

# **University of Nebraska Lincoln**

## **Stormwater Enforcement Response Plan**

### **Introduction**

This Enforcement Response Plan applies to illicit discharges to UNL's SMS4, or other violation of Construction or Post-Construction requirements defined in UNL's Storm Water Management Plan. For the purposes of this plan, there are five potential source categories of violations, as listed below. UNL's specific response procedures vary with each potential source category, but the ultimate goal remains the same- to stop illicit discharges and achieve compliance with all applicable stormwater regulations. This Enforcement Plan has been created to address non-compliance situations that may directly and negatively impact storm water quality rather than minor record-keeping issues. However, non-compliance with record-keeping requirements will still be documented in audit reports and EHS will continue to work with the responsible parties to maintain compliance with all record-keeping requirements.

Below are the five potential source categories addressed in this Plan:

1. Discharges associated with construction sites that are operated by a general contractor
2. Discharges associated with a contractor hired by UNL to conduct a municipal maintenance activity
3. Discharges associated with a UNL employee
4. Discharges associated with activity by a UNL student
5. Discharges associated with activity by a campus visitor

### **Immediate Threat to Human Health or the Environment**

Regardless of the source, any illicit discharge that is believed to be an immediate threat to human health or the environment will be immediately reported to NDEE, bypassing all internal warnings and/or notifications otherwise prescribed by this Plan, and the responsible party will be ordered to take immediate action to stop the discharge.

### **Construction Sites Operated by a General Contractor**

EHS conducts regular inspections of permitted construction sites to evaluate the contractor's adherence to permit conditions, continual effectiveness of the site SWPPP, and proper construction of post-construction stormwater controls. When site conditions are non-conforming, but are not an immediate threat to human health or the environment, the following progressively stricter responses will be taken to achieve compliance.

1. EHS will discuss observations with the Contractor's designated representative at the time of inspection and attempt to achieve compliance immediately.
2. If compliance is not achieved at the time of inspection through discussion and action by the Contractor's representative, EHS will issue a written "Notice to Comply." The written notice will be transmitted to the Contractor's representative within 48 hours of the

inspection. The Notice to Comply will contain due dates for achieving compliance which are consistent with the Construction General Permit and will require written communication from the Contractor's representative that compliance has been achieved by the stated requirement to respond due date. For post-construction controls a due date is not required but a reasonable amount of time will be given based on site and seasonal conditions.

3. If a reasonable condition exists where achieving compliance is not practicable within or nearly after the stated requirement to respond due date, other comparable and alternative BMPs must be agreed upon and implemented as soon as possible. If the Contractor's representative fails to provide a written or verbal response to the Notice to Comply that compliance has been achieved within the stated requirement to respond due date, and cannot provide a reasonable explanation as to the delay in achieving compliance (i.e., controls delayed in transit, staff reduction due to illness, etc.), EHS will then issue a written "Notice of Violation" and transmit it to the Contractor's representative. The Notice of Violation will demand a written response from the Contractor's representative as soon as possible, but in no case later than 3 working days.
4. If the Contractor's representative fails to provide written response to the Notice of Violation that compliance has been achieved, EHS will conduct a second site inspection to determine whether corrective action has been implemented. If the non-compliance still exists, UNL will issue a written Administrative Order and transmit it to both the Contractor's representative, Contractor's upper management, and all individuals required to receive notice under the applicable contract. The Order will contain the following information:
  - a. Explain failures of the company's project team and enforcement steps that have been taken thus far.
  - b. Explain that if the non-compliance is not corrected within 3 days, UNL will hire another contractor to correct the problem and/or notify NDEE. If another Contractor is hired to correct the problem the non-conforming Contractor will be charged all associated costs and profits.
  - c. Explain that if problems continue on site, NDEE will be called to investigate and that NDEE has the authority to impose administrative penalties.
  - d. Explain that non-compliance will be documented in Project Evaluations and that non-conformance will be considered in evaluating bids submitted by the Contractor for future projects.

In addition, EHS will contact University legal counsel to discuss potential claims against the Contractor.

## **Municipal Maintenance Activities by a Contractor**

When EHS becomes aware that a Contractor hired by UNL has violated a requirement of UNL's Storm Water Management Plan, EHS will immediately notify the person of authority in the hiring department of the nature of the problem and actions that need to be taken to restore compliance. EHS will also inform the on-site worker of the violation and need for immediate action to restore compliance. EHS will notify Contractor's management contact and insist that they take action to inform and educate their workers regarding provisions of UNL's Storm Water Management Plan. EHS will remind both the Contractor and the on-site worker that violations are a work performance deficiency and continued failure to adhere to requirements will negatively impact the Contractor's ability to qualify to do business with UNL.

If the Contractor continues to disregard UNL's Storm Water Management Plan, EHS will augment the above actions with a written "Notice of Violation" sent to the Contractor and will copy this to the UNL hiring department and the UNL authority in charge of awarding such contracts. The letter will reiterate that continued eligibility to do business with UNL is contingent upon future compliance with storm water requirements and demand that the Contractor provide a written plan of action to establish compliance and prevent future areas of noncompliance. EHS will also ask that the UNL hiring department consider the Contractor's failure to comply when awarding future contracts.

If the contractor continues to disregard UNL's Storm Water Management Plan, EHS will lobby the highest campus authority responsible for contract awards to have the Contractor banned from working on UNL projects that could impact storm water for an agreed upon time. In addition, EHS will contact University legal counsel to discuss potential claims against the Contractor.

## **UNL Employee Responsible for a Discharge**

When EHS becomes aware that a UNL employee has violated a requirement of UNL's Storm Water Management Plan, EHS will order the employee to immediately cease the non-conforming activity. EHS will then train the employee on applicable requirements and procedures and inform the employee that his/her actions are in violation of UNL policy, rule, or regulation, and/or federal, state, or local law and that UNL's Human Resource Policies require compliance with state and federal law, as well as published rules, regulations, policies, and procedures of his/her department and the University. The employee will be informed that continued or future failure to comply will cause EHS to report the violation to UNL Human Resources and the employee's supervisor for possible corrective action.

If the employee commits any further violations of UNL's Storm Water Management Plan, EHS will order the employee to immediately cease the non-conforming activity and will escalate reporting of the violation to UNL Human Resources and the employee's supervisor for corrective action as needed.

## **UNL Student Responsible for a Discharge**

When EHS becomes aware that a UNL student has violated a requirement of UNL's Storm Water Management Plan, EHS will order the student to immediately cease the non-conforming activity. EHS will then train the student on applicable requirements and procedures and inform the student that his/her actions are in violation of UNL policy, rule, or regulation, and/or federal, state, or local law and that it is a violation of the UNL Student Code of Conduct to violate any UNL policy, rule, or regulation, as well as any federal, state, or local law. The student will be informed that continued or future failure to comply will cause EHS to report the violation to the UNL Dean of Students for possible action under the Student Code of Conduct.

If the student commits any further violations of UNL's Storm Water Management Plan, EHS will order the student to immediately cease the non-conforming activity and will escalate reporting of the violation to the UNL Dean of Students for possible actions under the Student Code of Conduct.

## **UNL Visitor**

When EHS becomes aware that a UNL visitor has violated a requirement of UNL's Storm Water Management Plan, EHS will order the visitor to immediately cease the non-conforming activity. EHS will then train the visitor on applicable requirements and procedures and inform them that their actions are in violation of UNL policy, rule, or regulation, and/or federal, state, or local law. The visitor will be informed that continued or future failure to comply will cause EHS to report the violation to UNLPD as well as State and local authorities (e.g., City of Lincoln, NDEE, etc.).

If the visitor has a second violation of UNL's Storm Water Management Plan, EHS will order the visitor to immediately cease the non-conforming activity and will escalate reporting of the violation to UNLPD as well as State and local authorities (e.g., City of Lincoln, NDEE, etc.).