

Introduction and Purpose

The Arizona Department of Environmental Quality (ADEQ) regulates discharges of stormwater to surface waters in Arizona to achieve the goals of the Clean Water Act. The Town of Marana (Town) is a Phase II regulated community. All Phase II communities are regulated by the Arizona Discharge Pollutant Elimination System General Permit for Stormwater Discharges from Small Municipal Storm Sewer Separate Systems to Waters of the United States or the MS4.

The 2016 MS4 Permit requires the development and implementation of an Enforcement Response Plan (ERP). The ERP shall contain procedures for the implementation of an escalated enforcement program for non-compliance of illicit discharges, industrial discharges, construction activities and developed sites.

This plan contains the procedures used by Town of Marana (Town) to investigate and respond to instances of noncompliant discharges to surface waters or the Town's Municipal Separate Storm Sewer System (MS4). This includes a range of regulatory responses, cost recovery mechanisms, and administrative and criminal penalties that can be employed in response to noncompliance.

Legal Authority

The Marana Town Code contains Title 17, Chapter 17-16 that regulates discharges of stormwater into the MS4. The Town is responsible for conducting stormwater inspections for compliance with Town Code. The Town of Marana's Development Services Department, and their Environmental Project Manager are responsible for the implementation and enforcement of this ERP. Other departments such as the Public Works Department, Code Enforcement Department, and the Town Attorney's Office will aid in the facilitation of this ERP.

To document compliance with this ERP, Town employees authorized by Marana Town Code may enter and inspect the premises, processes, and records of any stormwater collection system, construction project or entity that may be contributing pollution to the Town MS4.

Severity of Violation Criteria

The following criteria will be used to determine the severity of the violations and the appropriate response by the Town:

- Threat to public safety or health
- Level of impact to the environment
- Proximity to surface waters, ephemeral washes, or stormwater conveyances
- Repetitiveness of violation
- Attempt to remediate the discharge

Levels of Violations and Enforcement:

The following section summarizes enforcement levels and the party(ies) responsible for enforcement:

- Level I
 - Verbal Notice – In person or via phone call by Environmental Project Manager within three working days following inspection or complaint. Typical issues include sediment on streets, trash leaving construction sites, etc. Violation is not a threat to human health or a substantial impact to the environment. It is not immediately adjacent to a surface water, ephemeral wash, or stormwater conveyance. This is typically the first violation. No scheduled follow-up.
 - Written Notice – Email or other written correspondence by the Environmental Project Manager within three working days following an inspection or complaint. Typical issues include sediment on streets, trash leaving construction sites, etc. Violation is not a threat to human health or a substantial impact to the environment. It is not immediately adjacent to a surface water, ephemeral wash, or stormwater conveyance. This is typically the first violation. No scheduled follow-up.
- Level II
 - Written Notice – Same day in person, email or phone notice along with a formal letter written by the Environmental Project Manager and mailed via certified mail within three working days following an inspection. Typical issues include those included in Level I violations, but that may be adjacent to or connected to an ephemeral wash or stormwater conveyance, a second violation on the same property, or a non-response to a level one violation. Scheduled follow-up inspection for seven working days from date of written notice.
 - Written Notice – Same day in person, email or phone notice along with a formal letter written by the Environmental Project Manager and mailed via certified mail within three working days following an inspection. Typical issues include poor BMP maintenance, ineffective concrete washouts, vehicle/machinery leaking onto public streets etc. Violation is not a threat to human health or a substantial impact to the environment. It is not immediately adjacent to a surface water, ephemeral wash, or stormwater conveyance. This is typically the first violation. Scheduled follow-up inspection for seven working days from date of written notice.
- Level III
 - Written Notice – Same day in person, email or phone notice along with a formal letter written by the Environmental Project Manager and mailed via certified mail within three working days following an inspection. Typical issues include those included in Level I or Level II violations, but have not responded to any of the notices sent, may cause a threat to public safety or health, or have a substantial impact to the environment. Schedule follow-up inspection for seven working days from date of written notice. If corrections have not been made a Notice of Violation will be issued the same day.
 - Written Notice - Same day in person, email or phone notice along with a formal letter written by the Environmental Project Manager and mailed via certified mail within three working days following an inspection. Typical issues include lack of secondary containment for hazardous materials, overturned toilets, spills not cleaned up etc. Violation is not a threat to human health or a substantial impact to the environment, but is adjacent to a surface water, ephemeral wash, or stormwater conveyance.

Schedule follow-up inspection for seven working days from date of written notice. If corrections have not been made a Notice of Violation will be issued the same day.

- Level IIII
 - Written Notice of Violation - Same day in person, email or phone notice along with a formal letter written by the Environmental Project Manager and mailed via certified mail within three working days following an inspection. Typical issues include those included in Levels I, II, and III that have not been corrected in the required time frame. Schedule follow-up inspection for three days from date of inspection. If corrections have not been made the Town Legal Department will be notified the same day and legal procedures for assessing fines will be started.
 - Written Notice of Violation - Same day in person, email or phone notice along with a formal letter written by the Environmental Project Manager and mailed via certified mail within three working days following an inspection. Typical issues include violations that are a threat to human health and safety or will have a substantial impact to the environmental. Schedule follow-up inspection for three days from date of inspection. If corrections have not been made the Town Legal Department will be notified the same day and legal procedures for assessing fines will be started.
- Fine and/or Penalty Assessment
 - All fines and penalties are in accordance with Town of Marana Code Chapter 17-16, Section 17-16-3(B) Enforcement and Penalties.
 - Charges or penalties levied pursuant to this Plan shall be collected by the Town and utilized for public education and outreach in compliance with the Town's MS4 Permit.
 - The town may enter into consent orders, assurances of voluntary compliance, negotiated settlement agreements, or other similar documents establishing an agreement with any person responsible for noncompliance. Such documents will include specific action to be taken by the person to correct the noncompliance within a time period specified by the document, including an identification and description of the best management practices and measures to utilize in implementing the order. Such documents shall have the same force and effect as any other orders issued under this chapter and shall be judicially enforceable.
 - For projects under construction in the Town, if the Town finds that a person has violated, or continues to violate, any provision of this chapter or any related laws or regulations, or that the person's past violations are likely to recur, the Town may issue a stop work order to the person directing them to cease and desist all such violations and direct the person to immediately comply with all requirements; and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation. Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against the person. A person's failure to comply with an order issued pursuant to this Plan shall constitute a violation of this Plan.
 - In addition to any other enforcement authority contained in this Plan, the Town may issue a civil citation to any person who has violated, or continues to violate, any provision of this Plan or any related laws or regulations. A person who violates any requirement of this Plan shall be civilly liable to the Town for a sum not to exceed \$2,500 per day for each violation.

- A person who willfully or negligently violates any provision of this Plan shall, upon conviction, be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$2,500 per day for each violation and/or by imprisonment for a period not to exceed six months.
- Some intentional violations may constitute criminal violations of federal, state, and Town law, and that under such circumstances, the Town may seek the assistance of the EPA, the State, or the Town prosecutor to commence civil and/or criminal action against any person who violates any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition.
- The Town may withhold the issuance of permits including but not limited to building permits, native plant permits and grading permits, for the development or improvement on the parcel or any contiguous parcel of land under the ownership of a person or persons in violation of any requirement of this chapter or any applicable NPDES or AZPDES stormwater permit condition.
- The Town may assess liability for costs to any person in violation of this Plan for all actual costs incurred by the Town in surveillance, sampling and testing, abatement, and remediation associated with a discharge. Additionally, the Town may assess liability for costs to any person whose discharge resulted in a violation of the Town's AZPDES stormwater permit.

ENFORCEMENT TEAM

