



ACTIVITY: Water Quality – Escalating Enforcement (Regulatory Oversight Programs)

Effective Date: 4/1/2019
Revision Date: 1/1/2025

Prepared by: Storm Water Quality Division
Reviewed by: Matthew Hendrix

Permit Requirement 4.2.4.2.1., 4.2.5.2.3., and 4.3.5.

Purpose: To provide guidance for escalating enforcement actions relating to storm water violations pertaining to Salt Lake City Code Chapter 17.81 and 17.84 and Salt Lake City’s MS4 UPDES permit UTS000002.

Scope: This document will provide standard operating procedures/instructions (SOPs/SOIs) for a variety of enforcement actions specific to the City’s MS4 regulatory program as deemed necessary for the severity of the violation and in following with the enforcement options available in Salt Lake City Code Chapter 17.87.

- The Industrial and Construction inspections programs have requirements for periodic inspections that must be conducted. If those inspections reveal violations of the respective permits/ordinances, then escalation of enforcement is needed.
- Those violations/deficiencies are documented and reported to the operator through an inspection report, sent by email, which serves as a “Written Notice of Violations” (see **Escalating Enforcement Procedure**, below, for the escalation steps to follow for each regulatory program).
- When an illicit discharge is discovered during an inspection, it is treated as an IDDE investigation in addition to the regulatory inspection process and reports will be fully documented in both the regulatory inspections and IDDE investigation tracking systems.

Escalating Enforcement (Actions) - Construction:

- In compliance with new (as of 1/1/2025) Utah law (Utah Code [19-5-108.3](#)) regarding Construction Regulatory Oversight, the following procedures for escalating enforcement (which shall not include fines) are required (this procedure starts over with every periodic/complaint inspection in which permit violations have been identified, and cannot be initiated more than 30-days after the violation has been identified):

1. 1st Notice of Violation

- a. **19.5.108.3.(11)(a)(i-iii)** – A written notice (in the form of an inspection report showing compliance status, necessary corrective actions, and deadlines) is provided to the operator by email; the specifics of which should always be discussed in-person (or on the phone) as well.
- b. Deadline for completion of all corrective actions (as provided at the time of inspection via inspection report) from the 1st Notice of Violation will be no less than 24-hours from the time of inspection.
 - i. Generally, violations (non-compliance) that do not pose an imminent/immediate threat to water quality will be given 7-days to correct, while any violations that do pose an imminent/immediate threat to water quality will be given a deadline of 24-hours to correct.
 - ii. Depending on the severity of the violation, and if there is an immediate threat to water quality, then a “Stop Work Notice” can be issued at the time of 1st Notice of Violation, otherwise that action is held until the 3rd Notice of Violation.
- c. Corrective actions are cleared/confirmed through compliance tracking software (such as ComplianceGo) by use of the “Action Items” function; if a deadline is missed then ComplianceGo sends an alert to the project recipients letting them know that the action has not been completed and enforcement escalation is to proceed and reinspection is forthcoming.

2. 2nd Notice of Violation



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- a. **19.5.108.3.(11)(b)(i-iii)** – A written notice (in the form of another inspection report showing compliance status, necessary corrective actions, and deadlines) is provided to the operator by email; the specifics of which should always be discussed in-person (or on the phone) as well.
 - i. The notice alerts the Operator that the 1st violation has not been corrected by the initial deadline and that the construction activity may be stopped (via a “Stop Work Notice”) if the violation is not corrected by the revised deadline.
 - b. Revised Deadline for completion of all corrective actions (as provided at the time of inspection via inspection report and verbal discussion) will be no less than 24-hours from the time of inspection.
 - i. Generally, violations (non-compliance) that do not pose an imminent/immediate threat to water quality will be given another 7-days to correct, while any violations that do pose an imminent/immediate threat to water quality will be given a deadline of 24-hours to correct; however, if there is rain in the forecast or the violations are egregious, then the deadline will be much shorter than 7-days (but no less than 24-hours).
 - c. Corrective actions are cleared/confirmed through compliance tracking software (such as ComplianceGo) by use of the “Action Items” function; when a 2nd deadline is missed then ComplianceGo sends an alert to the project recipients letting them know that the action has still not been completed and enforcement escalation is to proceed and reinspection is forthcoming.
 - i. Inspector shall also send a separate written notice (via email) to all contacts associated with the Operator(s) and Owner(s) of the project, notifying them that the violations have not yet been abated and that failure to correct by the revised deadline will result in issuance of a “Stop Work Notice.”
- 3. 3rd Notice of Violation**
- a. **19.5.108.3.(11)(b)(i-iii)** – A written notice (in the form of another inspection report showing compliance status and necessary corrective actions) is provided to the operator by email; the specifics of which should always be discussed in-person (or on the phone) as well.
 - i. The notice alerts the operators that the violation (from the 2nd Notice of Violation) has not been corrected by the revised deadline and that the project is now subject to a “Stop Work Notice,” which will be sent separately unless the operator can readily show that any violations have been abated.
 - b. Based on verbal/written discussion with the Operators, confirmation of corrective action will be accepted during the time between the reinspection event and the issuance of the Stop Work Notice; it is acceptable to give the operator an additional end-of-work-day deadline (or longer if mutually agreed upon) if the operator expresses an ability/intention to make the required corrections immediately.
 - i. Corrective actions can be confirmed through electronic methods, or on-site if the operator is unable to demonstrate compliance electronically.
- 4. Stop Work Notice**
- a. If violation is not abated, then the “Stop Work Notice” will be filled out (either in-office using the PDF template, or in-field via ComplianceGo), sent via email, discussed verbally (as able), and will remain in effect until violations have been abated.
 - b. If the corrective action is not complete after the Stop Work Notice has been issued, and there is an immediate threat to water quality, then failure to correct may result in SLCDPU contracting a 3rd party to conduct this work and all administrative and invoiced fees will be the responsibility of the operator to pay.
 - c. Upon confirmation (either in-person or electronically) that the violations have been corrected, the Stop Work Notice will be rescinded and another inspection report will be filled out which



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shows that compliance has been achieved and that the stop work order has been lifted. This will officially reset the compliance clock and the next periodic inspection can be scheduled.

Escalating Enforcement (Actions) - Industrial:

1. Verbal/Written Warning

- a. When a *minor* violation is discovered during an inspection, the City will inform the operator(s) of the infraction (via an inspection report that serves as the Written Warning) and require immediate corrective action, depending on the severity of the violation.
 - i. A *minor* violation is identified as one or more of the following:
 - 1. A low-volume, non-hazardous material discharge which did not reach a storm inlet.
 - 2. A discharge that did not affect the operation or integrity of the storm sewer system.
 - 3. A structural Best Management Practice (BMP) that is in need of maintenance.
 - 4. A non-structural BMP has been cited as part of regular SWPPP BMPs, but the practice was found to have not been recently employed/repeated.
- b. When a verbal/written warning is issued, the operator(s) will be given a timeframe to comply. This period may be immediate or up to 7 days depending on the severity of the violation(s) and any forecasted rain.
 - i. Immediate compliance and remediation will be required when rain is forecasted and there is a potential for direct discharge to the city's storm sewer system or waters of the state.
 - ii. When these minor violations have the potential to affect public health and safety, such as discharges that might create a pedestrian or vehicle slipping/blocking hazard on a public right-of-way, the discharged/stored material must be cleaned/remediated immediately.
 - iii. If the operator is found to have been a repeated violator of the City's Codes and Ordinances protecting water quality, the operator will be required to correct the deficiency immediately, and enforcement escalation will proceed.
- c. City will follow-up at close of corrective action timeframe to ensure compliance.

2. Stop Work Notices

- a. If the operator does not comply within the given timeframe of the verbal/written warning, the City will issue a notice to stop all work contributing to the violations until compliance is achieved. For Industrial, a *Cease Activity Notice* shall be issued, with either of the following conditions, based on the severity and preponderance of violations:
 - i. The notice shall require the operator to cease the activity that is causing (or contributing to) the violations until the corrective actions are completed and the facility is brought into full compliance.
 - ii. The notice shall require the operator to shut down the business entirely until all corrective actions are completed, and the facility is brought into full compliance.
- b. If the violation is deemed *egregious/major*, the operator(s) will be issued a notice to stop work (construction) or cease activity (industrial), immediately, and escalation of enforcement will proceed.



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- i. An **egregious/major** discharge or violation is identified as:
 1. “A larger-volume, hazardous, or highly reactive discharge that entered the City storm sewer system and either caused (or had the potential to cause) biological/chemical/physical alteration of receiving waters, per state water quality standards.”
 2. Failure to retain coverage under appropriate permits, or failure to maintain SWPPP compliance requirements for inspections/corrections/BMP-implementation, are considered major violations that will require an immediate notice to stop/cease work.
 3. A violation is also considered egregious if the responsible party has a history of stormwater violations (particularly those that have resulted in fines or illicit discharges).
 4. If a discharge occurs as the result of a failure to adequately resolve (or alter practices from) a previous enforcement action, then the violation is considered egregious.
 - c. *Stop Work* (and *Cease Activity*) *Notices* may be verbal notices but will always include a *written notice* and will have a shorter compliance deadline than those for minor violations.
- 3. Letters**
 - a. If the operator has been issued multiple verbal/written warnings for minor violations, or received a *Stop Work Notice* (construction) or *Cease Activity Notice* (industrial), then ***Warning Letter(s)* will be issued for continued noncompliance**, outlining appropriate enforcement escalation actions per 17.87.300.
 - b. A show cause hearing letter may be issued to the operator(s) requiring them to appear before the administration to show cause as to why a proposed enforcement action should not be taken.
- 4. Order**
 - a. Cease and desist orders will be issued for operators(s) to come into compliance within a timeframe determined by the City based upon the severity of the violation.
 - b. Cease and Desist Orders will be issued for past operations that are likely to violate again.
 - c. Consent Orders will be issued as assurance for compliance.
- 5. Administrative Fines; Costs of Remediation**
 - a. Any responsible party determined to be in violation of storm water ordinances may be fined in an amount not greater than \$10,000 per violation, per day.
 - i. Administrative fines may be assessed based on factors including; (1) damage, (2) endangerment to human health or the environment, (3) violation of City discharge permit, (4) good faith efforts to comply, (5) number 2 severity of violation fine assessed per flow chart*
 - b. *Notices of Violation* (“NOV”):
 - i. An NOV will be issued if the operator(s) continues to violate the rules and regulations of the City Ordinance and/or UPDES stormwater permits.
 - ii. Notice of Violation(s) will also be issued for illegal discharges that are deemed detrimental to the MS4.
 - c. Emergency Suspensions may be issued pursuant to 17.87.400.
 - d. If the violation persists, termination of a City discharge permit shall occur.
 - e. The director of Water Quality may charge a responsible party for the costs of preparing administrative enforcement actions, as well as the actual costs and expenses incurred by the city in responding to the illicit discharge.
 - f. Penalties assessed under subsection A may be increased and/or trebled, in the director’s discretion, where the responsible party has received another notice of violation at any time;



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for violations resulting in physical harm to persons or to private or public property; for knowing or deliberate violations; or for violations resulting from grossly negligent or reckless conduct.

6. Documentation

- a. Document and maintain records of all enforcement action taken.
- b. Maintain inspections tracking spreadsheet and online mapping, to include tracking of enforcement actions.
- c. Referral to the Salt Lake County Health Department for enforcement actions associated with illicit discharges.

Through Memorandum of Understanding (MOU) Salt Lake City reports all illegal discharges to the Salt Lake County Health Department. Based on case by case circumstances, Salt Lake County Health Department and Salt Lake City discuss the appropriate enforcement action(s) to be taken and who will be taking the lead on the investigation/enforcement.

*Fines will be determined using the Utah Water Quality Act Civil Penalty Determination Flowchart (UAC R317-1.9)