



ENFORCEMENT POLICY

1.0. Sediment and Stormwater Program Enforcement Procedures

This policy establishes a formal enforcement procedure to be followed by the Department of Natural Resources and Environmental Control (DNREC) and Delegated Agencies (DA) when enforcement action is necessary on sites that do not comply with the State's Sediment and Stormwater Management law and regulations. Enforcement cases can be generated in any of three ways: (1) through the construction review process; (2) through referrals from delegated agencies; and (3) through complaints from individuals, groups, etc. Procedures to be followed for each of these methods are outlined below.

1.1. Construction Review

Every effort is made to use the Construction Review process to correct deficiencies in site compliance whenever possible. Should that process fail to achieve expected results or if the site reviewer feels that a violation is serious enough to warrant enforcement action, the following procedures shall be followed:

1) Issuance of Notice to Comply:

If site deficiencies have not been corrected in accordance with the construction review report, the owner/developer or authorized agent shall be given a notice to comply. A copy shall also be given to the contractor's representative or responsible person on site. In the event that no authorized person is on-site, a copy of the inspection report and notice to comply shall be sent certified mail to the owner/developer. The notice to comply shall be specific as to the noted violation, corrective measures to be taken, and time frame allowed to complete the work.

2) Compliance Review

At the end of the time period specified above, a follow-up site inspection shall take place to determine whether compliance has been achieved. Depending on that determination, the following actions may occur:

a. Site Violations Corrected:

If all previous site violations have been corrected, the site reviewer shall issue an inspection report stating that fact and the site shall be returned to a normal Construction Review status.

b. Previous Violations Not Corrected:

If previously noted violations have not been satisfactorily corrected, the further actions may be initiated as outlined in Section 2.0.

1.2 Referrals

Referrals from delegated agencies will be handled in the following manner:

- 1) Cases will be referred directly to the Sediment and Stormwater Program, Division of Soil and Water Conservation from the delegated agencies. At this point Sediment and Stormwater staff will determine if enforcement actions are warranted and if proper documentation has been filed. If Sediment and Stormwater staff determines that no action is required, because of the lack of documentation or insufficient information the cases will be referred back to the delegated agency with a letter of explanation. If Sediment and Stormwater staff determines that action is required staff will then turn over the case file to the Environmental Protection Officers.
- 2) Cases received by the Environmental Protection Officers will be handled on a first come, first served basis. All enforcement actions will be initiated by a site inspection to verify site conditions that caused the case to be referred to DNREC. If conditions have been corrected or do not exist as stated in the referral, the case will be returned to Sediment and Stormwater staff and then referred back to the delegated agency with a letter of explanation. If conditions exist as stated in the referral, enforcement actions will proceed. (See 3a & 3b)
- 3) Once site conditions have been verified and the site is determined to be in a state of non-compliance two avenues of enforcement can be pursued, one for the infrequent offender and one for the frequent offender.
 - a. Infrequent Offender, if an individual or company is being referred to DNREC for the first time or it has been at least 3 years since the last violation (36 months has elapsed since last referral), a certified letter (notice to comply) will be mailed to the owner/developer informing them they are not in compliance with the State's Sediment and Stormwater law and regulations, the steps needed to be taken to get into compliance, and that they have an established time frame to complete the work. At the end of the period Environmental Protection Officers will reinspect to check for compliance. If all work has been satisfactorily completed the case will be returned to Sediment and Stormwater staff and then referred back to the delegated agency. If the work has not been satisfactorily completed within the established time frame a DNREC

Complaint and Summons (ticket) will be issued by Environmental Protection Officers after consulting with Sediment and Stormwater staff to the owner developer and follow up will be done until the site is brought into compliance.

- b. Frequent Offender, if an individual or company has been referred to DNREC at any time in the preceding 36 months they will be considered repeat offenders. Repeat offenders will be issued a DNREC Complaint and Summons (ticket) by Environmental Protection Officers upon verification of non-compliance with the State's Sediment and Stormwater law and regulations and after consulting with Sediment and Stormwater staff. Follow-up will continue until the site has been brought into compliance.

1.3 Complaints

Complaints will be handled in the following manner:

- 1) All complaints regardless of origin will be directed to Sediment and Stormwater staff, at that point staff will determine if it is a legitimate complaint or not. If the complaint is legitimate, the complaint will be turned over to Environmental Protection Officers who will then contact the delegated agency that has jurisdiction over the area of complaint.
- 2) If the delegated agency is unable to resolve the problem that has generated the complaint then the referral process at the "action required" point will be initiated.

2.0 Enforcement Options for Failure to Comply

- 1) DNREC may issue a cease and desist order to any persons violating any provision of Chapter 40, and/or the regulations by ordering that all site work stop except that necessary to comply with any administrative order.
- 2) DNREC may request that the appropriate plan approval agency refrain from issuing any further building or grading permits until outstanding violations have been remedied.
- 3) DNREC may initiate penalties as stipulated in Section 16 of the Delaware Sediment and Stormwater Management Regulations.

Complete information concerning enforcement and penalties is contained in Chapter 40 Title 7 of the Delaware Code and the Delaware Sediment and Stormwater Regulations, effective January 23, 1993 as amended March 11, 1993.