **24 hours** of determining a violation. Prompt responses will demonstrate to the construction site operator that the city is serious about enforcing construction program requirements. It also helps to deter future violations. At a minimum, the conversation shall be documented with the following information: date/time call placed; the person contacted, and the substance of the conversation.*

- *Refusal of Municipal Inspections*

Required inspections such as those associated with a building permit or other approved activity may be refused by the City Inspector when any the following conditions exist:

- *The construction site does not have a posted Notice of Intent (NOI),*
- *Perimeter controls are not installed or are dysfunctional, or*
- *Evidence of discharged sediment or other pollutants exists outside the Construction area.*

At a minimum, the inspector refusing inspections will notify the Storm Water Program Manager of the situation and will document the following information: date/time inspection refused; the party notified on-site, and the substance of the conversation including what specific actions must be taken before the inspection can be conducted.

- *Notice of Violation (NOV)*

The NOV is an official communication from the City to the non-compliant construction site operator which informs the party that a violation has occurred. It is issued for relatively minor or infrequent violations of the ordinance standards and requirements.

The NOV will provide the construction site operator with an opportunity to correct noncompliance on their own initiative rather than according to a schedule of actions determined by the City. It is a prompt response to violations and documents the initial attempts of the City to resolve the noncompliance.

The NOV shall contain the following information:

- *The specific violation that has occurred*
- *Specific actions required to return to compliance.*
- *Warning that further enforcement action may be taken for failure to comply.*
- *NOV's shall be sent via certified mail/return receipt or hand delivered and signed by a representative of the construction site operator within three (3) working days after discovery of the violation.*

- *Stop Work Order (STOP)*

The STOP is a notice posted by the City on the construction site which informs the operator that a violation is ongoing and no work is allowed to continue until it is resolved. It is the last tool available to the City before formal enforcement proceedings are taken. The STOP is posted for failure to respond to a NOV or for relatively moderate/significant violations of the ordinance, standards or requirements that require immediate action.

The STOP will require the construction site operator to contact the SWPM to explain what must be completed before work is allowed to continue. The STOP may not be removed by anyone other than a designated representative of the City.

The STOP shall contain the following information:

- *The ordinance that has been violated.*
- *Contact information of the SWPM.*
- *Date by which the SWMP must be contacted.*
- *Warning that failure to comply will result in formal enforcement actions.*

Formal

When required to address willful non-compliance by a construction site operator or immediate threats to human health and the environment, the formal procedures described below can be taken to resolve construction stormwater non-compliance.

Administrative Order

An administrative order will be a formal order issued by the City to the construction site operator in noncompliance. It will direct the construction site operator to undertake corrective measures or cease specified activities.

Consent orders will be issued when the construction site operator has significant discharge violations or failed to comply with other enforcement responses. In some cases judicial proceedings may be more appropriate.

There are four types of administrative orders:

- *Compliance orders - A compliance order directs the operator to restore compliance by a specified date. The order will document the noncompliance and state required actions to be completed by the operator and the dates by which the actions must be completed to eliminate the noncompliance.*

The city will track the operator's performance to ensure that the operator is making acceptable progress. This will be accomplished by requiring the construction site operator to submit progress reports, conduct monitoring requirements, perform additional site inspections, etc. as necessary to verify compliance is achieved.

Issuance of a compliance schedule does not necessarily relieve the operator of having to meet its existing erosion and sediment control commitments, nor protect the operator from having additional fines levied for other violations during the compliance schedule period.

- Consent Order - *The consent order will permit the flexibility of a negotiated settlement between the City and the construction site operator. The order will be comprised of compliance schedules, stipulated fines, or other provisions as deemed necessary, and signatures of City and operator representatives.*

The consent order will be used when the operator assumes responsibility for its noncompliance and is willing, in good faith, to correct its cause. The order should address all identified and potential deficiencies in the owner's compliance status.

The order shall not be an admission of liability or a plea of guilty. Additional enforcement actions may be pursued if the operator does not comply with all aspects of the consent order.

- Cease and Desist Order - *A cease and desist order shall be used in situations where the non-compliant operator's discharge could result in significant environmental harm or impact human health, safety or welfare.*

A cease and desist order may be issued by telephone. A subsequent written order shall be served either in person or by registered mail to the construction site operator. If the operator fails to comply with the order, the City may pursue additional steps to halt the discharge, such as, seeking injunctive relief or blocking the invoking police power.

- Show Cause Order - *An order to show cause or directs the operator to appear before the City and explain why more severe enforcement actions should not be taken (e.g.: termination of service). A hearing will be conducted by a designated City representative (i.e. Attorney, City Council or Public Works Director, a hearing officer) or by a review board.*

- *The hearing may be formal or informal and it may be open or closed to the public.*
- *The hearing shall determine if further action is warranted and, if so, its nature and extent.*

Fines

An administrative fine is a monetary penalty assessed by the City to the construction site operator for a violation of municipal code, policy and/or standards. The fine may be assessed at the City's discretion and the amount of the fine may be determined on an individual basis.

The fine is considered punitive in nature and is not related to any specific cost borne by the City. The amount of the fine should be proportional to the harm caused by the violation. The City shall also recover damages to its MS4 or for the cost of stabilizing a construction site as stated at Chapter 54, of the Municipal Code.

Termination/Suspension

The City has the authority to revoke an approved development plan, building permit and/or other City-issued permit associated with an approved erosion and sediment control plan. These actions may be used against owners that fail to comply with previous administrative orders, or to prevent or stop discharges that are considered to pose an immediate or serious hazard or significant environmental damage.

Judicial

A judicial action is a formal enforcement action that involves a court. The action may be civil litigation, criminal prosecution, or both.

- Civil Litigation

Civil litigation will be used as an appropriate enforcement response to the following situations:

- *Injunctive relief is necessary to halt or prevent activities or non-stormwater discharges that threatens human health, the environment or the MS4,*
- *Efforts to restore compliance through less formal actions have failed,*
- *The construction site operator fails to pay assessed fines,*
- *The City determines it needs to recover losses due to the construction site operator's noncompliance.*

The following describes three types of civil litigation:

- *Consent Decrees:* *They are agreements between the City and the construction site operator reached after a lawsuit has been filed. To be binding, the decree must also be signed by the judge assigned to the case.*
- *Injunctions:* *They are court orders which direct parties to do something or refrain from doing something. The City may be forced to seek injunctive relief if the construction site operator refuses to comply with an administrative order or if delays in filing a civil suit would result in irreparable harm to the MS4 or receiving waterbody.*
- *Civil Suits:* *They may be necessary to recover costs borne by the City in responding to the operator's noncompliance.*

- *Criminal Prosecution*

Criminal prosecution is a formal process of charging individuals and organizations with violations of ordinance provisions that are punishable, upon conviction, by fines and/or imprisonment.

Criminal prosecution is an appropriate enforcement action when there is evidence of willful noncompliance and when criminal negligence or intent can be proven. Some examples of these are altering or falsifying reports, tampering with samples, unauthorized discharges, and violations of administrative orders.

The criminal enforcement process begins when the City has reason to believe crimes have been or will be committed. This information may be gathered during routine inspections or monitoring, /sampling activities or in the form of reports from employees or the public. Citations may be issued where it is determined the operator's efforts, or lack thereof, to obtain compliance through less formal actions have failed. If crimes are suspected or known, the Public Works Director shall notify the City Attorney for proper collection of evidence,

ENFORCEMENT RESPONSIBILITIES

When a construction site operator violation is suspected or discovered, the City Inspector shall be responsible for informal actions such as:

- *Identifying and documenting the violation,*
- *Telephone notification,*
- *Notice of Violation letter,*
- *Sampling, monitoring and inspecting,*
- *Follow up actions.*

All significant violations and the responses shall be reported to the Storm Water Program Manager and/or the Public Works Director,

The Public Works Director and City Attorney will be copied on all formal Enforcement Responses. The Public Works Director will consult with the City Attorney and City Manager in Judicial Actions.

VIOLATIONS AND RANGE OF ACTIONS

The Table 5.1 identifies the most common violations and indicates the potential circumstances associated with each violation. The Recommended Enforcement Response Plan, under a typical situation, is described in three levels of urgency.

- *Level 1 — Administrative issues with relatively low environmental risk and an infrequent record of violation by the construction site operator should cause the following enforcement sequence: Personal Contact -> Refusal of Municipal Inspections -> Notice of Violation -> Stop Work Order -> Administrative Order -> Termination/Suspension -> Judicial Action*

- *Level 2 — Record keeping and site conditions that pose a relatively moderate/significant environmental risk to discharge pollutants into the MS4 or adjacent receiving waterbody should cause the following enforcement sequence: Personal Contact and Refusal of Municipal Inspections -> Notice of Violation -> Stop Work Order -> Administrative Order -> Termination/Suspension -> Judicial Action with Administrative Fees*

- *Level 3 — Any immediate threat to human health and environment or demonstrated willful noncompliance by a construction site operator should cause the following enforcement sequence: Personal Contact -> Notice of Violation -> Termination/Suspension -> Stop Work Order -> Administrative Order with Administrative Fees -> Judicial Action with Administrative Fees*

Table 5.1 Construction Stormwater Violations

NONCOMPLIANCE	CIRCUMSTANCES OF VIOLATION	RECOMMENDED ENFORCEMENT RESPONSE PLAN
<i>Failure to Prepare or Maintain a Storm Water Pollution Prevention Plan or Required Records</i>	<i>Operator is unaware of requirements to complete and maintain a SWPPP.</i>	<i>Level 1</i>
	<i>Operator is aware but does not follow requirements to prepare and maintain a SWPPP.</i>	<i>Level 2</i>
<i>Failure to Install, Maintain or Properly Select Best Management Practices per Approved Plan</i>	<i>Good faith effort has been demonstrated to select, install, and</i>	<i>Level 1</i>
	<i>Operator has disregarded responsibilities to select, install, and maintain BMPs</i>	<i>Level 2</i>
<i>Conducting Covered Activity without Approval of Erosion and Sediment Control Plan</i>	<i>Operator is unaware of requirements to obtain approval for land disturbance activities.</i>	<i>Level 2</i>
	<i>Operator is aware of requirements to obtain approval for land disturbance activities but has not or has refused.</i>	<i>Level 3</i>
<i>Failure to Perform Inspections or Submit Required/Requested Reports and/or Documents</i>	<i>Infrequent occurrences</i>	<i>Level 1</i>
	<i>Frequent or routine occurrences</i>	<i>Level 2</i>
<i>Pollution Discharge to MS4, Contamination or Degradation of State Waters</i>	<i>Sediment or pollutants have left the perimeter of the construction improper management of BMPs, but have caused little to no</i>	<i>Level 2</i>
	<i>Significant accumulation of sediment or pollutants in the MS4 or receiving waterbody that result from improper BMPs.</i>	<i>Level 3</i>
<i>Documented Pattern of Systematic Violations of Storm Water Regulations</i>	<i>The City will consider violations on a by project basis and an operator basis determining awareness and good faith</i>	<i>Level 3</i>

TIME FRAMES FOR ENFORCEMENT ACTIONS

Every violation must be evaluated to determine the appropriate enforcement response. Initial enforcement responses involving contact with the construction site operator and requesting information or corrective or preventative action will occur within in a timely manner. If the operator shows "good faith" in correcting the violation the City can avoid formal enforcement procedures.

Table 6.1 lists the enforcement responses, the maximum response time, and the person responsible to pursue or be informed of the action taken.

Table 6.1

<i>RESPONSE</i>	<i>TIME FRAME</i>	<i>RESPONSIBILITY</i>
<i>Telephone/personal contact</i>	<i>Within 24 hours of inspection</i>	<i>Development Services Inspector, SWPM</i>
<i>Refusal of Municipal Inspections</i>	<i>Immediate</i>	<i>Development Services Inspector, SWPM</i>
<i>Notice of Violation</i>	<i>Within 3 days of inspection</i>	<i>SWPM</i>
<i>Stop Work Order</i>	<i>After a NOV and prior to AO or AF whenever possible</i>	<i>SWPM, Public Works Director</i>
<i>Administrative Order - Compliance Order - Consent Order - Cease and Desist Order - Show Cause Hearing</i>	<i>Within 60 days of violation</i>	<i>SWPM, Public Works Director, City Attorney, City Manager</i>
<i>Administrative Fine</i>	<i>Within 60 days of violation</i>	<i>SWPM, Public Works Director, City Attorney, City Manager</i>
<i>Termination/Suspension</i>	<i>Within 30 days of violation</i>	<i>SWPM, Public Works Director, City Attorney, City Manager</i>
<i>Judicial Actions</i>	<i>Case by Case</i>	<i>S WPM</i>

GLOSSARY OF TERMS

Administrative Fine - A punitive monetary charge unrelated to actual treatment costs assessed by **the** City rather than a court.

Administrative Order - A document which orders the violator to perform a specific act or refrain from an act. For example, the order may require operators to attend a show cause meeting, cease and desist discharging, or undertake activities pursuant to a compliance schedule.

Cease and Desist Order - An administrative order directing an industrial operator to immediately halt illegal or unauthorized discharges.

Civil Litigation - A lawsuit filed in a civil court. If the court rules that the defendant construction site operator violated the law the court may impose civil penalties, injunctions or other equitable remedies and/or cost recovery.

Civil Penalty - A punitive monetary award granted by a court to the City against a non-compliant construction site operator.

Compliance Order- An administrative order directing a non-compliant construction site operation to achieve or restore compliance by a date specified in the order.

Compliance Schedule - A schedule of required activities necessary for a construction site operator to achieve compliance with all stormwater program requirements.

Consent Decree - A court supervised settlement agreement, the violation of which may be considered contempt of court.

Consent Order- An administrative order embodying a legally enforceable agreement between the City and the non-compliant construction site operator designed to restore the operator to compliance status.

Criminal Prosecution - A criminal charge brought by the City against an accused violator. The alleged criminal action may be a misdemeanor or a felony and is defined as willful, negligent, knowing, and/or intentional violations. Upon conviction, punishment may include a monetary penalty, imprisonment, or both.

Fine - A punitive monetary charge for a violation of the law. Often used synonymously with "penalty", although the term "fine" generally implies the use of administrative rather than civil (judicial) procedures.

Good Faith Effort or Progress - Prompt and vigorous pollution control measures undertaken by the discharger which shows that extraordinary efforts (not a 'business-as-usual' approach) have been made to achieve compliance.

Injunctive Relief - A court order which restrains or compels action by the construction site operator.

Judicial Action - An enforcement action that involves a court. (The action may either be civil or criminal in nature)

Legal Authority - The source of the City's jurisdiction and regulatory powers.

Notice of Violation - A City document notifying a construction site operator that it has violated stormwater standards and requirements. Generally used when the violation is relatively minor and the City expects the violation to be corrected within a short period of time.

Penalty - A monetary or other punitive measure usually associated with a court action. For purposes of this Enforcement Policy, the term is used synonymously with fine.

Plea Bargain - An agreement between the prosecuting attorney and a criminal defendant whereby the defendant pleads guilty to a lesser charge and/or a reduction of sentence in exchange for cooperation in investigating or prosecuting the crime (e.g., waiving a trial).

Show Cause Order - An administrative order directing a non-compliant operator to appear before the City, explain its noncompliance, and show cause why more severe enforcement actions against the operator should not go forward.

Stop Work Order - A notification posted by the City on the construction site of non-compliance warning the non-compliant operator that work is not allowed to continue until the terms of the Notice of Violation have been fulfilled. The Stop Work Order precedes formal enforcement action by the City.

Suspension of Service - A temporary stoppage of the non-compliant operator's services necessary to proceed with the project until specific conditions are met.

Appendix “C”

Chapter 53 Stormwater Pollution

*Chapter 54 Construction and
Post-Construction Stormwater Management*

Can be found on line at www.columbusne.us