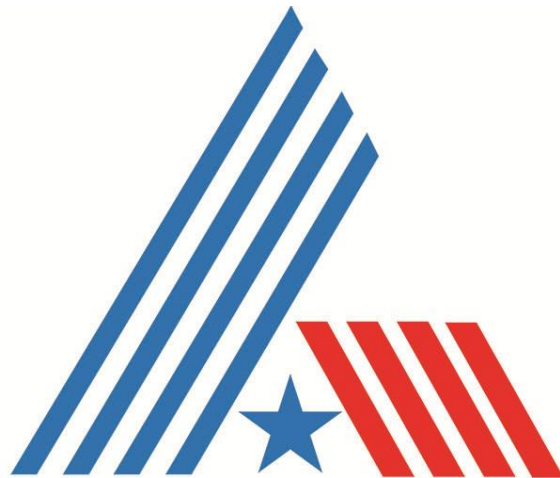


# **Construction Site Stormwater Runoff Prevention Inspection Guideline**

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**CITY OF ABILENE**

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**STORMWATER SERVICES**

Revised: 01/18/13

# **Construction Site Stormwater Runoff Prevention Inspection Guideline**

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## Definitions

*Administrator:* The administrator of the Stormwater Services Division or the administrator's authorized representatives.

*Best Management Practices (BMPs):* Schedules of activities, prohibitions of practices, maintenance procedures, structural controls, local ordinances, and other management practices to prevent or reduce the discharge of pollutants. BMPs also include treatment requirements, operating procedures, and practices to control construction site stormwater runoff, spills or leaks, waste disposal, or drainage from raw material storage areas.

*Commencement of Construction:* The initial disturbance of soils associated with clearing, grading, or excavation activities, as well as other construction-related activities (e.g., stockpiling of fill material, demolition).

*Common Plan of Development:* A construction activity that is completed in separate stages, separate phases, or in combination with other construction activities. A common plan of development is identified by the documentation for the construction project that identifies the scope of the project, and may include plats, blueprints, marketing plans, contract, building permits, a public notice or hearing, zoning requests, or other similar documentation and activities.

*Construction Site:* Area identified on the Notice of Intent or Construction Site Notice if applicable. If the construction site does not meet the definition of small construction activity or large construction activity then the site can be defined by either the area identified on site plans, blue prints or similar documentation or the parcel under construction.

*Facility:* Any facility, including construction sites, required by the Federal Clean Water Act to have a permit to discharge stormwater associated with industrial activity (as used in PART XIX: Enforcement).

*Final Stabilization:* A construction site status where any of the following conditions are met:

- (a) All soil disturbing activities at the site have been completed in a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of at least 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geo-textiles) have been employed.
- (b) For individual lots in a residential construction site by either:

1. The homebuilder completing final stabilization as specified in condition (a) above; or

2. The homebuilder establishing temporary stabilization for an individual lot prior to the time of transfer of the ownership of the home to the buyer and after informing the homeowner of the need for, and benefit of, final stabilization. If temporary stabilization is not feasible, then the homebuilder may fulfill this requirement by retaining perimeter controls or other best management practices, and informing the homeowner of the need for removal of temporary controls and the establishment of final stabilization.

(c) For construction activities on land used for agricultural purposes, 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 buffers strips immediately adjacent to surface water and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization conditions of condition (a) above.

(d) In arid, semi-arid, and drought stricken areas only, all soil disturbing activities at the site have been completed and both of the following criteria have been met:

1. Temporary erosion control measures (e.g., degradable rolled erosion control product) are selected, designed and installed along with appropriate seed base to provide erosion control for at least three years without active maintenance by the operator, and
2. The temporary erosion control measures are selected, designed, and installed to achieve 70 percent vegetative coverage within three years.

*Large Construction Activity:* Construction activities including clearing, grading and excavating that result in land disturbance of equal to or greater than five (5) acres of land. Large construction activity also includes the disturbance of less than five (5) acres of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than five (5) acres of land. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of a ditch, channel, or other similar storm water conveyance. Large construction activity does not include the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities.

*Municipal Separate Storm Sewer System (MS4):* A separate storm sewer system owned or operated by the United States, a state, city, town, county, district, association,

or other public body (created by or pursuant to state law) having jurisdiction over the disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law such as a sewer district, flood control or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, that discharges to surface waters in the state..

*Notice of Change:* Written notification to the executive director from a discharger authorized under this permit, providing changes to information that was previously provided to the agency in a notice of intent form.

*Notice of Intent:* A written submission to the executive director from an applicant requesting coverage under this general permit.

*Notice of Termination:* A written submission to the executive director from a permittee authorized under a general permit requesting termination of coverage.

*Operator:* The person or persons associated with a large or small construction activity that is either a primary or secondary operator as defined below:

*Primary Operator:* the person or persons associated with a large or small construction activity that meets either of the following two criteria:

- a. The person or persons have operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
- b. The person or persons have day-to-day operational control of those activities at a construction site that are necessary to ensure compliance with a stormwater pollution prevention plan (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).

*Secondary Operator:* The person whose operational control is limited to the employment of other operators or to the ability to approve or disapprove changes to plans and specifications. A secondary operator is also defined as a primary operator and must comply with the permit requirements for primary operators if there are no other operators at the construction site.

\* Operator status is initiated when the person or persons have:

- a. Signed an option contract on a property and have advertised their name in association with that property (based on case law); or
- b. Applied for building permits for the property through City of Abilene Building Inspection Division; or

c. Commenced construction.

\*\* Clarifications include:

a. If a person can go to the site and direct workers (other than their own personnel) they may be an operator.

b. If a general contractor is directed by an engineering firm, both the owner & general contractor are required to submit an NOI. The engineering firm would be acting as an agent for the owner and would not be considered an operator.

*Permitee:* An operator authorized under the TPDES General Permit TXR150000. The authorization may be gained through submission of a notice of intent, by waiver, or by meeting the requirements for automatic coverage to discharge stormwater runoff and certain non-stormwater discharges.

*Pollutant:* (from the Texas Water Code, Chapter 26) Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, filter backwash, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into any surface water in the state. The term “pollutant” does not include tail water or runoff water from irrigation or rainwater runoff from cultivated or uncultivated rangeland, pastureland, and farmland. For the purpose of this permit, the term “pollutant” includes sediment.

*Small Construction Activity:* Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one (1) acre and less than five (5) acres of land. Small construction activity also includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one (1) and less than five (5) acres of land. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, and original purpose of the site (e.g., the routine grading of existing dirt roads, asphalt overlays of existing roads, the routine clearing of existing right-of-ways, and similar maintenance activities).

*Stormwater:* Rainfall runoff, snowmelt runoff, and surface runoff and drainage.

*Structural Control:* A pollution prevention practice that requires the construction of a device, or the use of a device, to capture or prevent pollution in stormwater runoff. Structural controls and practices may include but are not limited to: silt fences, earthen dikes, drainage swales, sediment traps, check dams, subsurface drains, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and temporary or permanent sediment basins.

## *SWPPP: Stormwater Pollution Prevention Plan*

*Temporary Stabilization:* A condition where exposed soils or disturbed areas are provided a protective cover or other structural control to prevent the migration of pollutants. Temporary stabilization may include temporary seeding, geo-textiles, mulches, and other techniques to reduce or eliminate erosion until either permanent stabilization can be achieved or until further construction activities take place.

*\*Legal interpretation has been provided by City of Abilene Legal Department and Stormwater Services Division.*

*\*\*Interpretation provided by TCEQ.*



# Construction Site Stormwater Runoff Prevention Inspection Guideline

Pursuant to the Texas Pollutant Discharge Elimination System (TPDES) permit (#WQ0004692000) issued by the Texas Commission on Environmental Quality (TCEQ) to the City of Abilene (City) for the Municipal Separate Storm Sewer System (MS4), the City is implementing this Construction Site Stormwater Runoff Prevention Inspection Guideline. The purpose of this guideline is to satisfy the requirements promulgated in the TPDES permit regarding the implementing of "...a program to reduce the discharge of pollutants into the MS4 from constructions sites". Construction site activities shall be conducted in a manner as to meet the minimum requirements mandated in the TPDES General Permit No. TXR150000 (General Permit)(see Attachment E). The General Permit is required by the TCEQ for any construction site equal to or greater than one ( $\geq 1.0$ ) acre in area (see-TPDES Permit TXR150000 Part II for exceptions).

Four objectives should be met during a routine compliance inspection. The inspection should be performed in a manner designed to:

- Determine compliance status with TPDES regulations, permit conditions, and other program requirements,
- Verify the accuracy of information submitted by permittee,
- Verify the adequacy of installed Best Management Practices (BMP) conducted by the permittee, and
- Gather evidence to support any enforcement actions.

The following guideline shall serve as a procedure to implementing the City of Abilene's stormwater inspection established for construction site stormwater runoff.

## **Part I. Notice of Intent (NOI) or a Construction Site Notice (CSN)**

Operators of subject construction sites within the service area are required to submit a copy of the *Notice of Intent* (NOI) and/or a *Construction Site Notice* (CSN) to the Stormwater Services Division (SWSD) in the Public Works Department.

- a. The General Permit and the City of Abilene's Stormwater Ordinance require that operators of construction site activities submit a copy of the NOI and/or the CSN; whichever is required, to the operator of the MS4. The original NOI must be submitted to the TCEQ.

- b. The operator of the MS4 should receive the NOI and/or CSN prior to commencement of construction activities as specified in TPDES TXR150000 Part II.E. However, there are conditions when a CSN is not required (see TPDES Permit TXR15000 Part II.G).
- c. The SWSD will maintain a list and track all construction site activities subject to the General Permit, which are subject to the TPDES Permit TXR150000.

## **Part II. Review of NOI/CSN**

A SWSD representative shall review the NOI/CSN to determine whether a Stormwater Pollution Prevention Plan (SWPPP) has been developed. This requirement shall be notated on the NOI/CSN to aid the representative during site inspections. Additionally, the SWSD representative will review the NOI/CSN to verify that the correct information, per the General Permit, is provided.

- a. If the information provided in the NOI/CSN is found to be incorrect or incomplete, the SWSD representative shall contact the operator that submitted the NOI/CSN to obtain the missing or incorrect information. The SWSD representative will neither complete nor correct the NOI/CSN, however; an attachment will be affixed to the NOI/CSN with the obtained information. The operator will be informed if a Notice of Change (NOC) is required to be submitted to the TCEQ and the MS4 operator.

## **Part III. Small Construction Sites**

A small construction site includes land disturbance that is equal to or greater than one ( $\geq 1.0$ ) acre and less than five acres ( $< 5.0$ ), or land disturbances less than one ( $< 1.0$ ) acre but part of a larger common plan that disturbs between one and less than five acres.

- a. Operators of small construction activities may be automatically authorized under the General Permit, and are not required to submit an NOI provided they:
  - i. Develop an SWPPP according to the provisions of the General Permit, which covers either the entire site or the portions of the site for which the applicant is the operator.
  - ii. Submit the proper Small Construction Site Notice to the MS4 operator two days prior to commencing of construction activities.
  - iii. Implement the SWPPP prior to commencing construction activities.

- iv. Post a copy of the proper Small Construction Site Notice at the construction site.

## **Part IV. Large Construction Sites**

A large construction site includes land disturbance that is equal to or greater than five ( $\geq 5.0$ ) acres, or land disturbance less than five ( $< 5.0$ ) acres but part of a larger common plan of development or sale that ultimately disturbs five acres or more.

- a. Operators of large construction sites must perform the following requirements established by the General Permit:

- i. Develop an SWPPP according to the provisions of the General Permit, which covers either the entire site or the portion of the site for which the applicant is the operator.
- ii. Determine if role is of a primary operator or secondary operator as defined by TCEQ Construction General Permit TXR150000.

- 2. Primary operators shall:

- a. Submit an NOI to Texas Commission on Environmental Quality (7) days prior to commencement of construction if submitting by regular mail or prior to commencement if submitting electronically.
- b. Submit a copy of the NOI to the City of Abilene Stormwater Services Division at least (7) days prior to commencement of construction.
- c. Submit copy of NOI to any secondary operators at least (7) days prior to commencement of construction.
- d. Post copy of Large Construction Site Notice "Primary Operator Notice" and NOI on-site prior to commencement of construction.
- e. If the primary operator changes after the initial NOI is submitted, the new primary operator must submit a paper or electronic NOI at least (10) days prior to assuming operational control.

- 3. Secondary operators shall:

- a. Submit a copy of the Large Construction Site Notice "Secondary Operator Notice" to the City of

Abilene (7) days prior to commencement of construction.

- b. Post a copy of the Large Construction Site Notice “Secondary Operator Notice” on-site prior to commencement of construction.

## **Part V. Inspector Responsibility**

The primary role of the SWSD Inspector is to gather site information that can be used to determine the reliability of the permittee’s BMPs, evaluate compliance with permit conditions, review the Stormwater Pollution Prevention Plan (SWPPP), and other applicable regulations. The SWSD inspector also plays an important role in case development and support. To fulfill these roles, inspectors are required to know and use policies and procedures for effective inspections and evidence collection; accepted safety practices; and quality assurance standards.

- a. Inspectors must conduct all inspection activities within the legal framework established by the City Ordinance, including:
  - i. Presenting proper credentials, if requested.
  - ii. Properly handling confidential business information.
- b. Inspectors must be familiar with the conditions of the TCEQ’s TPDES Permit TXR150000, the Clean Water Act, and the City Ordinance.
- c. Inspectors must be familiar with general inspection procedures and evidence collection techniques to ensure adequate inspections and to avoid endangering potential legal proceedings on procedural grounds.
- d. Inspectors should observe standard procedures for conducting each inspection element. The elements of the inspection process are common to most NPDES/TPDES compliance inspections. They are grouped by major inspection activities:
  - i. Pre-inspection preparation
  - ii. Entry
  - iii. Opening conference (if operator available)
  - iv. Facility inspection and SWPPP review
  - v. Closing conference (if operator available)
  - vi. Inspection report
- e. Inspectors shall receive continuing education, as deemed necessary by the Administrator, and shall include at a minimum:
  - i. Ability to substantiate facts with items of evidence, including samples, photographs, document copies, statements from witnesses, and personal observations.

- ii. Skill to evaluate what evidence should be collected during routine inspections and follow-up inspections.
  - iii. Capability to assess and authorize effective BMPs.
  - iv. Aptitude to write clear, objective, and informative inspection reports.
- f. Inspectors are expected to perform their duties with the highest degree of professionalism. Procedures and standards of conduct listed below have evolved for the protection of the individual and the City of Abilene, as well as the industry.
  - i. All inspections are to be conducted within the framework of the City's Code of Ordinance and the City of Abilene's "Policies and Procedures Manual" and with due regard for individual rights regardless of race, sex, religion, or national origin.
  - ii. Inspectors are to conduct themselves at all times in accordance with the regulations prescribing employee responsibilities and conduct.
  - iii. The field notes of an inspection are to be transcribed and reported completely, accurately, and objectively.
  - iv. In the course of an inspection, any act or failure to act motivated by reason of private gain is illegal. Actions that could be construed as such should be carefully avoided.
  - v. A continuing effort should be made to improve professional knowledge and technical skill in the inspection field.
- g. The inspector is a representative of the City of Abilene and is often the initial or only contact between the City and the permittee. In dealing with facility representatives and employees, inspectors must be professional, tactful, courteous, and diplomatic. A firm but responsive attitude will encourage cooperation and initiate good working relations. Inspectors should always speak respectfully of any product, manufacturer, or person.
- h. Inspectors should dress appropriately, including wearing protective clothing or equipment for activity in which they are engaged.
- i. Inspectors may not accept favors, benefits, or job offers under circumstances that might be construed as influencing the performance of civic duties. It is prudent to avoid even the appearance of compromising these situations. If offered a bribe, the inspector must not accept money or

goods. Since this act may violate federal, state, municipal laws, and may also violate criminal statute, report the incident in detail as soon as possible to the Administrator.

## **Part VI. Inspector Quality Assurance Responsibilities**

The inspector must assume primary responsibility for ensuring the quality and accuracy of the compliance inspection. While other organizational elements play an important role in quality assurance, it is the inspector who must ensure that all data introduced into an inspection file are complete, accurate, and representative of existing conditions. The inspector must be aware that following established inspection procedures are critical to the inspection program.

## **Part VII. Inspection Authority**

Under Section 32-242(a-g) (Access to industrial facilities and construction sites) of Article VII of the Municipal Drainage Utility – Stormwater Protection, of the City of Abilene Code of Ordinance, facility owners and operators shall allow the Administrator ready access to applicable sections of public and private premises for the sole purpose of inspection, surveillance, and monitoring for the presence of illegal discharges to the MS4, illicit connections to the MS4, and assessment of any portions of a regulated facility influenced by stormwater runoff that may adversely affect the MS4 and/or waters of the United States. The intent of these inspections shall be to determine compliance with the conditions of the City's TPDES permit, any NPDES/TPDES general permit the facility is currently obligated to for industrial and construction activities, and this ordinance.

## **Part VIII. Safety Responsibility**

The inspection of construction sites always poses a certain degree of health and safety risk. To avoid unnecessary risks, the inspector should be familiar with all safety obligations and practices. The safety equipment and procedures required for an inspector will be based on standard safety measures or the sites safety procedures.

- a. Inspectors should, at a minimum, do the following:
  - i. Use safety equipment in accordance with available guidance and labeling instructions.
  - ii. Maintain safety equipment in good condition and proper working order.

- iii. Dress appropriately for the particular activity and wear suitable protective clothing.
- iv. Use any safety equipment customary in the establishment being inspected (e.g., hard hat, protective gloves, or safety glasses).
- v. Never enter confined spaces unless properly trained, equipped, accompanied, and permitted.

## **Part IX. Construction Site Pre-Inspection Preparation**

Prior to initial construction site inspections the SWSD inspector shall prepare a Construction Site Inspection folder to assist the inspector during site inspection activities. For subsequent inspections, the inspector shall gather historical data from the site and prepare protocol for the inspection.

- a. The folder shall contain, at a minimum, the following information:
  - i. Copy of the NOI and/or CSN
  - ii. A GIS map covering the area of construction with any local stormwater outfalls appropriately marked.
  - iii. The Construction Site Inspection Checklist (see attachment B).
- b. The inspector shall perform the following pre-inspection preparation:
  - i. Establish purpose and scope of inspection.
  - ii. Review historical data.
  - iii. Develop plan for inspection.
  - iv. Prepare documents and equipment, including appropriate safety equipment.

## **Part X. Construction Site Inspection Schedule**

The SWSD representative shall schedule a date to perform the initial construction site inspection(s). The SWSD representative is not required to notify the construction site responsible party prior to inspection. The inspector will prepare the scheduled inspection(s) in an efficient manner as to perform several site inspections in a single day, if necessary.

- a. The initial site inspection will be performed within thirty (30) days after receipt of the NOI/CSN.

- i. The City assumes that thirty days will provide sufficient time to allow the operator to implement soil erosion controls (SEC) established in the site-specific SWPPP.
  - ii. The City assumes that the thirty days will provide sufficient time to allow the operator to initiate construction activities to begin, once implementation of the SWPPP's SEC plans are complete.
- b. The City goal is to perform site inspection(s) on a rotational basis where commercial construction sites will be inspected, at a minimum, monthly and single family residence construction will be inspected quarterly. Inspections will also be conducted during times of significant rainfall when it appears that introduction of pollutants to the MS4 may occur.
  - i. The City will perform as many site inspections during a significant rainfall event as feasibly possible.
  - ii. Priority will be considered relevant to the following parameters:
    - 1. Past violations of the General Permit or City Ordinance.
    - 2. Questionable best management practices (BMPs) noted during previous inspections.
    - 3. Construction sites in very close proximity to surface water.
    - 4. Large construction activity.
    - 5. Small construction activity.

## **Part XI. Construction Site Entry**

The inspector shall identify self and present official credentials to the construction site personnel. The inspector is not to release his credentials or allow the facility to photocopy them. If the inspector is denied entry, they are to contact the SWSD Administrator. Construction sites within the city limits of the City of Abilene are required by section 32-242(a-g) of the City Ordinance to permit City inspectors on-site to perform the inspections described in this guidance documents.

## **Part XII. Construction Site Opening Conference**

The inspector shall conduct a brief opening conference with the construction site operator(s) (if on-site and available) to discuss the objectives and scope of the ensuing inspection. If the site operator is not on-site or readily available, the inspector shall proceed with the inspection.



- a. The inspector shall endeavor to establish a working relationship with construction site officials.
- b. The inspector shall review any safety protocol for the construction site (if available) and perform the inspection in regard to prescribed safety practices.
- c. The inspector shall explain to the construction site officials the objectives and scope of the inspection.
  - i. The inspector should allow the construction site officials to communicate any questions regarding the inspection at this time.
- d. The inspector shall provide educational documents, prepared by the City, to the on-site operator to aid in proper strategies for compliance.

### **Part XIII. Construction Site Inspection Procedures**

Upon inspection of a construction site, the inspector is to perform assessment of the site in accordance with the TCEQ's General Permit, the City's MS4 permit, and the City's Stormwater Ordinance. The inspector will utilize the appropriate Construction Site Inspection Checklist during the site visit to assure that all aspects of the inspection are detailed. During the inspection the inspector will verify what permits, notices, and plans are required for the construction site. Stormwater inspections are designed to ensure that construction site operators have acquired an NPDES/TPDES permit for stormwater discharge and prepared and implemented an SWPPP. During the inspection, the inspector will review the permit and the SWPPP to determine whether the SWPPP meets the requirements set forth in the General Permit and that the SWPPP is being implemented correctly. The inspector also may review records, such as self-inspection reports and maintenance schedules to verify that the construction site is complying with its permit and the SWPPP. The inspector shall walk the site to verify that the SWPPP is accurate and BMPs are in place and functioning properly.

- a. Review the construction site stormwater documentation and plans.
  - i. The site inspector shall verify that the NOI/CSN are signed correctly and displayed in a manner as to be readily available for viewing by the general public, local, state, and federal authorities. The NOI and/or CSN shall be posted prior to commencing of construction activities. Postings that are illegible, faded, or for other reasons unable to be read will be considered out of compliance and the operator will be asked to replace the posting(s).

- ii. The site inspector shall verify that the SWPPP is readily available for viewing.
  - 1. The SWPPP shall be developed and implemented according to the provisions established in the General Permit.
  - 2. The SWPPP shall be implemented prior to initiation of construction activities.
  - 3. The site inspector may review the SWPPP, as necessary; to assure that it is being implemented correctly.
  - 4. The SWPPP must be updated, as necessary; to reflect the changing conditions of new operators, new areas of responsibilities, changes in BMPs and/or other conditions established in the General Permit.
  
- b. Conduct visual inspection of the construction site, which shall include at a minimum the following.
  - i. Disturbed sediment areas,
  
  - ii. Areas used for storage of materials or equipment exposed to precipitation,
  
  - iii. All stormwater outfalls from the construction site,
  
  - iv. Sediment and erosion control measures,
  
  - v. Locations where vehicles enter or exit the site, and
  
  - vi. Source control BMP's and treatment control BMP's.
    - 1. It is neither the intent nor responsibility of the inspector to dictate the use of specific BMPs (this will be relegated by the owner and/or operators of the construction site), but rather to provide a professional assessment on selection and applicability of the appropriate BMPs for a given situation and/or site conditions.
  
  - vii. The site inspector shall determine if any construction support activities (i.e. concrete batch plants, asphalt batch plants, equipment staging areas, material storage yards, material borrow areas, excavated material disposal, etc.) are present and if these activities should be covered under the General Permit and City's Ordinance.

1. The construction support activities must be within one mile of the boundary of the permitted construction site and directly support the construction activity.
  2. The SWPPP shall be developed to encompass the construction support activities.
  3. The construction support activities shall not operate beyond the completion of the construction activity, if this occurs, a separate General Permit must be obtained.
- viii. The site inspector shall inspect the construction site area to determine if the operator has implemented good housekeeping BMP's (litter control) also imposed by the City's Building Code Ordinance.
- c. Review construction site records.
- i. If the inspector deems it necessary, the facility is to provide records related to the NPDES/TPDES permit to the inspector. These records may include, but not limited to:
    1. BMP maintenance records
    2. Self-inspection reports
    3. Local precipitation records
    4. Records of waste levels in the retention structure
    5. Construction plans or As-built plans for the construction site
    6. Waste management documents
    7. Waste disposal records
- d. Document inspection activities.
- i. The inspector shall complete the applicable Construction Site Inspection Checklist and the City of Abilene Exit Interview Form (as necessary) prior to leaving the site.
  - ii. The inspector shall take field notes, photographs of violations & corrective actions, and notate any pertinent information discovered during the inspection.

#### **Part XIV. Construction Site Closing Conference**

At the conclusion of the inspection, the inspector shall conduct a closing conference with the construction site official(s) (if available). At this time, the inspector shall:

- a. Collect any additional or missing information.
- b. Clarify questions with construction site officials.
- c. Review inspection findings and inform officials of follow-up procedures.
- e. Issue City of Abilene Exit Interview Form in person if possible or by mail, e-mail, or fax as requested by site operator.

#### **Part XV. Construction Site Inspection Report**

The inspector shall organize inspection findings in a report with field notes, inspection checklists, file photographs, and any other relevant information.

- a. This data shall be entered into the City's MS4 Permit Manager software or other software developed to maintain historical data of site inspections.
- b. The inspection shall be documented in the Construction Site Inspection Log.
- c. The City shall maintain all hard copies for at least three years.
- d. The Administrator may, on a case-by-case basis, review the construction site inspection reports.

#### **Part XVI. Follow-up Inspection(s)**

A follow-up inspection will be conducted when a violation has been identified. For a follow-up inspection, the appropriate resources are to be assembled to deal effectively with a specific enforcement issue.

- a. A follow-up inspection may occur without an enforcement issue being indicated. Since construction sites may be in operation for several months it may be necessary to conduct additional site inspections to assure that compliance is being maintained.

## **Part XVII. Construction Site Inspection Non-Compliance**

The construction site inspector is to note any observed non-compliance issues on the applicable Construction Site Inspection Checklist. The inspector is to address any concerns with the on-site operator or operator representative(s).

- a. The inspector shall use the following considerations in determining whether a site is in non-compliance. This list of parameters is not inclusive and is only to be considered as a guideline during site inspections. The site inspector is provided liberal scope during inspection activities to assure construction sites remain in compliance and that the City of Abilene's MS4 is protected from the introduction of pollutants.
  - i. The NOI and/or CSN are located in a viewable location and signed by the appropriate responsible party.
  - ii. The SWPPP is readily available for review.
  - iii. Assure that all BMP's established in the SWPPP are implemented as designed.
  - iv. Soil erosion controls have been implemented to prevent discharges to the MS4.
  - v. Structural controls have been implemented to prevent discharges to the MS4.
  - vi. Stabilization controls have been implemented to prevent discharges to the MS4.
  - vii. Waste management controls have been implemented to prevent discharges to the MS4.
  - viii. Outfall velocity controls have been implemented to prevent discharges to the MS4.
- b. The inspector will notate any areas of non-compliance on the applicable Construction Site Inspection Checklist. These non-compliance observations will be presented to the on-site operator official(s) on the City of Abilene Exit Interview Form in writing, via e-mail, mail, or fax. The inspector will convey to the construction site official(s) the corrective actions to remedy the non-compliance issues into conformity with the General Permit, MS4 permit, and local ordinances and standards.
  - i. The inspector will utilize the structure in Attachment A (Stormwater Construction Site Inspection Protocol Chart) to obtain construction site compliance. The inspector shall assist the operator in achieving compliance for non-compliance issues.

1. Voluntary compliance is sought initially with a 5 working days time frame for compliance. A shorter time frame may be implemented if there is a greater risk for discharge to the MS4 or there is a poor compliance history with the operator. The inspector is given latitude based on site conditions on the turn-around time for compliance.
  2. If a Notice of Violation is issued, generally, 2 working days from receipt or denial of the certified letter is granted for compliance. If the non-compliance issue is for not submitting or posting the appropriate notice, 5 working days are typically granted to allow for time to develop an SWPPP & obtain appropriate signatures.
- ii. The Stormwater Services Division retains the authority to notify the local TCEQ representative if the operator is in gross negligence and is unable or unwilling to obtain compliance with the General Permit.
1. The inspector will provide areas of non-compliance and a brief history of voluntary compliance efforts to the TCEQ representative.
  2. The City inspector will work together with the TCEQ representative on the construction site non-compliance issues.

## **Part XVIII. Post-Construction Activity**

At the conclusion of construction activities the operator is to submit the proper termination documentation and finalize the construction of the site as applicable.

- a. The operator of the construction site must complete final stabilization activities, per the General Permit, before the site can be considered closed.
- b. Site Termination Notification
  - i. Primary operators of a large construction site must submit a Notice of Termination (NOT) to the TCEQ and the MS4 operator.
  - ii. Secondary operators of large construction site must submit a completed Large Construction Site Notice “Secondary Operator Notice” to the MS4 operator or provide alternative notification.

- iii. Operators of a small construction site must submit a completed Small Construction Site Notice to the MS4 operator or provide alternative notification.

## **Part XIX. Enforcement**

Under Section 32-336 and 32-338 of Article VI of the Municipal Drainage Utility – Stormwater Protection, of the City of Abilene Code Ordinance, the Stormwater Services Division retains the authority to administer Notice of Violations (NOV) for “a failure to maintain a facility in conformance with this ordinance, or any other violation of this ordinance”.

- a. The NOV shall be mailed via certified mail with a 3 day return request.
- b. If an operator has been issued an NOV for non-compliance with a specific issue and is found to be in non-compliance on the same job site (i.e. subdivision) for the same issue within a reasonable period of time, an additional NOV is not required. The inspector may mark the checkbox (in lieu of sending an NOV) on the City of Abilene Exit Interview Form (Attachment B) that references this scenario.
- c. The elements of the enforcement process will be imposed in a tiered approach to allow for facility voluntary compliance, where applicable. If the Administrator determines that a construction site is working in gross negligence, refuses to perform voluntary compliance, or is operating in a manner that presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, to the MS4, or waters of the United States, the initial notice of violation may be escalated immediately to stop work order or monetary penalties. The Administrator will use the following tiered progression in issuing out enforcement actions.
- d. Voluntary compliance
  - i. The City shall retain the authority to instruct an operator of a facility that commits any acts prohibited by the City Ordinance to achieve voluntary compliance as determined by the Administrator.
  - ii. The schedule to obtain voluntary compliance will be assessed on a case-by-case basis by the Administrator.

- e. Stop work orders (Section 32-340)
  - i. The Administrator shall retain the authority to issue stop work orders for any facility that commits any act prohibited by the City Ordinance.
  - ii. If the Administrator determines that voluntary compliance is not feasible, that a facility is operating in a dangerous or unsafe manner, or that conditions exist at a facility that may lead to an illicit discharge, upon written notice and issuance of a stop work order by the city, such work or conditions shall be immediately terminated or remedied.
  - iii. The City of Abilene Building Inspection Division shall be notified when a stop work order is issued and released. An e-mail shall be sent to the Assistant Building Official and the Building Official shall be copied. Building Inspection will not issue permits or conduct inspections if a stop work order has been issued on a property.
  - iv. A citation may be issued to any and all responsible parties if work is conducted on a site where a stop work order has been posted.
  - v. A Notice of Enforcement shall be provided to the owner, operator, or responsible party of the facility and shall state the conditions under which work may be resumed.
  - vi. When an emergency exists, as deemed by the Administrator, written notice shall not be required to issue a stop work order.
- f. Penalties and Violations (Section 32-341)
  - i. Violations of the City Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor.
  - ii. Any person who violates this subpart or fails to comply with any of its requirements shall upon conviction thereof be fined in accordance to Chapter 1 of the Code against the person for each violation.
  - iii. Each day such violation continues shall be considered a separate offense.
  - iv. The owner or operator of any facility, structure, premise, or part thereof, and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties contained in the Code.



## **Part XX. Appeals, Interpretation, and Variance**

All appeals will be forwarded to the District Court.