

**ENFORCEMENT RESPONSE PLAN FOR STORMWATER MANAGEMENT WITHIN THE
CITY/COUNTY OF BUTTE-SILVER BOW MONTANA
May 2018**

Introduction

In accordance with the General Permit for Storm Water Discharge Associated with Small Municipal Separate Storm Sewer System (MS4), issued by the Montana Department of Environmental Quality (DEQ), the City/County of Butte-Silver Bow (BSB) is required to develop and implement an Enforcement Response Plan (ERP) to ensure compliance with stormwater regulations. The purpose of this ERP is to specify criteria by which BSB personnel can determine the enforcement action most appropriate to instances of non-compliance and communicate how the enforcement tools available to BSB personnel will be used to achieve compliance following violations of BSB’s stormwater regulations. This document addresses the Montana DEQ MS4 General Permit’s ERP requirements for the following Minimum Control Measures (MCM’s):

- MCM 3: Illicit Discharge Detection and Elimination
- MCM 4: Construction Site Storm Water Management
- MCM 5: Post-Construction Site Storm Water Management in New and Redevelopment

The procedures within this ERP have been developed with the following objectives in mind:

- Prevent pollutants from entering the MS4 and causing environmental harm.
- Communicate definitions for non-compliance.
- Establish appropriate enforcement action based on the nature and severity of the violation.
- Promote consistent and timely use of enforcement tools.
- Ensure that violators return to compliance in a timely manner.
- Recover costs incurred by BSB due to operator non-compliance.
- Promote compliance through education and compliance assistance first and, if necessary, penalties second.

BSB has the authority to enforce stormwater regulations under the [section] 13.32.080 of the municipal code.

Acronyms

The following acronyms shall have the following meaning:

BSB	City/County of Butte-Silver Bow
DEQ	Department of Environmental Quality
ERP	Enforcement Response Plan
MCM	Minimum Control Measure
MS4	Municipal Separate Storm Sewer System
NOV	Notice of Violation
SWO	Stop Work Order

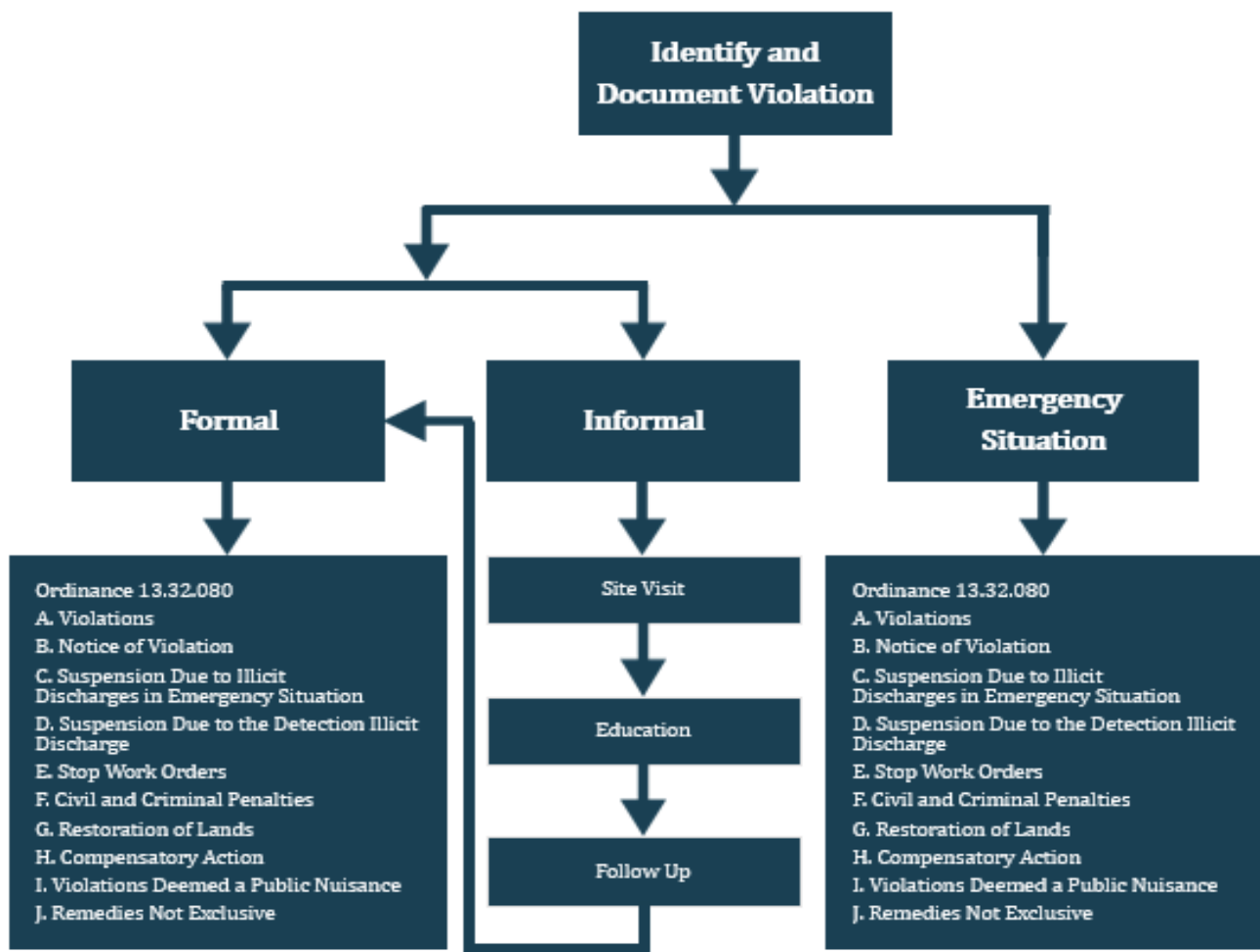
**ENFORCEMENT RESPONSE PLAN FOR STORMWATER MANAGEMENT WITHIN THE
CITY/COUNTY OF BUTTE-SILVER BOW MONTANA
May 2018**

1. Enforcement Response Plan Overview

The enforcement process begins with identification of a violation and concluding with closing the complaint. The overall process is shown within the flowchart below and is further explained within the following sections.



**Enforcement Response (ERP) Flowchart for the
Butte-Silver Bow Stormwater Management Program**



**ENFORCEMENT RESPONSE PLAN FOR STORMWATER MANAGEMENT WITHIN THE
CITY/COUNTY OF BUTTE-SILVER BOW MONTANA
May 2018**

2. Determining the Appropriate Level of Response

2.1 FORMAL & Emergency

A. **Violations.** It shall be unlawful for any person to violate any of the provisions of this chapter by doing any act forbidden or by failing to perform any duty imposed herein and any such act or omission shall be deemed a misdemeanor and jurisdiction for prosecution thereof shall be vested in the city court of BSB.

In the event the violation constitutes an immediate danger to public health or public safety, BSB is authorized to enter upon the subject property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. BSB is authorized to seek costs of the abatement as outlined in [section] 13.32.120.

B. **Notice of Violation.** When the BSB public works department determines that an activity is not being carried out in accordance with the requirements of this chapter, it shall issue a written notice of violation to the landowner or responsible party. The notice of violation shall contain:

1. The name and address of the owner applicant;
2. The physical address or a description of the building, structure of land upon which the violation is occurring;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to bring the activity into compliance with this chapter and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed as defined in subchapter [section] 13.32.100 by filing a written notice of appeal within thirty days of service of notice of violation; and
7. A statement specifying that should the violator fail to restore compliance with the established time schedule, the work will be done by the public works department or a designated contractor and that two times the expense thereof shall be charged to the violator.

Such notice may require without limitation:

- a. The performance of monitoring, analyses, and reporting;
- b. The elimination of illicit connections or discharges;
- c. The implementation of changes or corrective measure to eliminate the violating discharges, practices, or operations;

**ENFORCEMENT RESPONSE PLAN FOR STORMWATER MANAGEMENT WITHIN THE
CITY/COUNTY OF BUTTE-SILVER BOW MONTANA
May 2018**

- d. The abatement for remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- e. The payment of costs to cover administrative and remediation actions; and
- f. The implementation of source control or treatment BMPs.

C. **Suspension.** Due to Illicit Discharges in Emergency Situations. The BSB public works department may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the person fails to comply with a suspension order issued in an emergency, the BSB public works department may take such steps as deemed necessary to prevent or minimize damage to the stormwater system or waters of the United States, or to minimize danger to public health and safety.

D. **Suspension Due to the Detection of Illicit Discharge.** Any person discharging to the stormwater system in violation of this chapter may have their access terminated if such termination would abate or reduce an illicit discharge. The BSB public works department will notify the person of the proposed termination of its stormwater system access. The person may submit a written request to the BSB public works department for reconsideration within thirty days. A person commits an offense if the person reinstates stormwater system access to premises terminated pursuant to this section, without the prior approval of the BSB public works department.

E. **Stop Work Orders.** If issues identified in a notice of violation are not addressed within the required time schedule, the BSB public works department will issue a stop work order to the landowner or responsible party. Persons receiving a stop work order will be required to halt all construction activities. This stop work order will be in effect until the BSB public works department confirms that the development activity is in compliance and the violation has been satisfactorily resolved. Failure to address a notice of violation in a timely manner can result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in [section] 13.32.110.

F. **Civil and Criminal Penalties.** In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be punished by a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed six months, or both. Such person shall be guilty of a separate offense for each day during which the violation occurs or continues.

G. **Restoration of Lands.** A violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a

**ENFORCEMENT RESPONSE PLAN FOR STORMWATER MANAGEMENT WITHIN THE
CITY/COUNTY OF BUTTE-SILVER BOW MONTANA
May 2018**

reasonable time after notice, the Bute-Silver Bow Public works department may take necessary corrective action, two times the cost of which shall become a lien upon the property until paid.

H. ***Compensatory Action.*** In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the BSB public works department may impose alternative compensatory actions upon the person, such as storm drain stenciling or marking, attendance at compliance workshops, creek cleanups, or other reasonable measure.

I. ***Violations Deemed a Public Nuisance.*** In addition to the endorsement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provision so of this chapter that is deemed a threat to public health, safety, and welfare, shall be declared a nuisance, and may be summarily abated or restored by the BSB public works department or a designated contracts at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

J. ***Remedies Not Exclusive.*** The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.