



C.6 Inspection and Enforcement Response

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With information provided by the Alameda Countywide Clean Water Program, Sandy Mathews (LWA), and Kristen Kerr (EOA)

Outline

- Enforcement Response Plan (ERP)
 - Components
 - Progressive Enforcement
- Documenting Violations
 - C.6 Inspection Checklist
- Case Studies/Examples



Enforcement Response Plan (ERP)

- Each agency must have and implement an ERP.
 - MRP sections C.3.b, C.4.c, C.5.b, C.6.b
- Provides framework for consistent and effective enforcement
- Progressive (escalating) enforcement.
- The Program prepared an ERP template in 2010.
- Agencies developed ERPs based on the template.

Purpose of an ERP

- Establishes **authority**
 - *Example: “Newark Municipal Code Section §8.36”*
- Identifies **enforcement actions** and **time schedules** for correction of violations.
 - *Standard: “Before the next rainfall event, but not longer than 10 business days, unless more timely compliance is feasible or other exceptions apply.”*
 - *“Case-specific information” for assessment*
- Procedures for **escalating the enforcement response**.
 - *Examples: Stop-work order, citations, fines, etc.*

Progressive Enforcement

- From ERP Example:

Enforcement Actions	Use	Examples Construction Site (C.6)	Time Schedule to Achieve Compliance
Level 1 Warning Verbal	“For <u>threatened violations</u> due to inadequate housekeeping, lack of appropriate BMP,” etc.	Lack of an updated erosion control plan that reflects current conditions at a construction site.	Before the next rainfall event, but not longer than 10 business days, unless more timely compliance is feasible or other exceptions apply.
Level 2 Written Warning/ Notice of Violation	“Issue for <u>minor violations</u> or if the response to a verbal warning is inadequate...” <ul style="list-style-type: none"> • Inspection report form • Checklist describing violations 	Lack of having a copy of the Stormwater Pollution Prevention Plan at the construction site.	Before the next rainfall event, but not longer than 10 business days, unless more timely compliance is feasible or other exceptions apply ² .
Level 3-1 Notice to Comply without \$\$\$ penalty	“Issue for <u>major violations</u> or if the response to written warning is inadequate...” <ul style="list-style-type: none"> • Cease and desist order, • Notice to clean/abate • Administrative citation • Stop work order • Permit revocation, or other 	Inadequate use of BMPs to control sediment runoff from a construction site.	Before the next rainfall event, but not longer than 10 business days, unless more timely compliance is feasible or other exceptions apply ² If more time is needed than provided above, consider issuing a stop work order for construction sites.

Progressive Enforcement (cont.)

- From ERP Example:

Enforcement Actions	Use	Examples Construction Site (C.6)	Time Schedule to Achieve Compliance
Level 3-2 Notice to Comply with \$\$\$ penalty	<p>“Issue for <u>major violations</u> or if the response to written warning is inadequate...”</p> <ul style="list-style-type: none"> • Cease and desist order, • Notice to clean/abate • Administrative citation • Stop work order • Permit revocation, or other. • Fines/Fees (authorized in ERP) 	<p>Inadequate use of BMPs to control sediment runoff from a construction site.</p>	<p>Before the next rainfall event, but not longer than 10 business days, unless more timely compliance is feasible or other exceptions apply²</p> <p>If more time is needed than provided above, consider issuing a stop work order for construction sites.</p>
Legal Action	<p>“Pursue for the most serious violations including where the response to the notice to comply is inadequate.”</p> <ul style="list-style-type: none"> • Referral to Regional Water Board • City Attorney and/or District Attorney for legal action 	<p>Violations that affect the agency’s ability to comply with the MRP’s requirements.</p>	<p>The time schedule for compliance will need to be determined based on case-specific information. This information will be documented as required by the MRP.</p>



Documenting Violations

Detailed Documentation is to your and your agency's benefit

- Inspection Report Form
- Inspection Tracking Table
- Inspection forms, letters, notices, other communications
- Violations identified during inspections, and other information, recorded on inspection form.
 - Record in category of violation: Erosion Control, Run-on/-off Control, Sediment Control, Active Treatment Systems, Good Site Management, and non-Stormwater Management
- **Summary of violations included in Annual Report to Regional Water Board**

Documenting Enforcement

- Level of enforcement should be shown on the checklist
 - Enforcement measure should be appropriate to the violation
 - Repeat violations should result in escalated enforcement response level.
- Indicate the timeframe for correcting violation(s) on the checklist
- Record follow-up inspections



Inspection Report Form



**Alameda Countywide
Clean Water Program**
A Consortium of Local Agencies

INSPECTION CHECKLIST FOR CONSTRUCTION STORMWATER CONTROLS

1. Inspection Date: _____ Inspector: _____
2. Inspection Type: Routine Pre-Wet Season Pre-Storm During Storm After Storm
 Complaint Agency Referral Follow-up Other: _____
3. Current Weather Conditions: _____ 3a. Rainfall with runoff since last inspection? Yes No
4. Site Name: _____ 4a. Project No./Permit No.: _____
 Location: _____
5. Site Contact: _____ 5a. Site Phone No.: _____
6. Mailing Address: _____
7. Developer: _____ 7a. Developer Phone No.: _____
8. Developer Mailing Address: _____
9. Permit Type: Building Permit Grading Permit Site Development Capital Improvement
10. Project Type: Commercial/Industrial Residential Landscaping Public Improvement
 Utility (water/sewer/PG&E) Grading Demolition Other: _____

11. Verification of Coverage under the Statewide Construction Activity NPDES Permit

Does the project disturb 1 acre of land, or more? Yes No NOI filed? Yes No

SWPPP dated: ___/___/___ SWPPP on site? Yes No Comments/Follow up to Regional Water Board: _____

12. High Priority Site? Yes No (Sites with significant threat to water quality.) NOTE: Sites disturbing 1 acre or more and high priority sites require monthly inspections during wet season (Oct. 1 thru April 30).

13. Erosion Control Measures:

	Adequate	Non-Compliant	Comments/Date for Correction
<input type="checkbox"/> Jute Netting / Fiber Blankets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
<input type="checkbox"/> Mulch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
<input type="checkbox"/> Hydroseed / Soil Binders / Compost Blankets	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
<input type="checkbox"/> Mark Areas of Vegetation to be Preserved	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
<input type="checkbox"/> Tree Protection Fencing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
<input type="checkbox"/> Riparian Area Barrier	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

Example 1:

- Identify Violation
 - Category
- Type of Action
- Possible Solutions?*

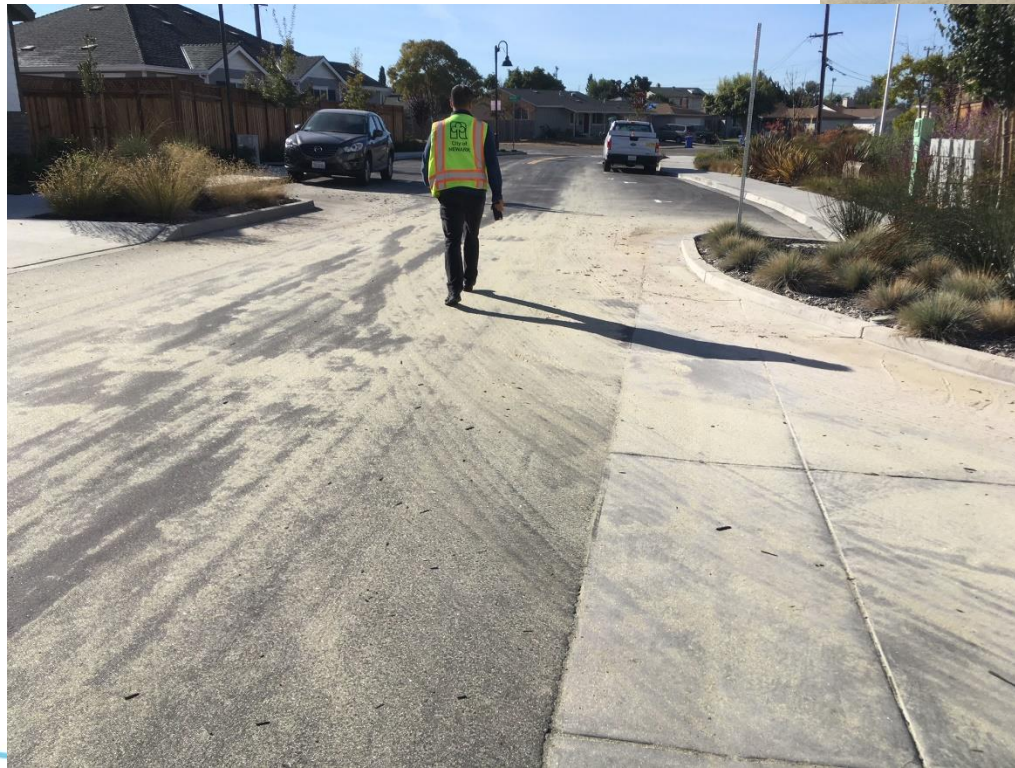


Example 2:

- Identify Violation
 - Category
- Type of Action
 - Timeframe
- Possible Solutions?*



Example Sequence 1:



Example Sequence 1:

- Identify Violation
 - Category
- Type of Action
 - Timeframe
- Possible Solutions?*



Sequence 1: Update later that day

- Discuss
 - Actions taken to improve site controls
 - Adequate?



Example Sequence 2:

- Identify Violation
 - Category
- Type of Action
 - Timeframe
- Possible Solutions?*



Example Sequence 2: One Week Later

- Discuss
 - Actions taken to improve site controls
 - Adequate?



Example Sequence 2: One (More) Week Later

- Discuss
 - Actions taken to improve site controls
 - Adequate?



Example Sequence 2: One (More, more) Week Later

- Discuss
 - Actions taken to improve site controls
 - Adequate?





For More Information

- Alameda Countywide Clean Water Program webpage: <https://cleanwaterprogram.org/>
- Regional Water Board https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/stormwater/Municipal/
- EPA BMP Guidance <https://www.epa.gov/menuofbmps>



Protecting Alameda County
Creeks, Wetlands & the Bay

Stormwater and the Construction Industry

Protect Natural Features



- Minimize clearing.
- Minimize the amount of exposed soil.
- Identify and protect areas where existing vegetation, such as trees, will not be disturbed by construction activities.
- Protect streams, stream buffers, wild woodlands, wetlands, or other sensitive areas from any disturbance or construction activity by fencing or otherwise clearly marking the boundaries.

Construction Phasing



- Sequence construction activities so that the soil is not exposed for long periods of time.
- Schedule or limit grading to small areas.

Vegetative Buffers



- Protect and install vegetative buffers along waterbodies to slow and filter stormwater runoff.
- Maintain buffers by mowing or replanting periodically to ensure their effectiveness.

Silt Fencing



- Inspect and maintain silt fences after each rainstorm.
- Make sure the bottom of the silt fence is buried in the ground.
- Securely attach the material to the stakes.
- Don't place silt fences in the middle of a waterway or use them as a check dam.
- Make sure stormwater is not flowing around the silt fence.

Questions?

Maintain your BMPs!

www.epa.gov/npdes/menuofbmps

Site Stabilization



- Vegetate, mulch, or otherwise stabilize all exposed areas as soon as land alterations have been completed.

Construction Entrances



- Remove mud and dirt from the tires of construction vehicles before they enter a paved roadway.
- Properly size entrance BMPs for all anticipated vehicles.
- Make sure that the construction entrance does not become buried in soil.

Slopes



- Rough grade or terrace slopes.
- Break up long slopes with sediment barriers, or under drain, or divert stormwater away from slopes.

Dirt Stockpiles



- Cover or seed all dirt stockpiles.

Storm Drain Inlet Protection



- Use rock or other appropriate material to cover the storm drain inlet to filter out trash and debris.
- Make sure the rock size is appropriate (usually 1 to 2 inches in diameter).
- If you use inlet filters, maintain them regularly.