



## **North Augusta Stormwater Management Department**

### **Enforcement Response Plan** *(A Guidance Document Only)*

## SWMD Enforcement Response Plan (A Guidance Document only)

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### Definitions/Acronyms (specific to this document)

1. *Construction Permit* – permit issued by the City of North Augusta by the Stormwater Management Department.
2. *sMS4 Permit* – Small Municipal Separate Storm Sewer System permit issued to the City of North Augusta by the SC Department of Health and Environmental Control (SCDHEC).
3. *NPDES General Permit* – permit issued by the SCDHEC to a project owner.
4. *Waterways*: all waters of the US including streams, rivers, creeks, ravines, ditches, pipes, ponds, or storm sewers that ultimately discharge to the Savannah River directly or via other waterways.

**City of North Augusta**  
**Stormwater Management Department**  
**Enforcement Response Plan (A Guidance Document only)**

The City of North Augusta’s Stormwater Management Department inspects and investigates impacts to its storm sewer system and watershed as required by its MS4 permit. This document explains the legal authority of the department, types of violations that require correction, steps to ensure compliance, and the actions available if compliance is not met.

**1. Enforcement Overview - Legal Authority**

The following ordinances provide the City of North Augusta’s Stormwater Management Department (SWMD) authority to

- access and conduct site inspections,
- conduct monitoring,
- to establish and enforce policy.

**I. North Augusta Code - Article V. Stormwater Management; Division 2. Illicit Discharge  
Sec. 14-150. Purpose/intent**

The purpose of this division is to provide for the health, safety, and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the storm drainage system to the “maximum extent practicable” as required by federal and state law. This division establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4). The objectives of this division are:

- (1) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
  - (2) To ensure the proper installation, operation, and maintenance of construction site best management practices (BMPs).
  - (3) To establish legal authority to carry out all procedures necessary to ensure compliance with this division.
- (Ord. No. 03-21, § I, 8/14/03)

**Sec 14-161 Enforcement.**

(1) Whenever the SWMD finds that a person has violated a prohibition or failed to meet a requirement of this division, the SWMD may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- a) The elimination of illicit connections or discharges;
- b) That violating discharges, practices, or operations shall cease and desist;
- c) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- d) The implementation of source control or treatment BMPs.

(2) If Abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or

restore within the established deadline, the city or a contractor will do the work and the expense thereof shall be charged to the violator.

Sec. 14-162. Civil Penalties.

Any person found to be in violation of this ordinance that fails to comply with a compliance directive issued by the SWMD and referenced in Section 14-161 shall be punishable as provided in Section 1-8(1) of the City Code of North Augusta. Each day in violation of the provisions of this division shall constitute a separate and distinct offense. The punishment shall be in addition to the remedial process provided for in Section 14-161. (Ord. No. 03-21 § I, 8-14-03)

Sec 14-163. Remedies not exclusive.

The remedies listed in this division are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies. (Ord. No. 03-21 § I, 8-14-03)

*(Reference 1)*

*Chapter 1) General Provisions*

Sec. 1-8. General penalty; continuing violations.

*Wherever in this Code, or in any ordinance or resolution of the council, or rule, regulation, notice or order promulgated or given by any officer or agency of the city under authority duly vested in such officer or agency, and act is prohibited or is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation, notice or order shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment for not more than thirty (30) days, or both, or as otherwise limited by state law. Each day any violation of this Code or any such ordinance, resolution, rule, regulation, notice or order shall continue, shall constitute, except where otherwise provided, a separate offence.*

Sec. 1-10. Ordinance summons.

- a) An "ordinance summons" is hereby adopted in accordance with Act 328 of 1992.*
- b) The city administrator (Administrator), all department directors (Director), and any person designated by the Administrator or Director as a code enforcement officer shall be empowered to use the ordinance summons.*

***SWMD designee: David Caddell, Stormwater Manager***

**II. Ordinance No. 2004-09: Establishing Regulations for Erosion and Sediment Reduction and Stormwater Management on Land and Land Disturbing Activities be it ordained by the Mayor and City council of the City of North Augusta, South Carolina. Effective July 19, 2004**

Sec. 14-178 Enforcement

- (1) *Cease and Desist Order; Revocation of Permit.* In the event that any person holding a site development permit or individual building permit pursuant to this ordinance violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or

development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the SWMD may suspend or revoke the site development permit by issuance of a written notice.

(2) *Violation and Penalties.* Any person found to be in violation of this ordinance that fails to comply with a compliance directive issued by the SWMD shall be punishable as provided in Section 1-8<sup>(1)</sup> of this Code of Ordinances. Each day in violation of the provisions of this division shall constitute a separate and distinct offense. The punishment shall be in addition to any remedial activity needed to safeguard the public, the environment or the City storm drainage system. The SWMD reserves the right to conduct emergency repair or maintenance to any STP at the responsible party's expense if the responsible party is unwilling or unable to perform the necessary work.

## 2) Construction Site Compliance Inspections

**Required Pre-Construction Meeting:** All projects require a pre-construction meeting prior to beginning work. These meetings are to be conducted on site. The SWMD and the Engineering Department site inspector will meet with representatives of the developer, contractors, sub-contractors, and utility installers to discuss the SWPPP and its requirements.

### **Self-monitoring inspections:**

Site inspections are to be performed by the stormwater permit holders designated site inspector. As required by the NPDES General Permit for Stormwater Dischargers Associated with Construction Site (hereinafter "NPDES General Permit") a site inspector must be either:

- The stormwater pollution prevention plan (SWPPP) preparer or someone working under his or her direction.
- A SC Department of Health and Environmental Control (SCDHEC) certified erosion prevention and sediment control inspector (CEPSCI). To learn more about obtaining this certification contact Clemson (864) 656-1456 or visit their website at: <http://www.clemson.edu/t3s/cepsci/index.htm>.
- A professional engineer

Inspections must be performed at the frequency described in the project SWPPP. The SWPPP will indicate the required frequency. For most projects, that is weekly and after storm events that exceed 0.5" of rainfall.

The site inspector is required to perform routine inspections to effectively address maintenance and repair of Best Management Practices (BMPs). As part of the site inspections, the site inspector **must document** the inspection by preparing a sediment and erosion control inspection report for each inspection. The report **must include** findings of the inspection and list maintenance activities required to bring the site into compliance with its permit. The report should include notes regarding changes that may be required to the SWPPP. The site inspector must sign and date the inspection report. To enable effective communication and quick response to any stormwater quality control deficiencies, the City encourages the site inspector to contact the City Stormwater Management Department (803) 441-4246 regarding any questions, concerns, or major changes that may need to be implemented to protect water quality. All of the inspection reports must be kept on site for inspection.

## Compliance inspections – Projects with a permitted SWPPP (Commercial):

Site inspections are conducted routinely at commercial projects to verify compliance with the SWPPP (stormwater plan that received the permit). That permit is called the City Construction Permit or by the State of SC, the NPDES General Permit. The SWPPP also may *reference* other permits issued or guidelines required for protection of water quality (e.g. ACOE permits, SC Forestry BMPs, etc.). City inspectors will notify the project manager and developer of all deficiencies noted during the inspection with a time-frame required to bring the site into compliance before further action will be taken.

### Inspection Rating Descriptions:

- **Satisfactory** – the site is in compliance with the SWPPP. For city oversight inspections, the inspection is electronically logged only. No paper report is generated.
- **Marginal** – the site inspection revealed minor site problems or related BMP maintenance issues that need to be addressed and indicate that no offsite impacts are imminent. The marginal rating alerts the project manager that maintenance activities need to be addressed as soon as possible. A written report is submitted to the responsible party and permit holder.
- **Unsatisfactory** – the site inspection revealed that:
  - BMPs are not installed according to the SWPPP,
  - insufficient maintenance activities of BMPs are evident,
  - BMP installations are insufficient or improper,
  - site inspections inadequate or are not being performed,
  - or the required documents (NPDES General Permit) are not on site.

The unsatisfactory rating is to alert the project manager and permit owner that the site is non-compliant with its SWPPP thus violating the terms of the permit(s) and that the site must be brought into compliance. Failure to address the problems within the time-frame allotted by the inspector may result in a Cease & Desist order. A written report is submitted to the responsible party and permit holder with a time frame to bring the site into compliance.

- **Cease & Desist** – the site is not in compliance with its SWPPP and/or impacts to waterways, storm sewers, adjacent properties or right of ways are evident or imminent. The Cease & Desist notice requires that all site work stops *except* activities to correct deficiencies to stabilize the area(s) noted in the report(s). This rating alerts the project manager and permit owner that there are deficiencies that require immediate attention to protect properties or waterways from impact.

A Cease & Desist may be issued for failure to correct deficiencies. If previous site inspections have concluded that the site is not in compliance [violating the terms of the permit(s)] and no attempts have been made to correct deficiencies and bring the site into Satisfactory condition [within the time frame described in the Unsatisfactory inspection report(s)], the site can be issued a Cease & Desist *regardless* of imminent impacts to adjacent properties, waterways, or right of ways. A written report is submitted to the responsible party and permit holder.

*General: Correction Time frames:* These time frames may be adjusted based on previous SWMD experiences with project owners, managers or contractors. In addition, in the event of imminent weather forecasts of strong storms and excessive rainfall, the time-frames may be adjusted to prevent impacts that might occur. The actual time frame to bring a site into compliance is at the discretion of the inspector conducting the assessment of site conditions.

- **Impacts to waterways:** Discharges must stop immediately. Corrections must be made within 24 hours of inspection (1 day). This includes storm drainage systems leading directly to a waterway. Failure to comply will result in a Cease & Desist order.
- **Immanent/Potential impacts to waterways:** Corrections must be made within 48 hours of inspection (2 days). This includes storm drainage systems leading directly to a waterway.
- **Major impacts to right of ways:** Corrections must be made within 24 hours of inspection (1 day).
- **Minor impacts to right of ways:** Corrections must be made within 48 hours of inspection (2 days).
- **Major impacts to adjacent properties:** Corrections must be made within 24 hours (1 day).
- **Minor Impacts to adjacent properties:** Corrections must be made within 48 hours of inspection (2 days).
- **Installation/Maintenance of required or additional BMPs with no potential for impacts to waterways, adjacent properties, or right of ways:** Corrections must be made within 5 days of the inspection.
- **Installation/Maintenance of required or additional BMPs with immediate threat to waterways, adjacent properties, and right of ways:** Corrections must be made within 24 hours of inspection (1 day).

### **Compliance inspections – Residential or individual lot:**

Individual lot construction sites in permitted subdivisions or on private lands require an initial satisfactory BMP compliance inspection prior to obtaining a footing inspection by the Building Standards Department. All building permits holders (issued by Building Standards) must contact the Stormwater Management Department for a compliance inspection once BMPs have been installed at the site. If the project is evaluated as satisfactory or marginal (see ratings descriptions page 4), the contractor may contact Building Standards for a footing inspection. If the project is rated unsatisfactory, then BMPs must be installed/repared and re-inspected and signed off as Satisfactory by the SWMD prior to requesting further site inspections by the Building Standard inspectors.

Failure of contractor(s) to abide by SWMD compliance inspections will result in a Cease & Desist site work order being issued to that contractor. Repeated violations by a contractor or group of contractors working in a permitted subdivision that impacts waterways will result in the permitted subdivision owner receiving a Cease & Desist site work order that will halt all construction within that subdivision until the permit owner brings the site into compliance with its SWPPP. Enforcement actions may be taken against all parties involved.

### **3) Non-Compliant Inspections**

Any maintenance, repair or installation of non critical BMPs that are noted deficient during the inspection by the site inspector and/or City Inspector must be completed within the time-frame noted on the report. Non-critical means that the inspector deemed that there is no immediate threat to a waterway, adjacent property, or a right of way.

Any maintenance, repair or installations of critical BMPs that are noted during the inspections by the site inspector and/or City Inspector must be completed by the end of the working day or within twenty-four (24) hours from the time of the inspection. Critical deficiencies include any that pose an immediate threat or current impact to a waterway, adjacent property, or right of way.

**The following outlines typical non-compliance issues and may lead to enforcement actions.**

1. Failure to obtain a City of North Augusta Stormwater Permit and/or failure to obtain a State NPDES Construction permit if the project is greater than or equal to one (1) acre or those that are part of a larger common plan of development or sale. A Cease & Desist site work order will be issued until permits are approved.
2. Failure to abide by the conditions of the City Stormwater Discharge Permit or SWPPP.
3. Discovery of an illicit discharge to a waterway or the City Storm-sewer system.
4. Failure to properly install, maintain, and/or replace *critical* BMPs by the end of the working day or within twenty four (24) hours of such items being noted unsatisfactory during an inspection.
5. Failure to properly install, maintain, and/or replace non-critical BMPs within five (5) calendar days of such items being noted during an inspection.
6. Impacts to waterways, adjacent properties, or right of ways.
7. Failure to Cease & Desist site work after an order to do so is received.
8. Failure of permit holders to inspect and monitor their BMPs and assure that the SWPPP is being followed.
9. Clearing beyond the limits of disturbance indicated within the SWPPP.
10. Clearing and grading more than the permit allows for individual home construction. The NPDES General Permit specifically states that no more than twice the footprint of the structure is to be cleared.

**Impacts to waterways:**

Failure to maintain BMPs in such a way as to impact a waterway is a critical violation of the City Stormwater Discharge Permit, the State NPDES General permit, the South Carolina Pollution Control Act, and the federal Clean Water Act. No discharges of sediment, construction debris, or other pollutants are allowed into waterways, adjacent property, or rights of way within the city.

**4) Post-Construction Facility Inspections**

All stormwater facilities will be inspected annually for deficiencies and physical integrity. If a deficiency is found, the City inspector will submit a report to the responsible party. If the responsible party fails to correct a critical deficiency in a timely manner, the city may elect to correct the deficiency at the owner's expense.



## **5) Illicit Discharge Inspections**

An illicit discharge is any discharge of pollutants or potential pollutants to the city's storm sewer system or waterways. The city conducts routine investigations, inspections, and water quality monitoring to determine if an illicit discharge is occurring. Any commercial, residential, or construction site found to have an illicit discharge coming from its property will be notified and the discharge must be eliminated immediately. If an illicit discharge is found, the city will contact the responsible party to implement corrective actions at the site. Illicit discharges could lead to an enforcement procedure. Failure to adhere to the direction of the City Stormwater department regarding illicit discharges will lead to enforcement proceeding as stated in (6) Enforcement.

## **6) Enforcement**

If site conditions are found to be in violation of the SWPPP or any other requirements of the Construction Permit during an inspection by the City Inspector, one or all of the following actions may be taken:

1. In some instances a verbal warning to bring the site into compliance.
2. Written Compliance Report with a time frame to bring the site into compliance.
3. Follow-up inspection to determine compliance.
4. Cease & desist or stop work order for commercial projects not brought into compliance as determined by a follow-up inspection by the SWMD designated official.
5. Cease & desist or stop work order for individual residential projects that fail to maintain BMPs at their site. No further site inspections from any city department will be conducted until the stop work order is lifted. The stop work order can only be lifted by the Stormwater Management Department.
6. Revocation of permit(s).
7. Denial of further review or follow-up inspections at sites of permit holder that is under a Cease & Desist site work order within the city.
8. Issuance of a summons to appear before the magistrate court for judgement and fine.
9. A formal legal action may be brought by the city against the permit owner or its agents to further remedy a non-compliant site located within the city if necessary.
10. A formal legal action to reimburse the city of any and all costs associated with bringing a site into compliance after failure to do so by the owner.

**Additional penalty** *for information only:*

2012 South Carolina Code Title 48 - Environmental Protection and Conservation Chapter 14 - THE STORMWATER MANAGEMENT AND SEDIMENT REDUCTION ACT Section 48-14-140 –

Civil penalties for violations.

**Universal Citation:** [SC Code § 48-14-140 \(2012\)](#)

(A) Any person who violates any provision of this chapter or any ordinance or regulation promulgated, enacted, adopted, or issued pursuant to this chapter by the department or other implementing agency, or who initiates or continues a land disturbing activity for which a stormwater management and sediment control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty of not more than one thousand dollars. No penalty may be assessed until the person alleged to be in violation has been notified of the violation. Each day of a violation constitutes a separate violation.

(B) The implementing agency shall determine the amount of the civil penalty to be assessed under this section for violations under its jurisdiction. It shall make written demand for payment upon the person responsible for the violation and set forth in detail the violation for which the penalty has been invoked. If payment is not received or equitable settlement reached within thirty days after demand for payment is made, a civil action may be filed in the circuit court in the county in which the violation is alleged to have occurred to recover the amount of the penalty. If the implementing agency is the department, the action must be brought in the name of the State. Local governments shall refer the matters under their jurisdiction to their respective attorneys for the institution of a civil action in the name of the local government in the circuit court in the county in which the violation is alleged to have occurred for recovery of the penalty.

HISTORY: 1991 Act No. 51, Section 2; 1993 Act No. 181, Section 1216.