



# Enforcement Response Plan (ERP) Guidance Document

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\* denotes compliance tools used within the non-standard permit area

## **1. INTRODUCTION**

The Southeast Metro Stormwater Authority (SEMSWA) has adopted rules and regulations, as authorized by Section 29-1-204.2, C.R.S, as may be amended, pertaining to compliance with and enforcement of its Municipal Separate Storm Sewer System (MS4) Permits as issued by the Colorado Department of Public Health and the Environment (CDPHE) under their Colorado Discharge Permit System (CDPS) (referred to as MS4 permits).

SEMSWA has been issued CDPS General Permits COR070225 (non-standard permit) and COR080021 (standard permit) for Stormwater Discharges associated with MS4s that discharge to the Cherry Creek Reservoir Drainage Basin and are located within the SEMSWA Service Area. This document will provide the Enforcement Response Plan (ERP) for a non-compliance or violation within SEMSWA's Service Area associated with the MS4 permits.

SEMSWA also administers and carries out responsibilities directly related to stormwater programs in accordance with the Arapahoe County MS4 Permit as authorized in Resolution 09-11, *Authorization to Execute a Memorandum of Understanding with Arapahoe County to address the implementation of stormwater management activities for Arapahoe County's NPDES MS4 permit* (MOU), and the applicable Standard Operating Procedures referenced in the MOU. Arapahoe County has adopted an Enforcement Response Plan for the County's MS4 Permit as Resolution 190348. Where the Arapahoe County Enforcement Response Plan and this ERP substantively differ, the Arapahoe County ERP shall prevail.

## **2. DISCUSSION**

The purpose and intent of the ERP is to ensure the health, safety, and general welfare of citizens, and to protect and enhance the water quality entering the MS4 in a manner pursuant to and consistent with the MS4 permits, applicable state laws, and the Federal Clean Water Act. This can, in part, be achieved through effective, clear, and defensible enforcement processes that are documented in referenced SOPs.

This ERP documents SEMSWA's enforcement process for violations associated with three MS4 program areas: Construction Sites; Post-Construction Stormwater Management for New Development and Redevelopment; and Illicit Discharge, Detection and Elimination (IDDE). SEMSWA's enforcement rules and regulations are authorized by the adoption of this ERP, including the Appendices, the Grading and Erosion and Sediment Control Manual (GESC), the Stormwater Management Manual (SMM), and Fee Schedule, collectively referred to as the Regulatory Mechanisms.

The penalties contained in this document, including by reference, represent SEMSWA's comprehensive enforcement toolbox, which generally escalates in severity and at SEMSWA's discretion. Not all enforcement tools will fit a non-compliance issue and not all remedies will follow the implied order of enforcement tool escalation.

These enforcement tools are intended to be used in appropriate situations based on the severity of the violation, with a priority placed on achieving compliance through educational opportunities whenever reasonably possible. Cases with high severity, especially those threatening the health, safety and welfare of the public and/or resulting in a potential violation to the MS4 permits may be escalated to the most effective penalty. No remedy provided shall be exclusive. All remedies may be cumulative and available concurrently. Any action, including an allegation or determination of violation, will not preclude or prevent any other action to abate any violation. Any application of these penalties that is a civil action will not prevent the commencement or application of any other allegations brought pursuant to any other provision of law. Any and all of the penalties established herein may be imposed immediately upon a violation occurring even in cases where the violation has ceased and/or is being abated.

### **3. REGULATORY MECHANISMS AND LEGAL AUTHORITY**

#### *SEMSWA Non-Standard Permit Area*

The Non-Standard Permit requires the permittee and the County partnership to be documented in an MS4 participation agreement whereby the Non-Standard permittee is excluded from the Non-Standard permit requirements for the applicable construction and post-construction activities and allows the Standard Permittee full authority to implement its construction and post-construction programs within the Non-Standard permittee's jurisdictional boundary in accordance with the Standard Permit requirements. SEMSWA has a participation agreement with Douglas County (Resolution 21-24) and a participation agreement with Arapahoe County (Resolution 09-11).

All authorized work completed by contractors within SEMSWA's non-standard permit areas is performed with signed contracts that include the following, or substantively similar, language: "CONTRACTOR will take all measures necessary to prevent pollutants from entering the municipal separate storm sewer system (MS4) and watercourses. To minimize or eliminate stormwater pollution, CONTRACTOR shall implement effective Stormwater Control Measures (SCMs). These SCMs shall be maintained for the duration of this Contract. CONTRACTOR shall also be responsible for proper disposal of all waste materials, including wastes generated by the implementation of SCMs. Contractor shall otherwise comply with the Federal Clean Water Act; Colorado Water Quality Control Act; the applicable SEMSWA and/or Arapahoe County Grading, Erosion, and Sediment Control (GESC) and Stormwater Management Manual (SMM); and SEMSWA's Municipal Operations Standard Operating Procedures (SOPs). CONTRACTOR must comply with the requirements of the applicable MS4 permits (COR080000 and COR070000), which are available through the Colorado Department of Public Health and Environment. Any non-compliance with the GESC Manual, SMM, or SEMSWA's Municipal Operations SOPs, may result in enforcement, to include verbal warnings and additional enforcement outlined in the SEMSWA Enforcement Response Plan (ERP), Resolution 18-15, as may be

amended.”

#### Douglas County

In addition to signed contract documents for work performed within the SEMSWA non-standard permit area, SEMSWA relies on Douglas County regulations to prohibit illicit discharges from the SEMSWA non-standard permit area.

Douglas County adopted the Stormwater Ordinance O-022-001, as may be amended, to prohibit illicit discharges to the MS4 as well as implement appropriate enforcement procedures and actions.

Section 3.3 of the Douglas County ordinance states, *“This Ordinance shall apply to all non-stormwater discharges and/or connections entering Douglas County’s MS4 generated on any developed and undeveloped lands located within unincorporated Douglas County, unless explicitly exempted by an authorized enforcement agent.”*

In addition, SEMSWA is working on a Memorandum of Understanding (MOU) with Douglas County to clarify and establish standard operating procedures in the case of an illicit discharge.

If the illicit discharge bypasses the Douglas County MS4, SEMSWA will notify the neighboring regulated MS4 permittee, report the spill, or contact local law enforcement, as applicable.

#### Arapahoe County

In addition to signed contract documents for work performed within the SEMSWA non-standard permit area, SEMSWA relies on Arapahoe County regulations to prohibit illicit discharges from the SEMSWA non-standard permit area.

Arapahoe County adopted the Stormwater Ordinance 2019-02 per Resolution 190347 to prohibit illicit discharges to the MS4 as well as implement appropriate enforcement procedures and actions. In addition, the County adopted an updated Enforcement Response Plan per Resolution 200271 in July 2020.

Section 1. Intent, of the Arapahoe County ordinance states, *“The Colorado Department of Public Health and Environment (“Department”) has issued to Arapahoe County an MS4 Permit. As a condition of the issuance of this permit, the Department requires that Arapahoe County implement and enforce a regulatory mechanism to prohibit non-stormwater discharges into storm drainage systems in unincorporated Arapahoe County.”*

If the illicit discharge bypasses the Arapahoe County MS4, SEMSWA will notify the neighboring regulated MS4 permittee, report the spill, or contact local law enforcement, as applicable.

### *SEMSWA Standard Permit Area*

The City of Centennial (City) and SEMSWA entered into an Implementing Intergovernmental Agreement (IIGA), RESOLUTION 07-63, allowing for the transfer of the CDPS MS4 Phase II Permit from the City to SEMSWA. In accordance with the IIGA, SEMSWA established programs to administer and enforce on behalf of the City, and the City delegated such police powers as necessary to enable SEMSWA to enforce any and all provisions of the MS4 permit.

The SEMSWA Board has adopted their own regulations. Rules and regulations are summarized in the following table. These resolutions may be updated. In some instances, the City, Arapahoe County, or Douglas County regulations are referenced, specifically as related to IDDE violations where SEMSWA may deem it beneficial to call attention to the City's or County's enforcement process that may involve their Court system.

### *Summary Tables of Regulatory Mechanisms by Program and Jurisdiction*

#### **IDDE Program**

<b>Douglas County Non-Standard Permit Area</b>	Douglas County Stormwater Ordinance O-022-001
<b>Arapahoe County Non-Standard Permit Area</b>	Arapahoe County Stormwater Ordinance 2019-02
<b>SEMSWA Standard Permit Area (City of Centennial)</b>	SEMSWA ERP

#### **Construction Program**

<b>Douglas County Non-Standard Permit Area</b>	Douglas County Ordinance O-022-001, Douglas County GESC, SEMSWA Contract Language, SEMSWA and Douglas County IGA Resolution 21-24
<b>Arapahoe County Non-Standard Permit Area</b>	Arapahoe County Stormwater Ordinance 2019-02, Arapahoe County GESC, SEMSWA Contract Language, SEMSWA and Arapahoe County MOU Resolution 09-11
<b>SEMSWA Standard Permit Area (City of Centennial)</b>	SEMSWA ERP, SEMSWA SMM, SEMSWA GESC, SEMSWA Fee Schedule

#### **Post-Construction Program**

<b>Douglas County Non-Standard Permit Area</b>	Douglas County Stormwater Ordinance O-022-001, Douglas County Storm Drainage Design and Technical Criteria
<b>Arapahoe County Non-Standard Permit Area</b>	Arapahoe County Stormwater Ordinance 2019-02, Arapahoe County SMM
<b>SEMSWA Standard Permit Area (City of Centennial)</b>	SEMSWA ERP, SEMSWA SMM, SEMSWA Fee Schedule

### 3.1 SEMSWA RIGHT TO ENTER

#### *Non-Standard MS4 Permit Area:*

Within the non-standard MS4 permit area, SEMSWA is the owner and/or operator and has rights to access the properties.

#### *Standard MS4 Permit Area:*

For SEMSWA’s right to enter, refer to [Appendix B](#) (Pollution Reduction in Stormwater Discharges through IDDE Standards).

Within the City of Centennial, also refer to Resolution 09-13, Approval of Entry Agreement with the City of Centennial. SEMSWA may also seek assistance from the City, in accordance with Section 12-1-480, Right-of- Entry, in the Municipal Code.

Within Arapahoe County, also refer to Resolution 19-05, Right of Entry.

### 3.2 EXEMPTIONS

Within both the standard permit area and non-standard permit area, generally, the prohibitions set forth in [Appendix B](#) and within the ERP do not apply to non-stormwater discharges permitted under and in compliance with a NPDES permit, or another CDPS permit; or any non-stormwater discharge for which an authorization, or formal commitment to not pursue enforcement actions against the discharger under a policy or waste discharge order, is issued and administered under the authority of the CDPHE; or non-stormwater discharges that are otherwise exempted by law. This includes allowed non-stormwater discharges listed in [Appendix B](#). Discharges that fail to obtain proper CDPS permits from CDPHE or appear to be in violation of a permit issued by CDPHE may be referred to CDPHE for enforcement actions. SEMSWA reserves the right to take enforcement actions listed in the ERP on a CDPS permitted site in lieu of and/or in addition to referring the discharge to CDPHE for enforcement actions.

### 3.3 APPEALS PROCESS

The applicant may appeal enforcement to SEMSWA's Executive Director within thirty (30) days of the date of the enforcement action. The applicant's appeal shall be submitted in writing to the Director. Within ten (10) working days of receipt of the applicant's written notice of appeal, the Director shall consider the request and render a decision to uphold or reject the enforcement action request based on the ERP, regulatory mechanisms, and MS4 permits minimum requirements. No appeal can be granted that would result in a non-compliance with the MS4 Permits.

The appeal must include the following:

1. Justification of, and reason for, the appeals request and
2. Justification that a non-compliance did not occur.

Appeals requests that do not include the above will not be accepted or considered.

In all stages of the appeal process, the permittee/responsible party bears the Burden of Proof to establish that the does not result in a noncompliance with the MS4 Permits and will not cause environmental harm.

During the appeal process, enforcement and escalated enforcement can continue to occur.

### 4. NON-COMPLIANCE PENALTIES

The remedies contained in this ERP for non-compliance enforcement actions are available to SEMSWA to enforce regulations where SEMSWA identifies a non-compliance and may be imposed whether or not corrective action is being taken or has been taken. The remedies established with this ERP and documented herein may be imposed from the date of the non-compliance. No remedy provided shall be exclusive, as additional remedies are discussed herein. All remedies may be cumulative and available concurrently.

Except as otherwise provided in this ERP, in cases where a non-compliance may result in a risk to public health, safety or welfare, it is the general policy of SEMSWA to provide reasonable opportunities for property owners, contractors, or others subject to non-compliance enforcement to bring the non-compliance action or activity into compliance with SEMSWA's regulations prior to corrective actions being taken by SEMSWA directly or initiation of judicial proceedings.

SEMSWA's non-compliance penalties are included within Appendix A and consist of the following, in general order of escalation:

- Verbal Warning\* and/or Educational Materials\* (4.1)
- Non-compliance Fees\* (4.2)

- Notice of Non-compliance \* (4.3)
- Permit Holds\* (4.4)
- Notice of Violation\* (4.5)
- Compliance Assurance Enforcement Penalty Fees/Penalties for Enforcement\* (4.6)
- Stop Work Order\* (4.7)
- Compensatory Action (4.8)
- Use of Collateral and Escrow Funds (4.9)
- Abatement and Restitution (4.1)
- Revocation of Permits (4.11)
- Use of Property Lien (4.12)
- Judicial Relief\* (4.13)

An asterisk (\*) denotes compliance tools used within the non-standard permit area.

## 5. ENFORCEMENT ESCALATION

All enforcement processes are documented and take place only after SEMSWA staff has identified the potential infraction and documented the type, extent, and nature of the violation.

An SOP has been prepared to document the steps SEMSWA takes to implement each compliance tool in the Construction Site program, Post-Construction program, and IDDE Program.

### 5.1 Construction Site Enforcement

Per requirements in the Construction Sites section of the MS4 permits, the ERP must detail the types of escalating enforcement responses the permittee will take in response to common violations and time periods within which responses will take place in the Construction Sites Program. This section complies with the MS4 permits requirements.

**Table 1: Timeframe for Common Violations**

Common Violation	Enforcement Tools Used (in order of general escalation)	Timeframe for initial enforcement action
<b>Construction commencing without site plan review in accordance with the MS4 Permit</b>	Non-compliance Fee, Notice of Non-compliance, Permit Holds, Notice of Violation, Stop Work, Abatement and Restitution, Property Lein, Judicial Relief	Within 24-48 hours* of discovery
<b>Control measures not</b>	Verbal Warning, Educational	Within 24-48

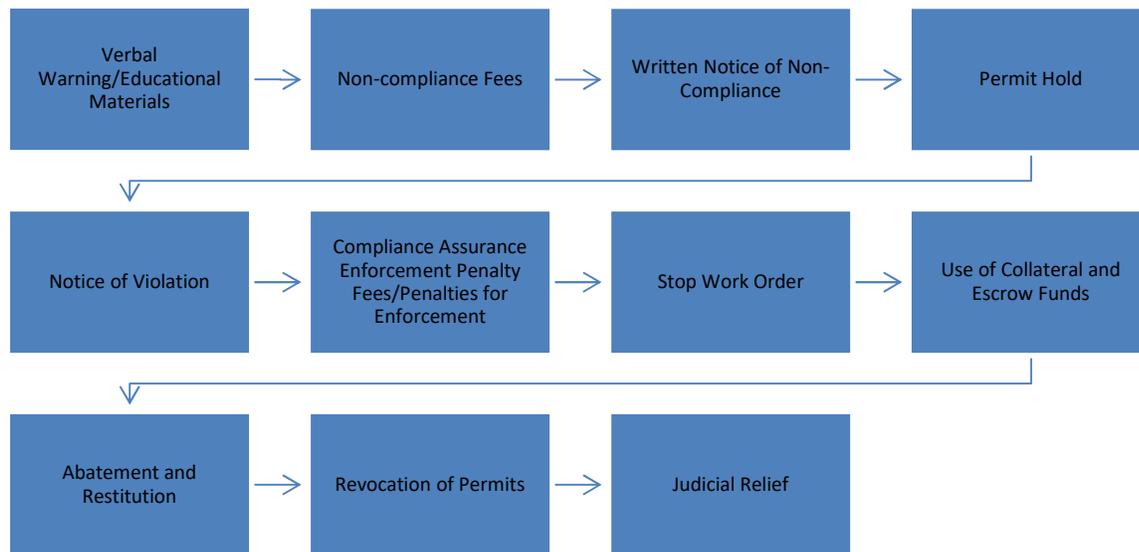
<b>maintained in operational condition at time of permittee inspection, including sites that have temporarily shut down construction activities.</b>	Material, Non-compliance Fee, Notice of Non-compliance, Permit Hold, NOV, Compliance Assurance Enforcement Penalty Fees, Stop Work Order, Abatement and Restitution, Use of Collateral Funds, Permit Revoked, Judicial Relief	hours* of discovery
<b>Uncorrected finding(s) from previous inspections.</b>	Verbal Warning, Educational Material, Non-compliance Fee, Notice of Non-compliance, Permit Hold, NOV, Compliance Assurance Enforcement Penalty Fees, Stop Work Order, Abatement and Restitution, Use of Collateral Funds, Permit Revoked, Judicial Relief	Within 24-48* hours of discovery
<b>Failure to implement a control measure for a pollutant source or inadequate control measure resulting in a discharge of pollutants from the applicable construction site or to the MS4.</b>	Verbal Warning, Educational Material, Non-compliance Fee, Notice of Non-compliance, Permit Hold, NOV, Compliance Assurance Enforcement Penalty Fees, Stop Work Order, Abatement and Restitution, Use of Collateral Funds, Permit Revoked, Judicial Relief	Within 24-48* hours of discovery

\* These timeframes are during normal working hours, excluding weekends and holidays

Generally, enforcement starts with a verbal warning issued by SEMSWA through an inspection report. If a site does not adequately address non-compliance within a reasonable timeframe, as determined by SEMSWA, staff retains some discretion in assessing penalties and to provide for escalated penalties based on type of violations, frequency, cooperation of the violator, and the potential for harm (or actual harm) from the violation.

### *5.1.1 Escalation of Enforcement*

General Escalation of Enforcement for the Construction Program



Enforcement escalation proceeds to a Notice of Non-Compliance if Non-compliance Fees are not effective to obtain site compliance.

If the Notice of Non-compliance has not achieved the compliance necessary, subsequent and/or concurrent violations may result in Permit Holds, followed by the issuance of a Notice of Violation (NOV), Compliance Assurance Enforcement Penalty Fees, Revocation of Permits, or, in extreme non-compliant situations, a Stop Work Order (SWO). If a site is non-compliant to the point of a SWO, the entire approach to GESC controls at the site may need to be re-evaluated. All GESC related construction work on site must stop, with the exception of work on control measures to bring the site into compliance. A SWO may include revocation of the GESC Permit and a new GESC Permit application must be submitted, including new GESC Permit fees. The GESC plan process begins anew, including payment of new GESC review fees.

In cases where a non-compliance occurs where violations have previously occurred on the site, or a site exhibits extreme poor field conditions at the time of the inspection, and/or a threat is posed to the public's health, safety and welfare, enforcement may escalate in a manner determined to best gain compliance.

These enforcement remedies will be used as appropriate, following the requirements as stated within this ERP and supporting GESC Inspection Program SOP, and in accordance with the Enforcement Implementation SOP.

## 5.2 Post-Construction Stormwater Management Enforcement

Inspections of post-construction control measures are performed in accordance with

the referenced Post-Construction Stormwater Management Program SOP and per the SEMSWA-accepted Construction Drawings (CDs).

Post-construction stormwater management enforcement falls within two categories: during active site construction, and after the construction of the permanent post-construction control measure has received final acceptance by SEMSWA.

### *5.2.1 Sites Under Construction*

Post-construction control measures are required to be built in accordance with the SEMSWA-accepted construction plans that are in compliance with the Stormwater Management Manual (SMM). Inspections are performed in accordance with the Post-Construction Program Inspection SOP, and non-compliance can be procedural or a result of incorrect installation based on field conditions noted at the time of inspection that, if not acted upon, will result in a non-compliant permanent control measure that does not meet the SEMSWA or County-accepted CDs, as applicable and SMM.

Generally, enforcement starts with a verbal warning issued by SEMSWA through an inspection report. If a site does not adequately address non-compliance within a reasonable timeframe, as determined by SEMSWA, staff retains some discretion in assessing penalties and to provide for escalated penalties based on type of violations, frequency, cooperation of the violator, and the potential for harm (or actual harm) from the violation.

#### *5.2.1.1 Escalation of Enforcement*

During construction of the water quality control measure, the enforcement options and escalation is similar to that described in the Construction Enforcement Escalation in [Section 5.1](#) above and include similar tools used for non-compliance.

General Escalation of Enforcement for the Post-Construction Program During Construction



Violations can be procedural or a result of identified incorrect installation based on actual field conditions noted at the time of inspection that, if not acted upon, will result in a non-compliant permanent control measure that will not adequately treat stormwater runoff. The SEMSWA Inspector has discretion, within the guidelines of the Post-Construction Program Inspection SOP and this ERP document, to match the non-compliance with an appropriate Non-compliance Fee.

If the Non-compliance Fees have not resolved the non-compliance, subsequent violations may result in discussions with the City and Owner regarding Permit Holds, and/or the issuance of a Notice of Non-compliance, Violation Warning Letter, Compliance Assurance remove-and-replace, an NOV, or, in extreme non-compliant situations, a SWO. This means that GESC-related construction work at the site must stop and concentrate on the correct installation of the permanent control measure. If the permanent control measure facility design is in question and requires revision, the construction drawing and drainage report process are revised and the review and approval process initiated, including payment of new review fees; the SPIP Permit is revoked and a new SPIP Permit may be issued, including new SPIP Permit fees. Under this extreme scenario, work , other than the permanent control measure facility, cannot re-commence at the site until a new SPIP is approved, issued and review and permit fees received.

### *5.2.2 Post-Construction Stormwater Management After Construction*

The Post-Construction Program requires SEMSWA to ensure permanent control measures are maintained and function as designed after construction is complete and the facility has received final acceptance from SEMSWA or the Counties, as

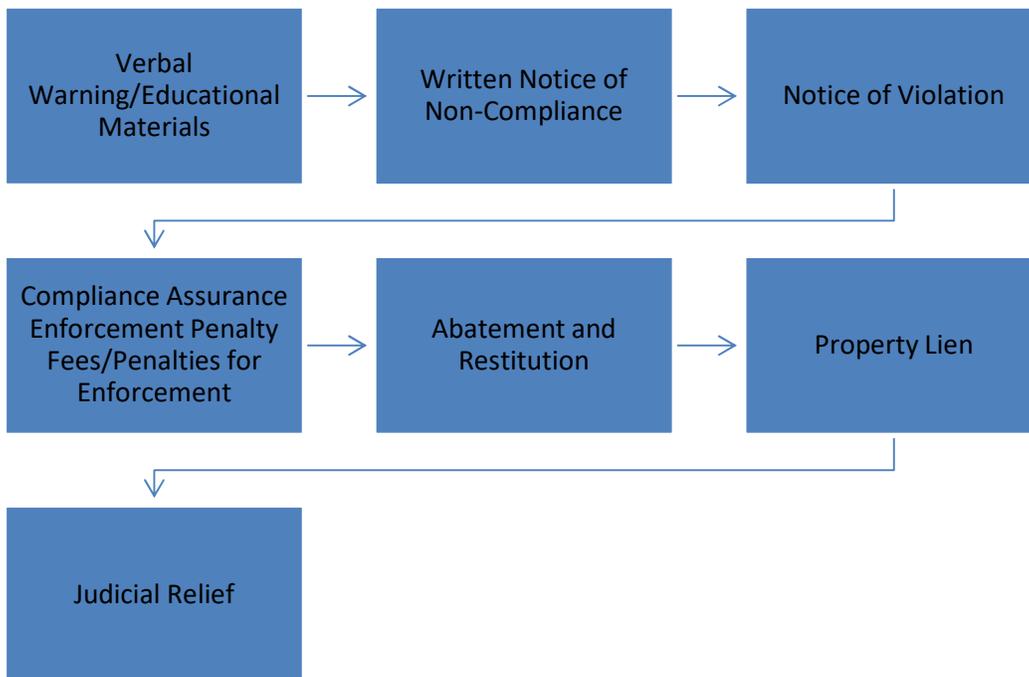
applicable.

Inspections are performed in accordance with the Post-Construction Program Inspection SOP. Non-compliance is identified based on an inspection of the facility in relation to the approved CDs and As-Builts, and/or Maintenance Agreement as applicable. Identified deficiencies related to the functionality of the control measure are considered violations and require corrective action. The Inspector has discretion, within the guidelines of the Post-Construction Program Inspection SOP and this ERP, to match the non-compliance with an appropriate action.

Generally, enforcement starts with a verbal warning issued by SEMSWA through an inspection report. If a site does not adequately address non-compliance within the timeframe requested by SEMSWA, staff retains discretion on potential escalation based on type of violations, frequency, cooperation of the violator, and the potential for harm (or actual harm) from the violation.

#### 5.2.2.1 Escalation of Enforcement

General Escalation of Enforcement for the Post-Construction Program After Construction



Notice of Non-compliance, Notice of Violation, Penalties Fee for IDDE and Post-Construction , Property Lien, Abatement and Restitution, and Judicial Relief.

If the Verbal Warning and Educational Materials have not resulted in compliance within the timeline specified, a Non-compliance Notification is issued to the Property Owner and/or Responsible Party which may require the post-construction control

measure to be replaced.

In cases where a Notice of Non-compliance does not achieve compliance within the timeline specified, SEMSWA may implement Abatement and Restitution, Property Liens, and/or Judicial Action. These enforcement penalties are generally listed in order of escalation and will be utilized as appropriate, and in accordance with the Enforcement Implementation SOP.

### 5.3 Illicit Discharge Detection and Elimination

The IDDE Program requires SEMSWA to prohibit illicit discharges to the MS4, access properties where non-compliance may be occurring, or may have occurred, and require the non-compliance(s) to cease and provide mitigation, as necessary. Removal and/or elimination of the illicit discharge may require use of any or all of the non-compliance enforcement tools as contained in this ERP document and the Enforcement and Implementation SOP

Because there can be varied sources of illicit discharges to the MS4, there are different actions SEMSWA may take to remove those sources and prevent future illicit discharges. There is a range of ways in which SEMSWA may facilitate the removal and potential mitigation of illegal connections to the MS4, and the elimination of illicit discharges. Typically, SEMSWA responds to the discovery of an illegal connection and/or illicit discharge in a graduated manner, beginning with efforts to obtain voluntary compliance and escalating to increasingly severe enforcement actions if compliance is not obtained.

SEMSWA's general approach is to provide reasonable opportunities to bring properties or sites into compliance with SEMSWA's MS4 permits before formal enforcement proceedings are initiated. Penalties for enforcement are intended to achieve compliance without corrective actions being taken by SEMSWA directly or initiating judicial proceedings. All IDDE non-compliance remedies may be cumulative and available concurrently. Any action including an allegation or determination of an IDDE non-compliance shall not preclude or prevent any other action to abate any violation. Any application of these penalties that is in the nature of a civil action shall not prevent the commencement or application of any other allegations brought pursuant to any other provision of law.

Generally, SEMSWA does not enforce on illicit discharges from GESC permitted construction sites through the IDDE program, but the tools are available if necessary. Enforcement on construction sites occurs through the construction program in [Section 5.1](#); generally, enforcement for violations related to post-construction control measures occur through the post-construction program in [Section 5.2](#).

The non-compliance tools are available to SEMSWA to enforce the MS4 permits where

SEMSWA identifies an IDDE non-compliance and may be imposed whether or not corrective action is being taken or has been taken. Any and all of the penalties established for IDDE non-compliance may be imposed immediately upon a violation occurring even in cases where the violation has ceased or is being abated.

Typical enforcement starts with Verbal Warning and Educational Materials. The majority of IDDE non-compliance investigations can be resolved with a Verbal Warning that provides an educational component to assist the violator with understanding the role of the IDDE non-compliance and potential impacts to the stormwater system. Educational outreach that accompanies the Verbal Warning has proven to be suitable for a major portion of the illicit discharge incidents and allows SEMSWA to close out the investigation.

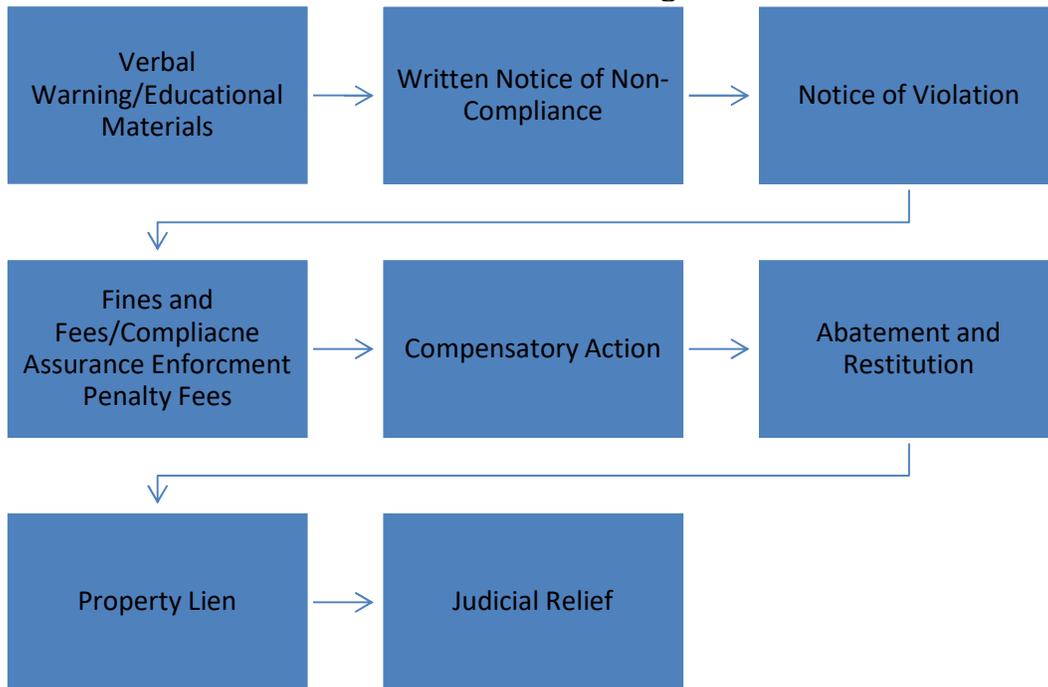
*5.3.1 Illicit Discharge Enforcement Escalation*

Generally, illicit discharges within SEMSWA’s non-standard permit area are resolved without needing to escalate to enforcement. For the rare instance that enforcement is necessary, SEMSWA relies on Douglas County’s and Arapahoe County’s illicit discharge enforcement tools and escalation process when necessary.

Confirmed illicit discharges within the SEMSWA non-standard permit area that need enforcement are referred to the Environmental Manager at Douglas County or Arapahoe County within 72 hours.

Within the standard permit area, SEMSWA escalates enforcement using the tools in the order below.

General Escalation of Enforcement for the IDDE Program



After Verbal Warning and Educational Materials are issued without achieving compliance in the timeframe specified, a Notice of Non-compliance or Notice of Violation is issued. Both are more formal requests for correction of non-compliance and may include compliance schedules.

Fines and Fees is an enforcement tool that is used when IDDE non-compliance violations need additional escalated enforcement. SEMSWA's Penalties Fees for IDDE and Post-Construction ([Appendix C](#)) take into account environmental and compliance factors as they relate to potential severity.

Compensatory action is used in lieu of judicial action and/or other enforcement remedies. SEMSWA may offer violators to take an alternate compensatory action, such as storm drain stenciling, drainageway cleanup, or other appropriate actions in cases where violations have immediately ceased. Compensatory actions may be appropriate for a small percentage of IDDE investigation resolutions, where the non-compliance is a one-off incident, has ceased upon occurrence, and can be satisfactorily resolved without formal fees or fines. Compensatory actions that promote behavior change have a strong potential to reduce pollutants to the MS4.

Abatement and Restitution enforcement will be used for any IDDE non-compliance that poses an immediate and imminent danger to public health and safety, and/or the level of non-compliance with the MS4 permit requires specific and timely action.

SEMSWA may use a Property Lien, which may include administrative costs, as follows:

- Abatement has occurred by SEMSWA
- SEMSWA's Penalties Fees for IDDE and Post-Construction fees have not been paid in the timeframe specified

Judicial relief may be sought if a real, imminent and irreparable injury to the public is presumed to have the potential to occur by the IDDE violation. The specific processes for using each of these escalating enforcement tools are documented in the Enforcement Implementation SOP.

These tools are intended to be used in appropriate situations based on the severity of the IDDE violation, with a priority placed on achieving removal or elimination of the illicit discharge through educational opportunities whenever reasonably possible. Cases with high severity, especially those threatening the health, safety and welfare of the public and/or resulting in a potential violation to the MS4 permit may be escalated to the most effective penalty. No remedy provided shall be exclusive.

SEMSWA may also utilize the City Municipal Code, Section 13-1-320, with coordination of the City, for the enforcement of IDDE violations within the standard permit area.

## Appendix A

### Penalties Related to the MS4 Permit

Originally adopted as Resolution 12-31, Establishment of Penalties for Enforcement Related to the CDPS MS4 Permit

#### 4.1 Verbal Warning and/or Educational Materials\*

This action is a verbal exchange between SEMSWA and the alleged violator. Staff may provide documents intended to educate the public of potential violations. Example documents may be in the form of Fact Sheets, Door Hangers, or the SEMSWA website.

Verbal warnings include a demand to cease-and-desist any violations or potential violations. Enforcement for all violations generally begin with this penalty. For example, a routine inspection might reveal that a control measure needs routine maintenance. Even though the inspection might pass with corrective actions, the inspection report serves as the written documentation of the verbal warning. The goal of a verbal warning is to:

- 1) Remind the GESC Manager to install *and maintain* control measures as required by the accepted (and modified, as applicable) GESC plan and design specifications.
- 2) Eliminate the illicit discharge or non-compliant activity.
- 3) Support behavior-change through the educational outreach provided.

#### 4.2 Non-compliance Fees\*

Re-Inspection Fees may be collected in accordance with the adopted SEMSWA Fee Schedule, as amended.

Non-compliance notification can be verbal instructions from staff to the GESC Manager, and/or included on an inspection report as a deficiency, labeled as "Inadequate," and provided to the Permittee/GESC Manager. These violations will require a follow-up inspection by staff, and specific instructions regarding the time frame for the follow-up will be given at the time of the inspection. A re-inspection fee may be assessed for the first re-inspection. If corrections have not been completed satisfactorily during the follow-up inspection, and additional inspections are needed, additional re-inspection fees may be assessed per the SEMSWA Fee Schedule, which provides for an escalation in fees for each subsequent violation. Cases with high severity, especially those threatening the health, safety and welfare of the public and/or resulting in a potential violation to the MS4 permits may be escalated to the most effective penalty fee.

#### 4.3 Notice of Non-compliance

SEMSWA may issue a notice of non-compliance for violations in writing. Non-compliance notices are intended to document violations with expected corrective actions and remedy timeframes outlined as a means for correction prior to issuance of a Notice of Violation. Timeframes to correct violations may be given. It should be noted that the permittee or the party responsible for the non-compliance is in violation until the unacceptable condition is corrected. A deadline is not intended to be interpreted as permission to violate until that deadline is met. Notice of non-compliance include a request to cease-and-desist any non-

compliant actions.

#### 4.4 Permit Holds

SEMSWA may place a hold on the issuance of permits related to Grading, Erosion, and Sediment Control (GESC), Erosion and Sediment Control (ESC), Stormwater Public Improvement Permits (SPIP), and/or Floodplain Development Permits (FPDP) until the potential violation or violation is corrected, or until a court of appropriate jurisdiction orders that the hold be lifted. In addition, SEMSWA may request that the City or County place a hold on permits until any violation has ceased and is corrected. In cases where violations may exist and Permit Holds are utilized, violations are communicated through a Written Notification.

#### 4.5 Notice of Violation (NOV)\*

SEMSWA may issue a Notice of Violation for violations in writing. NOVs are intended to document non-compliances with expected corrective actions and remedy timeframes outlined as a means for correction. NOVs include a request to cease-and-desist any non-compliant actions. NOVs may also be referred to as Notice and Demand, *Written Notice*, *Corrective Action Plan*, or *Compliance Schedule*.

#### 4.6 Compliance Assurance Enforcement Penalty Fees/Penalties for Enforcement \*

Fines and Fees is an enforcement tool that is most commonly used for IDDE non-compliance violations (see *Fines and Fees SOP*). Unlike many construction and post-construction non-compliance issues, IDDE violations often are not associated with construction sites that have approved plans and permits. As such, there are limited tools that can be used concurrent with an IDDE violation to ensure timely compliance. For this reason, Fines and Fees as a non-compliance penalty is intended to discourage non-compliant behaviors and encourage responsible parties to correct and remedy a violation to avoid additional, more substantial fines; direct abatement actions by SEMSWA; and any judicial proceedings. In addition, the Fines and Fees penalties were developed to address the impact of the violation, with a multiplier intended to address recalcitrance, repeat offenders, and untimely responses.

Compliance Assurance Enforcement Penalties as a non-compliance penalty are intended to discourage non-compliant behaviors and encourage responsible parties to correct and remedy a violation to avoid additional, more substantial fines; direct abatement actions by SEMSWA; and any judicial proceedings. In addition, the Compliance Assurance Enforcement Penalties were developed to address the impact of the violation, with a multiplier intended to address recalcitrance, repeat offenders, and untimely responses. Penalties/fees for enforcement are based on the severity of the violation, continued non-compliance/repeat offenders, and/or failure to correct a non-compliance after compliance assistance (which may include, but is not limited to verbal warnings, education, non-compliance fees<sup>1</sup>).

SEMSWA has assessed standard structural and non-structural control measures for their significance in re-establishing control of recalcitrant GESC and SPIP permitted sites. The emphasis during Compliance Assurance focuses the permittee on appropriate measures for control of erosion, sediment, and waste sources, including site management. The Compliance Assurance Enforcement Penalty Fee Schedule can be found in Appendix C provides an

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<sup>1</sup> For GESC and SPIP related violations.

assessed value of each control measure in relation to a stabilized, GESC-compliant site.

Fees related to illicit discharges are based on the Establishment of Penalties for Enforcement Related to the CDPS MS4 Permit, Appendix C.

#### 4.7 Stop Work Orders\*

SEMSWA has the authority to stop any or all construction activities associated with the GESC permit, SPIP, FPDP, or activities related to the Permit, as deemed necessary, by issuing a written stop work order. Stop work orders may be issued for:

1. Any violation of the MS4 permit, or as further outlined in the GESC Manual; Stormwater Management Manual (SMM); SPIP; Illicit Discharge, Detection, and Elimination (IDDE) Manual, or other applicable documents.
2. Any violation of any condition of the Public Improvement Agreement or the approved Construction Drawings, GESC plans or specifications.
3. Failure to obtain any or all permits issued by SEMSWA.
4. Any violation of any other state law, or federal law pertaining to the work.
5. The existence of any condition or the occurrence of any act which may constitute endangering health, life, safety, water quality, or damage to property.
6. The existence of any condition or the occurrence of any act which may cause damage to property, loss of life or a violation of the MS4 Permit.

#### 4.8 Compensatory Action

In lieu of judicial action and/or other enforcement remedies, SEMSWA may offer violators to take an alternate compensatory action, such as storm drain stenciling, drainageway cleanup, or other appropriate actions in cases where violations have immediately ceased.

#### 4.9 Use of Collateral and Escrow Funds

SEMSWA is authorized to use collateral and escrow funds through the ERP, and in accordance with applicable terms and conditions outlined in the GESC Permit, associated with the implementation of construction control measures, and in the Public Improvement Agreement (PIA), executed to ensure the construction of a permanent post-construction control measure facility(s), as permitted in a Stormwater Public Improvement Permit (SPIP). This enforcement remedy precedes SEMSWA's direct involvement in abatement of a violation and involves the execution of a collateral draw. The use of collateral and escrow funds for a development site with a PIA and SPIP permit is for completing installation and obtaining final acceptance of the permanent water quality control measure for the site. SEMSWA's purpose in using this escalated non-compliance penalty is to meet the requirements of the MS4 permit to mitigate pollutants leaving a site.

If any compliance-related fees remain outstanding at the time of Initial Close Out and/or Final Close Out, collateral may be used to recoup the outstanding fees.

#### 4.10 Abatement and Restitution\*

SEMSWA is authorized to abate and to recover the cost of the abatement as authorized through this ERP, in accordance with the stormwater maintenance agreement, specific to post-construction permanent control measures as authorized through Resolution 07-32;

and in accordance with the IDDE Manual authorized through Resolutions 12-29 and 12-30 to prohibit illicit discharges to the MS4. SEMSWA may also elect to utilize the City's abatement process through coordination with the City, as authorized in the Municipal Code Section 13-1-410. This enforcement tool assumes SEMSWA's direct involvement in the abatement of a violation.

#### 4.11 Revocation of Permits

SEMSWA may revoke permits for violations and/or to address an imminent danger to public health, public safety, or violations that could cause damage to property, loss of life or a violation of a CDPS MS4 Permit until any violation has ceased and is corrected. At the time of Revocation of Permits, SEMSWA may seek a court order in a court of appropriate jurisdiction permanently revoking the permit if compliance is not achieved in an appropriate amount of time. SEMSWA may request a temporary injunction to extend the temporary revocation of the permit in order to avoid irreparable harm and/or a violation of the MS4 permit. In cases where violations may exist and permit revocation occurs, violations will be communicated through a written notification prior to the permit being revoked. Such revocations may result in charging additional fees in an amount consistent with the adopted SEMSWA Fee Schedule.

#### 4.12 Property Lien

SEMSWA is authorized to lien a property through the ERP and in accordance with the maintenance agreement authorized through Resolution 07-32 for post-construction control measures; and in accordance with the IDDE Plan, authorized through Resolution 12-29 and 12-30 to prohibit illicit discharges to the MS4. The use of the property lien enforcement tool will be to cure a violation when previous enforcement remedies have not resulted in compliance. SEMSWA's purpose in using this escalated penalty is to focus attention of the property owner on their responsibility to correct the violation and meet the requirements of the MS4 Permit.

#### 4.13 Judicial Relief\*

SEMSWA will utilize the Judicial Relief enforcement tool as authorized through Resolution 12-31 when previous enforcement has been ignored, not completed, or additional non-compliances have occurred at a site. Judicial relief through the City of Centennial or Arapahoe County courts is an effective tool for compliance and will only be used in cases where other enforcement tools have been exhausted. Judicial Relief will be considered the last step to achieve compliance with the MS4 permit.

## Appendix B

### **Pollution Reduction in Stormwater Discharges Through Illicit Discharge, Detection, and Elimination (IDDE) Standards within the City of Centennial**

Originally adopted as Resolution 12-29, Pollution Reduction in Stormwater Discharges through Illicit Discharge, Detection, and Elimination Standards and 19-09, Allowable Non-Stormwater Discharges through Illicit Discharge, Detection, and Elimination Standards

#### **1. SEMSWA prohibits illicit discharges into the Municipal Separate Storm Sewer System (MS4).**

Illicit discharge is defined as, “Any discharges to an MS4 that is not composed entirely of stormwater except discharges specifically authorized by a CDPS or NPDES permit and discharges resulting from emergency firefighting activities, unless otherwise excluded from being effectively prohibited in this appendix.”

MS4 is defined as “A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, or storm drains):

- a. Owned or operated by a State, city, town, county, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the CWA that discharges to state waters;
- b. Designed or used for collecting or conveying stormwater;
- c. Which is not a combined sewer; and
- d. d. Which is not part of a Publicly Owned Treatment Works (POTW). See 5 CCR 1002-61.2(62).

Every person owning property through which a drainageway passes, shall keep and maintain that part of drainageway within the property reasonably free of trash, debris, other pollutants and other obstacles that would pollute or contaminate the flow of water through the drainageway.

#### **2. SEMSWA’s procedures to request access to property(ies), as necessary to implement the illicit discharges procedures.**

- a. Should SEMSWA have reasonable cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes an illicit discharge or is otherwise in violation of SEMSWA’s MS4 permit, SEMSWA has the right to enter for inspections upon private property in the same manner and by the same means as visitors to the property. Such entry will

customarily involve reaching the front or primary entrance to the property via driveway, sidewalk, or path. If private property is undeveloped or vacant and is not posted in a manner that would indicate the owner's prohibition of such access, if SEMSWA has obtained the consent of a person who purports to be in possession of the property and has consented to entry, SEMSWA shall have the right to enter upon all or any portion of the private property should emergency conditions dangerous to the public health, safety, or welfare, or a potential MS4 violation are reasonably believed to exist upon such property or upon property which is accessible from the entered property, SEMSWA may enter the property without obtaining consent from the owner or the person who is in possession of the property. A court of appropriate jurisdiction shall have the power to issue an order pertaining to the investigation of a suspected violation upon a showing by SEMSWA that a probable cause exists that a violation exists or may exist or, upon information and belief made after reasonable investigation, emergency conditions dangerous to the public health, safety, and welfare may exist.

**3. Duty to discover, contain, cleanup and report an illicit discharge. Prohibition of illicit connections and depositing materials into MS4 or waters of the State.**

SEMSWA may cease or require to be ceased and remove, or require and ensure the removal of and impose penalties for all illicit discharges. Notwithstanding other requirements of law, as soon as any person responsible for any premises, facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the MS4, or waters of the State, that person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence.

The construction, use, maintenance, or continued existence of Illicit connections to the MS4 is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

In accordance with this ERP, it shall be unlawful to cause materials to be deposited in such a manner or location as to constitute a threatened discharge into MS4 or waters of the State. Pollutants that are no longer contained in a pipe, tank, or other container are considered to be threatened discharges and require cleanup.

**4. Discharges that can be excluded from being effectively prohibited.**

- a. Landscape irrigation
- b. Lawn watering
- c. Diverted stream flows
- d. Irrigation return flow

- e. Rising ground waters
- f. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20)) to separate storm sewers.
- g. Uncontaminated pumped groundwater (note that dischargers of groundwater, (contaminated and uncontaminated) to surface waters of the state must obtain authorization to discharge under a CDPS or NPDES permit (see Part U below) or under a division policy, like Water Quality Policy 27 – Low Risk Discharges or Clean Water Policy 14 – Reporting and Permitting Discharges from Dewatering Systems for Select Activities). Examples of regulated discharges of uncontaminated pumped groundwater include but are not limited to discharges from construction dewatering activities, subterranean dewatering activities, and well development activities. For residential structures, SEMSWA may assume that subterranean or foundation dewatering discharges from residential structures including single family homes, duplexes and triplexes (e.g. discharges from sump pumps, foundation drains, crawl spaces and footing drains) are not comprised of groundwater, but rather, are comprised of stormwater-only, except where the following conditions apply: 1) The residential structures are single family homes, duplexes and triplexes and the subterranean structure is an underground parking garage, elevator shaft, and/or similar significant subterranean feature expected to increase the reasonable potential for subterranean structure dewatering activities to draw shallow groundwater into the discharge, and/or 2) The division has identified the source water (e.g. groundwater) as a potential significant contributor of pollutants and has provided written notification of this determination to the discharger.
- h. Springs
- i. Flows from riparian habitats and wetlands
- j. Water line flushing in accordance with the division's Low Risk Policy Discharge Guidance: Potable Water.
- k. Discharges from potable water sources in accordance with the division's Low Risk Discharge Guidance: Potable Water. 1) The potable water shall not be used in any additional process. Processes include, but are not limited to, any type of washing, heat exchange, manufacturing, and hydrostatic testing of pipelines not associated with treated water distribution systems.
- l. Foundation drains, water from crawl space pumps, and footing drains. (with verification that any new discharges from foundation drains, water from crawl space pumps, and footing drains into the MS4 (except those associated with residential structures including single family homes, duplexes and triplexes as described in Part G above) are located above the water table in order to be considered stormwater. Foundation drains, water from crawl space pumps, and footing drains comprised of water from above the water table must not have evidence of a visible sheen, odor, color, turbidity or floatables. If the permittee confirms that the discharge does not meet these requirements, it

must prohibit the discharge under this section and direct the discharger to the division to determine applicability of permit requirements. Where the discharge from a foundation drain is comprised of groundwater, the discharge must be authorized as described in Part G above.

- m. Air conditioning condensation
- n. Individual residential car washing
- o. Dechlorinated swimming pool discharges in accordance with the division's Low Risk Discharge Guidance: Discharges from Pools, Fountains and Other Similar Type Facilities that are Fed Solely by Potable Water.
- p. Water incidental to street sweeping (including associated sidewalks and medians) and that is not associated with construction.
- q. Dye testing in accordance with the manufacturer's recommendations
- r. Stormwater runoff with incidental pollutants
- s. Discharges resulting from emergency firefighting activities.
- t. Discharges authorized by a CDPS or NPDES permit
- u. Agricultural stormwater runoff
- v. Discharges that are in accordance with the division's Low Risk Policy guidance documents or other division policies and guidance documents where the division has stated that it will not pursue permit coverage or enforcement for specified point source discharges.
- w. Other discharges that the permittee will not consider as an illicit discharge when approved by the division: Upon approval by the division, the permittee is not required to address the discharges as illicit discharges in accordance with the requirements of this permit. Discharges that are prohibited by a city or county that also has authority over the discharge may not be allowed through this provision. The permittee must complete the following actions for discharges to be authorized by the division: 1) The permittee must submit a list of the discharges and the basis that the discharges meet one of the following criteria: (a) The discharges, with proper management, are not expected to contain pollutants in concentrations that are toxic or in concentrations that would cause or contribute to a violation of a water quality standard; or (b) The discharges are not eligible for coverage under a CDPS or NPDES general permit and prohibiting the discharges would result in changes to existing practices for the owner or operator of the discharges that are determined by the permittee to be impracticable.

**Appendix C**  
**Compliance Fee Schedule**

(Originally Adopted as Resolution 1-18, Adoption of Fee Schedule for Review and Permit Services, Resolution 12-31, Penalties for Enforcement Related to the CDPS MS4 Permit and Resolution 18-14, GESC Penalty Fees)

**Section I. Noncompliance Fees - Penalties for Enforcement During Construction within the City of Centennial and Arapahoe County SEMSWA Service Area for GESC and Stormwater Public Improvement Permits**

<b>Fee Category</b>	<b>Fee</b>
Noncompliance Fee	Level 1 - \$250
Noncompliance Fee	Level 2 - \$500
Noncompliance Fee	Level 3 - \$1,000
Noncompliance Fee	Level 4 - \$2,500

## Section II. Compliance Enforcement Penalty Fees with the City of Centennial and Arapahoe County SEMSWA Service Area for GESC Permitted Sites

*These erosion, construction site, waste, and sediment Control Measures have been assessed for their significance in re-establishing control of a GESC-permitted site that has remained non-compliant after exhausting the use of contractor education and assistance enforcement tools<sup>1</sup>. The emphasis during Compliance Assurance refocuses the site towards appropriate measures for control of erosion, sediment, and waste source, including site management. The table below provides an assessed value of each Control Measure in relation to a stabilized, GESC-compliant site.*

<b>Control Measure</b>	<b>Enforcement Penalty Fee</b>	<b>Multiplication Factor</b>
Erosion Control		
Diversion Ditch	\$1,500	Per day
Erosion Control Blanket	\$2,000	Per day
Seeding/Mulching (Winter/Summer)	\$1,500	Per day
Seeding/Mulching (Spring/Fall)	\$2,000	Per day
Stabilized Staging Area	\$1,500	Per day
Surface Roughening	\$2,000	Per day
Temporary Slope Drain	\$1,500	Per day
Temporary Stream Crossing	\$2,500	Per day
Terrace/Slope Intercept Ditch	\$1,500	Per day
Construction Site Control		
Subcontractor Management	\$1,500	Per day, per subcontractor
Construction Fence/Marker	\$500	Per day
Site Management/Access	\$2,500	Per day
Waste Control		
Concrete Washout	\$2,000	Per day
Equipment Maintenance	\$1,000	Per day
General Housekeeping	\$500	Per day
Mixing Operations	\$1,000	Per day
Sanitary Waste	\$500	Per day
Sediment Control		

<b>Control Measure</b>	<b>Enforcement Penalty Fee</b>	<b>Multiplication Factor</b>
Check Dam	\$500	Per day, per dam
Dewatering/Water Control	\$3,000	Per day
Inlet Protection	\$500	Per day
Silt Fence	\$500	Per day
Reinforced Rock Berm	\$500	Per day
Reinforced Rock Berm Culvert Protection	\$1,000	Per day
Sediment Basin	\$2,000	Per day
Sediment Control Log	\$500	Per day
Sediment Trap	\$1,500	Per day
Vehicle Tracking	\$1,500	Per day
Street Sweeping	\$3,000	Per day

All fee amounts are for the maintenance of Control Measures, not installation of Control Measures.

**Section III. Penalties for Enforcement Related to the MS4 Permit for IDDE and Post-Construction within the City of Centennial**

Fine Category	Classification	Fine
Level I (residential)	Minor Offense <sup>1</sup>	\$150
Level I (non-residential)	Minor Offense <sup>1</sup>	\$300
Level II	Offense with Moderate Impacts <sup>2</sup>	\$500
Level III	Offense with Commercial Benefit <sup>3</sup> or Secondary Impacts <sup>4</sup>	\$1000
Level III	Offense to Sensitive Areas <sup>5</sup> or with Required Mitigation <sup>6</sup>	\$2250
Level IV	Offense with Sever Impacts <sup>7</sup>	\$10,000

For Level I – Level IV Offenses the following multiplier(s) may apply:

Second Offense	50%
Third and Subsequent Offenses	100%
Poor Compliance History	25%
Recalcitrant	50%
Untimely Response	25%

SEMSWA is authorized to assess fines per day, per violation, from the date the violation initially occurred.

<sup>1</sup>Minor Offenses:

- (a) Associated with the IDDE Program: non-hazardous with quantifiable, limited, and small discharges. An example Minor Offense on a residential property is the stockpile of landscape materials that has been transported to the storm system. An example Minor Offense on a non-residential property is a stockpile or deicing material that has been transported to the storm system.
- (b) Associated with the Post-Construction Program: owners of a water quality facility(s) that has received a Notice of Noncompliance or an inspection report requesting routine maintenance of the water quality facility within a specified timeframe where the maintenance only partially occurs within the specified timeframe.

<sup>2</sup>Moderate Impacts

- (a) Associated with the IDDE program: discharges without specific flow limiting factors or those that require mitigation; however, the mitigation could be fulfilled in an expediated manner without the assistance of an Environmental Contractor. This also includes Minor Offenses where the discharges continue to occur after an enforcement has been initiated through Verbal Warning and or a written Notice of Noncompliance. An example would be dumping oil into an inlet of dumping paint into an outfall.
- (b) Associated with the Post-Construction Program: owners of a water quality facility(s) that has received a Notice of Noncompliance or an inspection report requesting routine maintenance of the water quality facility within a specified timeframe where the maintenance does not occur within the specified timeframe.

<sup>3</sup>Commercial Benefits are defined as a noncompliance that results in a financial benefit to the owner or responsible party. An example would be cooking oil from a restaurant dumped into a storm sewer or storing material in a water quality pond.

<sup>4</sup>Secondary Impacts are defined as a noncompliance that results in damage or negative impacts to a property or properties outside of the parcel where the noncompliance occurred where the offsite impact required mitigation.

<sup>5</sup>Sensitive Areas are defined as impaired waters, wetland, or regional detention and/or water quality facilities that require mitigation as a result of the noncompliance.

<sup>6</sup>Required Mitigation is defined as a noncompliance that requires the use of an environmental cleanup contractor, contractor, or SEMSWA maintenance staff.

<sup>7</sup>Severe Impact is defined as a noncompliance with potential impact to public health and/or safety and typically results in calling first responders for assistance. An example would be a toxic and/or hazardous material knowingly discharged into the storm system and entering state waters.