

**TITLE 25
STORMWATER MANAGEMENT**

SECTIONS:

- 25.01 **Title, Purpose, and General Provisions**
 - 25.01.01 Purpose
 - 25.01.02 Definitions
 - 25.01.03 Applicability
 - 25.01.04 Delegation of Authority for Administration and Enforcement
 - 25.01.05 Regulatory Consistency
 - 25.01.06 General
 - 25.01.07 Severability
- 25.02 **Prohibitions and Controls to Reduce the Discharge of Pollutants in Stormwater**
 - 25.02.01 General Requirements
 - 25.02.02 Prohibitions of Non-Stormwater Discharges to the Municipal Storm Sewer System; Exemptions
 - 25.02.03 Operating Facilities and Activities
 - 25.02.04 Construction Sites
 - 25.02.05 Stormwater Pollution Prevention Plans
 - 25.02.06 Maintenance of Stormwater Facilities
 - 25.02.07 Cleanup and Notification Requirements
- 25.03 **Compliance Monitoring**
 - 25.03.01 Inspections
 - 25.03.02 Enforcement and Penalties

25.01 GENERAL PROVISIONS

25.01.01 Purpose

These regulations establish minimum stormwater management requirements for the management of pollutants that are or may be discharged to the municipal storm sewer system. The purpose is to improve the quality of stormwater discharges and to enable the Town to comply with all applicable State and Federal laws, including but not limited to, the Clean Water Act (33 U.S.C. § 1251 et seq.), the National Pollutant Discharge Elimination System Regulations (40 CFR, Part 122), and the Town’s Arizona Pollutant Discharge Elimination System (AZPDES) MS4 General Permit (Ariz. Admin. Code R18-9-A902).

25.01.02 Definitions

A. Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Title, shall have the meanings hereinafter designated. Where noted, the definitions shall correspond with the applicable section of the Arizona Revised Statutes as amended.

1. ADEQ: Arizona Department of Environmental Quality, regulatory entity of the State of Arizona responsible for administering various Federal and State environmental laws and programs, including most water quality programs, air quality, and waste programs.

2. AZPDES permit: Arizona Pollutant Discharge Elimination System-any permit issued by the Arizona Department of Environmental Quality delegated pursuant to 33 U.S.C. § 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis in compliance with the Clean Water Act (CWA).

3. BMPs, Best management practices: schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

4. CGP: Construction General Permit

5. Common Plan of Development: a contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan. The larger common plan of development or sale also applies to other types of land development such as industrial parks or well fields. A permit is required if 1 or more acres of land will be disturbed, regardless of the size of any of the individually-owned or developed sites.

6. Construction Activity: includes clearing, grading, excavating, stockpiling of fill material and other similar activities resulting in a land disturbance of at least one acre. Construction activity also includes clearing, grading, stockpiling, etc. that occurs in smaller areas if part of a larger common plan of development or sale that will ultimately disturb one or more acres. This definition encompasses both large construction activities defined in 40 CFR 122.26 (b)(14)(x) and small construction activities in 40 CFR 122.26 (b)(15)(i).

7. Contractor: synonymous with the term "builder" and means any person, firm, partnership, corporation, association or other organization, or a combination of any of them, who, for compensation, undertakes to or offers to undertake to, purports to have the capacity to undertake to, submits a bid or responds to a request for qualification or a request for proposals for construction services to, does himself or by or through others, or directly or indirectly supervises others to:

(a) Construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any building, highway, road, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or any other structure or work in connection with the construction.

(b) Connect such structure or improvements to utility service lines and metering devices and the sewer line.

(c) Provide mechanical or structural service for any such structure or improvements.
A.R.S. §32-1101 (3).

8. CWA, Clean Water Act: the Federal water pollution control act, as amended, 33 U.S.C. 1251 et. seq.

9. Developer: Any person, group or entity proposing or constructing a development as defined by the Town of Marana Land Development Code

10. Discharge: any addition of any pollutant to waters of the United States from any point source. A.R.S. §49-255 (2).

11. EPA: the United States Environmental Protection Agency charged with primary enforcement of the Clean Water Act (CWA).

12. Final Stabilization: means that either:

a. All soil disturbing activities at the site have been completed and either of the two following criteria are met:

i. A uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70 percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or

ii. Equivalent permanent stabilization measures (such as riprap, gabions, or geotextiles) have been employed.

b. When background native vegetation will cover less than 100 percent of the ground (e.g., arid areas, beaches), the 70 percent coverage criteria is adjusted as follows: if the native vegetation covers 50 percent of the ground, 70 percent of 50 percent ($.70 \times .50 = .35$) would require 35 percent total cover for final stabilization. On a beach with no natural vegetation, no stabilization is required.

c. For individual lots in residential construction final stabilization means that either:

i. The homebuilder has completed final stabilization as specified above, or

ii. The homebuilder has established temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization, or

iii. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to “water of the United States,” and areas which are not being returned to their preconstruction agricultural use must meet the final stabilization criteria above.

13. Illicit Discharge: any discharge to a storm drain system that is not composed entirely of stormwater except discharges pursuant to a NPDES or AZPDES permit, discharges resulting from emergency fire fighting activities, and discharges further exempted in Section 25.02.02 of this Title.

14. Monitoring: Periodic or continuous surveillance or testing to determine the level of compliance with statutory requirements and/or pollutant levels in various media or in humans, plants, and animals.

15. MS4, Municipal Separate Storm Sewer System: includes, but is not limited to, those facilities located within the town and owned or operated by a public entity by which stormwater may be collected and conveyed to waters of the United States, including any roads with drainage systems, public streets, inlets, curbs, gutters, piped storm drains and retention or detention basins.

16. NPDES permit, National Pollutant Discharge Elimination System permit: A discharge permit issued by the EPA in compliance with the Federal Clean Water Act.

17. NOI: Notice of Intent

18. NOT: Notice of Termination

19. Operator: In the context of stormwater associated with construction activity, means any person associated with a construction project that meets either of the following two criteria:

- a. The person has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- b. The person has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a SWPPP for the site or other permit conditions (e.g., they are authorized to direct workers at a site to carry out activities required by the SWPPP or comply with other permit conditions). This definition is provided to inform operators of how the regulatory definitions of “owner or operator” and “facility or activity” are applied to discharges of stormwater associated with construction activity.

20. Owner or operator: the owner or operator of any “facility or activity” subject to regulation under the NPDES program.

21. Person: any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns.

22. Point source: any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged to navigable waters. Point source does not include return flows from irrigated agriculture. A.R.S. §49-201 (27).

23. Pollutant: fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substances and chemicals, pesticides, herbicides, fertilizers and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and mining, industrial, municipal and agricultural wastes or any other liquid, solid, gaseous or hazardous substances. A.R.S. §49-201 (28).

24. Pollution: the alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any Water of the State or Water of the United States, that renders the water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose as determined by the town engineer.

25. Release: means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, placing, leaching, dumping, or disposing into or on any land in a manner that can cause pollution.

26. Stormwater: stormwater runoff, snow melt runoff, and surface runoff and drainage.

27. SWPPP, Stormwater pollution prevention plan: a plan that includes site map(s), an identification of owner/operator activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants.

28. Waters of the State: all waters within the jurisdiction of this state including all perennial or intermittent streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, aquifers, springs, irrigation systems, drainage systems and other bodies or accumulations of surface, underground, natural, artificial, public or private water situated wholly or partly in or bordering on the state. A.R.S. §49-201 (48)

29. Waters of the United States:

- a. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- b. All interstate waters, including interstate wetlands;
- c. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any waters:
 - i. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - iii. That are used or could be used for industrial purposes by industries in interstate commerce;
- d. All impoundments of waters defined as waters of the United States under this definition;
- e. Tributaries of waters identified in subsections (a) through (d);
- f. The territorial sea; and
- g. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subsections (a) through (f).

25.01.03 Applicability

This Title shall apply to all activities which may potentially affect the municipal separate storm sewer system, any private storm sewer system or any Water of the United States within the Town of Marana. Additionally, permanent and temporary stormwater management controls, practices and facilities, constructed as part of any activities listed in this section, which are located within the Town limits, are also subject to this Title. The stormwater management practices and discharge standards, should such standards be established, shall apply to any construction project that disturbs one acre or more, including industrial, commercial, institutional, and residential.

25.01.04. Delegation of Authority for Administration and Enforcement

The town engineer of the Town of Marana is delegated the authority to exercise the powers and perform the duties set forth in this Title and to administer and enforce provisions of this Title. The town engineer may designate other employees to exercise such powers and perform such duties, as he or she deems appropriate.

25.01.05 Regulatory Consistency

This Title shall be construed to assure consistency with the requirements of the Federal Clean Water Act (CWA) and acts amendatory thereof or supplementary thereto, applicable State or Federal implementing regulations, and the municipal AZPDES or NPDES permit and any amendments, revisions, or reissuance thereof. No permit or approval issued pursuant to this Title shall relieve a person of the responsibility to secure permits and approvals required for activities regulated by any other applicable rule, code, act, permit, or ordinance. The Town of Marana shall not certify or defend that the applicant has met the requirements of the Federal CWA.

25.01.06 General

The town engineer may adopt and enforce such rules, regulations, ordinances, standards, processes and forms as the town engineer deems necessary for the efficient administration and enforcement of this Title. The town engineer may interpret and enforce this Title. Upon request of the town engineer any other department of the Town of Marana has the authority to assist in the exercise of powers and performance of duties under this Title.

25.01.07 Severability

If any provision, clause, sentence, or paragraph of this Title or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this Title which can be given effect without the invalid provision or application, and to this end, the provisions of this Title are hereby declared to be severable.

25.02 PROHIBITIONS AND CONTROLS TO REDUCE THE DISCHARGE OF POLLUTANTS IN STORMWATER

25.02.01 General Requirements

- A. Any person engaged in activities which will or may result in pollutants entering a storm sewer system shall undertake appropriate measures to reduce the potential to discharge such pollutants. Examples of such activities include, but are not limited to, reduction of use and proper disposal of household chemicals, such as cleaners, disinfectants, pesticides, fertilizers, carpet cleaning waste water and other pollutants associated from the ownership and use of facilities which may be a source of pollutants such as parking lots, gasoline stations, industrial facilities, construction sites, and retail establishments.
- B. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, placed, left or maintained, any refuse, rubbish, garbage, vegetation trimmings or other discarded or abandoned objects, articles, and accumulations, in or upon any street, alley, sidewalk, storm drain inlet, catch basin, conduit or other drainage structures, parking area, or upon any public or private plot of land so that the same might be or become a pollutant, except where such pollutant is being temporarily stored in properly contained

waste receptacles or is part of a well defined compost system or pursuant to another recycling system.

- C. No person shall cause or permit the discharge into any street, alley, sidewalk, storm drain, inlet, catch basin, conduit or other drainage structures, business place, or upon any public or private plot of land in the Town any pollutant originating from a dumpster, solid waste bin, or similar container.

25.02.02 Prohibition of Non-Stormwater Discharge to the Municipal Storm Sewer System; Exemptions

A. Unless expressly authorized or exempted by this Title, no person shall cause or allow the discharge to a public right-of-way or municipal storm sewer system of any substance that is not composed entirely of stormwater.

B. Unless expressly authorized or exempted by this Title, no person shall use, store, spill, dump, or dispose of materials in a manner that those materials could cause or contribute to the addition of pollutants to stormwater.

C. Exemptions. The following discharges are exempt from the prohibitions set forth in subsections (A) and (B) of this section:

1. Dechlorinated waters from water line flushing;
2. Landscape irrigation;
3. Diverted stream flows;
4. Rising ground waters;
5. Uncontaminated groundwater infiltration;
6. Uncontaminated pumped groundwater;
7. Discharges from potable water sources;
8. Foundation drains;
9. Air condition condensation;
10. Irrigation water;
11. Springs;
12. Water from crawl space pumps;
13. Footing drains;
14. Lawn watering;
15. Individual residential car washing;
16. Discharges from riparian habitats and wetlands;
17. Dechlorinated swimming pool discharges; and
18. Discharges or flows from emergency fire fighting activities.

D. No person shall discharge to a publicly owned right-of-way or the municipal storm sewer system any exempted discharge under subsection (C) if the town engineer or assigned designee identifies and provides written notice to the person that the discharge has the potential to be a source of pollutants to receiving waters, waterways, or groundwater

E. No person shall discharge to the municipal storm sewer system where such discharge would result in or contribute to a violation of the AZPDES stormwater permit issued to the

Town, either separately considered or when combined with other discharges. Liability for any such discharge shall be the responsibility of the person causing or responsible for the discharge.

25.02.03 Operating Facilities or Activities

A. All persons owning or operating premises or engaged in activities who are required by Federal or State law to submit to EPA and/or ADEQ a Notice of Intent (NOI) to comply with an NPDES or AZPDES stormwater permit shall provide a copy of the authorization certificate to the Town upon request. Facilities required to apply for a stormwater permit are identified in 40 CFR 122.23(B) (14).

B. All persons engaged in activities which will or may reasonably be expected to result in pollutants entering the municipal storm sewer system shall undertake best management (BMPs) to minimize such pollutants, shall provide protection from accidental discharge of pollutants to the municipal storm sewer system and further comply with the cleanup and notification requirements of this Title. Such measures shall include any additional requirements imposed by Federal, State, County, or Local authorities.

C. In the case that a specific Best Management Practice is required by the Town to prevent a pollutant from entering the municipal storm sewer system, the person receiving the notice of such a requirement may petition the Town to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten (10) calendar days setting forth any reasons and proposed alternatives. The Town will act within fourteen (14) calendar days of the petition.

D. No person shall establish, use, maintain, or continue any connection to the municipal storm sewer system which is causing a violation of this section. This shall apply to any connection that was made in the past, regardless of whether it was made under permit or other authorization, or whether it was permissible under the law or practices applicable or prevailing at the time of connection as of the effective date of this Title.

25.02.04 Construction Sites

A. All persons engaged in construction activities who are required by Federal or State law to submit to EPA and/or ADEQ a Notice of Intent (NOI) to comply with an NPDES or AZPDES stormwater permit, shall provide the Town with copies of the approved NOI, the site-specific stormwater pollution prevention plan (SWPPP), and the AZPDES individual stormwater permit, if applicable, issued by ADEQ. Construction activities that will disturb one acre or more of land area or that are part of a larger common plan of development or sale are required to apply for a stormwater permit (40 CFR 122.26(B)(15)).

B. Any person performing construction that has submitted a copy of an approved NOI to the Town of Marana shall not cause or contribute to a violation of the AZPDES stormwater

permit issued to the Town. Liability for any such discharge shall remain the responsibility of the person causing or responsible for the discharge.

C. Any person performing construction activity shall undertake Best Management Practices to minimize or eliminate pollutants (including the discharge of sediments) from leaving the construction site, shall provide protection from accidental discharge of other pollutants to the municipal storm sewer system, and comply with the cleanup and notification requirements of this Title.

D. The site operator shall ensure BMPs are properly selected, installed, and maintained per the manufacturers' specifications and good engineering practices so BMPs remain functional and effective.

E. Site operator shall ensure effective erosion, sediment and waste control and properly dispose of wastes, such as discarded building materials, concrete truck washout material, chemicals, litter, sanitary waste and other pollutants at the construction site that may cause adverse impacts to water quality. Such measures shall include the requirements imposed by Federal, State, County and/or Local authorities.

F. Stormwater Pollution Prevention Plans shall be prepared, reviewed, and implemented in accordance with the Arizona Pollutant Discharge Elimination System Construction General Permit issued by the Arizona Department of Environmental Quality. The Town of Marana shall not certify or defend that the applicant has met the requirements of the Federal Clean Water Act.

G. In the case that a specific Best Management Practice is required by the Town to prevent a pollutant from entering the municipal storm sewer system, the person receiving the notice of such a requirement may petition the Town to reconsider the application of the BMP to the premises or activity. The written petition must be received within ten calendar days setting forth any reasons and proposed alternatives. The Town will act within fourteen calendar days of the petition.

H. Basins with a retention component may be used as temporary sediment basins during construction provided the following conditions are met:

1. Prior to acceptance, the basin shall be retested for percolation; and
2. Additional measures must be put in place to collect sediment prior to entry into the basin, i.e. the basin must be part of a cascading sediment trapping system.

I. Upon achievement of final stabilization, the operator shall provide the Town of Marana with a copy of the NOT acknowledgement letter from ADEQ.

J. Exemptions: The following discharges are exempt from the prohibitions set forth in Section 25.02.03 for construction sites or activities:

1. Discharges from fire-fighting activities;
2. Water used to control dust, provided reclaimed water or other wastewaters are not used;
3. Routine external building wash down where detergents are not used;
4. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled material has been removed) and where detergents are not used;

5. Uncontaminated air conditioning or compressor condensate;
6. Uncontaminated ground water or spring water;
7. Foundation or footing drains where flows are not contaminated with process materials such as solvents;
8. Fire hydrant flushing, potable water line or well flushing where the receiving waters are ephemeral;
9. Water used for compacting soil, provided reclaimed water or other wastewaters are not used;
10. Water used for drilling and coring such as for evaluation of foundation materials, where flows are not contaminated with additives; and
11. Uncontaminated waters obtained from dewatering operations/foundations in preparation for and during excavation and construction.

25.02.05 Stormwater Pollution Prevention Plans (SWPPP)

- A. The owner/operator shall submit three copies of a site specific SWPPP (both a narrative and engineering drawings) each in a 3-ring binder during the grading/improvement plan review period.
- B. Town of Marana staff will review the submission in accordance with applicable Federal, State, and/or Local regulations.
- C. A SWPPP accepted by the Town of Marana is required prior to the issuance of a permit for construction activity as defined in Section 25.01.02 of this Title.
- D. Three copies of the accepted SWPPP, a copy of the owner(s) and operator(s) NOI, along with copies of the accepted grading/improvement plans shall be submitted with the application for a grading permit prior to start of any work on-site.
- E. For projects that are part of a larger common plan of development with custom lots, the following shall apply:
 1. The Developer for the project shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit a Notice of Intent (NOI) to ADEQ or EPA, with an approved copy of the NOI to the Town for the portion of the project for which they have operational control.
 2. The SWPPP shall address the construction of infrastructure site development and proposed residential construction. The Developer shall submit a NOI and SWPPP with accepted grading/improvement plans with the application for a grading permit.
 3. The individual buyer of a lot in a large lot/custom home site subdivision shall submit to the Town, with the application for a grading permit, a plan sheet outlining stormwater pollution prevention measures for construction on the individual lot. This plan sheet shall become an attachment to the SWPPP previously completed by the Developer and accepted by the Town. The individual buyer and the operator shall submit separate NOIs and sign the certifications in the SWPPP. An accepted plan sheet and NOIs shall be required prior to the issuance of a permit for construction activity as defined in Section 25.01.02 of this Title.

F. For mass graded subdivisions, the following shall apply:

1. The Developer for the project shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit a Notice of Intent (NOI) to ADEQ or EPA, with an approved copy of the NOI to the Town for the portion of the project for which they have operation control.
2. The Developer shall prepare a SWPPP that addresses off-site and on-site Best Management Practices for erosion, sediment and waste control for both the infrastructure and residential improvements.
3. The Developer shall be responsible for compliance with this Title until such time as the Developer can demonstrate that operational control for all portions of the site has been transferred to another operator or final stabilization for the entire site has been achieved.

G. For commercial development, the following shall apply:

1. The Developer for the project shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and submit a Notice of Intent (NOI) to ADEQ or EPA, with an approved copy of the NOI to the Town for the portion of the project for which they have operation control.
2. The Developer shall prepare a SWPPP to address on-site and off-site Best Management Practices for erosion, sediment, and waste control.
3. For commercial lots that are part of a common plan of development, the owner/operator for the individual lot shall submit a separate SWPPP and NOI with improvement plans; the SWPPP shall be accepted by the Town of Marana prior to issuance of a grading permit.

H. Routine Inspection Schedule: The operator must ensure routine inspections are performed at the site to ensure that BMPs are functional and that the SWPPP is being properly implemented. The operator must specify an inspection schedule in the SWPPP and may choose either of the following:

1. The site will be inspected at least once every seven calendar days, or
2. The site will be inspected at least once every fourteen calendar days, and also within 24 hours of the end of each storm event of 0.5 inches or greater.
3. If the site is temporarily stabilized, the operator may utilize the reduced inspection frequency outlined in the AZPDES Construction General Permit.

I. Based on the results of the inspection, the operator must modify the SWPPP to include additional or modified BMPs designed to correct problems identified. The operator must complete revisions to the SWPPP within seven calendar days following the inspection.

J. No waivers allowable under the AZPDES Construction General Permit shall be accepted by the Town of Marana for any development over one acre in size or that is part of a larger common plan of development or sale.

25.02.06 Maintenance of Stormwater Facilities

- A. Property owners or operators shall warrant post-construction stormwater runoff control facilities including but not limited to, retention basins, dry wells, and other measures (as described in 40 CFR 122.34 (B)(5)(III) during the warranty period.
- B. Stormwater facilities shall be maintained by the owner or other responsible party and shall be repaired and/or replaced by such person when such facilities are no longer functioning as designed.
- C. Disposal of waste from maintenance of facilities shall be conducted in accordance with applicable Federal, State, and local laws and regulations
- D. Records of installation and maintenance and repair of facilities referenced in subsection (A) of this section shall be retained by the owner or other responsible party for a period of five years and shall be made available to the Public Works Department upon request.
- E. Any failure to maintain facilities or correct problems with facilities after receiving due notice from the Town may result in criminal or civil penalties and the Town may perform corrective or maintenance work which shall be at the owner's expense.

25.02.07 Cleanup and Notification Requirements

- A. In the event of a spill or release in reportable quantities as defined in 40 CFR 302, 40 CFR 110 and 40 CFR 117, the owner, operator, or the person who has control of the source or location of any spill or release, which may result in a discharge that is not in compliance with this Title, shall immediately take all reasonable safety precautions including, if appropriate, calling 911 and completing the following steps:
 - 1. Proceed with containment and clean up in accordance with:
 - i. The orders of an involved health and safety agency, or if no such orders have been issued, then:
 - ii. The orders of an authorized representative, or if no such orders have been issued, then
 - iii. The Stormwater Pollution Prevention Plan or approved corrective action plan utilizing Best Management Practices for the involved facility.
 - 2. Report any violations of the Northwest Fire Department Fire code or other such applicable safety or health codes in the manner required by such code;
 - 3. Notify the Town of Marana Environmental Engineering Division at (520) 382-2600 of the release by telephone within 24 hours of knowledge of the release;
 - 4. Provide written notification within five calendar days to the Town of Marana Environmental Engineering Division of the type, volume, cause of the discharge, corrective actions taken, and measures to be taken to prevent future occurrences.
- B. Compliance with the requirement in subsection (A) of this section shall not relieve the discharger from the reporting requirements of 40 CFR 110, 40 CFR 117, and 40 CFR 302.

25.03 COMPLIANCE MONITORING

25.03.01 Inspections

A. Authority to inspect. Upon presentation of credentials and at all reasonable or necessary hours, all authorized employees of the Town shall have access to all premises and to all records pertaining to those premises for purposes of ensuring compliance with this Title. Inspection, interviewing, copying, sampling, photographing, and other activities conducted on the premises shall be limited to those which are reasonably needed by the Town in determining compliance with the requirements of this Title. All persons shall allow such activities under safe and non-hazardous conditions with a minimum of delay.

B. Monitoring activities. The Town may order any person engaged in any activity or owning or operating on any premises which is causing or contributing to discharges of pollutants to the municipal storm sewer system in violation of this Title or any applicable NPDES or AZPDES stormwater permit condition or that is posing a risk to public health, safety, and welfare to undertake such monitoring activities and analyses and furnish such reports as the Town reasonably may specify. The costs of such activities, analyses, and reports shall be borne in the recipient of the order.

C. When inspections by Town staff reveal deficiencies in the implementation of the SWPPP a written inspection report will be provided to the owner and operator within 30 days of the inspection.

D. Access refusal. If an authorized employee of the Town has been refused access to any premises, and is able to demonstrate probable cause to believe that there may be a violation of this Title, or that there is a need to inspect, interview, copy, photograph or sample as part of an inspection and sampling procedure of the Town designed to determine compliance with the requirements of this Title or any related laws or regulations, or to protect the environment and the public health, safety, and welfare of the community, then the Town may seek issuance of a search warrant from the Town Municipal Court.

25.03.02 Enforcement and Penalties

A. Charges or penalties levied pursuant to this Title shall be collected by the department of public works and utilized for public education and outreach in compliance with the Town's MS4 Permit. The town engineer shall make and enforce economic and efficient management and protection of the Town's storm sewer system.

B. Operator and/or Owner of record. The operator performing activities and/or owner of record of the property upon which a violation of this Title occurs shall be presumed to be a person having lawful control over the activity or premises unless it is demonstrated and documented that another person has knowingly and in good faith accepted responsibility for the activity at issue. If more than one person is identified as the owner, such persons shall be presumed to be jointly and severally in lawful possession and control of the activity or premises.

C. Notice to Correct. The Town may issue a written Notice to Correct to any person who has violated or is in violation of this Title. Failure to comply with any act required in the Notice

to Correct may result in a Notice of Violation and/or Stop Work Order as described in subsections (D) and (F) of this section.

D. Notice of Violation. The Town may issue a written Notice of Violation to any person who has violated or is in violation of this Title. Failure to comply with any act required in the Notice of Violation shall be a separate violation for each day beyond the 30th calendar day following the Notice of Violation. Nothing in this section shall limit the authority of the Town to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. In appropriate situations the Town may notify the person orally either in person or by telephone prior to written notification.

E. Consent orders. 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 Title and shall be judicially enforceable.

F. Stop Work Order. For projects under construction in the Town of Marana, if the Town finds that a person has violated, or continues to violate, any provision of this Title 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 Title shall constitute a violation of this Title.

G. Civil Penalties. In addition to any other enforcement authority contained in this Title, the Town may issue a civil citation to any person who has violated, or continues to violate, any provision of this Title or any related laws or regulations. A person who violates any requirement of this Title or any applicable NPDES or AZPDES stormwater permit condition shall be civilly liable to the Town for a sum not to exceed \$2,500 per day for each violation.

H. Criminal Penalties. A person who willfully or negligently violates any provision of this Title, or any related laws or regulations 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.

I. Criminal Prosecution. 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 Title or any applicable NPDES or AZPDES stormwater permit condition.

J. The Town of Marana 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 Title or any applicable NPDES or AZPDES stormwater permit condition.

K. Liability for costs. The Town may assess liability for costs to any person in violation of this Title 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.