

Exhibit 22

SWPPP Inspection and Enforcement Policy

1. Purpose

The purpose of this stormwater construction inspection document is to provide guidance to inspectors, staff, and contractors in the procedures and expectations for conducting Stormwater Pollution Prevention Plan (SWPPP) compliance inspections at construction sites within the Town of North Greenbush (Town). The Guide focuses primarily on the Town's role in the inspection procedure, but does address other inspections performed by third-party entities.

2. Compliance Inspection Types

There are three types of inspections addressed within this Guide, as follows:

Comprehensive Inspections. Comprehensive Inspections are intended to be thorough and are designed to verify that the permittee is in compliance with applicable regulatory requirements, effluent controls, compliance schedules and other measures outlined in the project SWPPP. This type of inspection involves the review of records; visual observations; evaluations of management practices, effluents and receiving waters; the formal documentation of inspection findings; notification to permittee of any observed deficiencies; and the expectation of the timeframe in which deficiencies are to be addressed. The Comprehensive Inspection is typically conducted by a qualified Town Employee or Town Designated Engineer (TDE) representative for compliance with the Town's MS4 program. A copy of the Town's SWPPP Inspection Form and associated cover letter is attached to this Exhibit.

Reconnaissance Inspections. Reconnaissance Inspections are less formal than Comprehensive Inspections and are typically conducted on a smaller scale. This type of inspection may be undertaken in response to known or suspected violations, public complaints, regulatory requirement violations, or as a follow-up to verify actions that were to be undertaken as part of previous inspections. As with Comprehensive Inspections, Reconnaissance Inspections are typically conducted by a Town Employee or TDE representative.

Self-Inspections. When required by the State Discharge Elimination System (SPDES) Permit or otherwise specified by the Town, the site owner/operator shall contract a qualified professional, approved by the Town, to conduct Self-Inspections at the project site. For Self-Inspections, the qualified professional shall determine whether or not the site is being managed in accordance with the SWPPP and whether or not the SWPPP's recommended Erosion and Sediment Control (E&SC) measures are effective. If items are out of compliance with the SWPPP, or SWPPP E&SC measures are not effective, the qualified professional inspecting the site recommends corrections to the owner/operator and notifies the Town of these items. **The Town shall not conduct Self-Inspections on behalf of the owner/operator.**

Inspections may be announced or unannounced, with unannounced inspections being preferred as long as it is safe to do so.

3. Inspector/Contractor Training and Documentation

Inspectors, whether working for the Town, a TDE representative, or a third party, are required to have the following training and documentation in order to be able to conduct site inspections:

- Training, such as the New York State Department of Environmental Conservation (NYSDEC) 8-Hour Erosion and Sediment Control Training or approved equal. The training shall be up-to-date and a copy of the Training Certificate shall be on file with the Town Building Department.
- A wallet card indicating proof of training, which must be carried on-person to the inspection site.
- A picture ID, which must be carried on-person to the inspection site.

4. Inspection Frequency and Prioritization

Inspections shall be conducted at the minimum following frequencies:

- Comprehensive Inspections shall be completed by the Town or the TDE representative at least once every 30 days for sites subject to Self-Inspections. For sites without Self-Inspections, Comprehensive Inspections shall be completed at least every 7 days for sites with under 5 acres of disturbance; twice every seven days for sites with over five acres of disturbance; and following a rainfall event of at least one-half inch.
- There is no frequency requirement for Reconnaissance Inspections.
- Self-Inspections shall be completed at least every 7 days for sites with under 5 acres of disturbance; twice every seven days for sites with over 5 acres of disturbance; and following a rainfall event of at least one-half inch.

Barring any readily evident or unique site conditions, inspections shall be prioritized and conducted in an order of precedence based upon the following general criteria:

- Sites where a rainfall event of at least one-half inch has occurred to verify the continued integrity of stormwater management components.
- New construction sites in which SWPPP measures are being initially installed.
- Sites with a history of SWPPP violations.
- Sites in close proximity to a NYSDEC or ACOE wetland or adjacent to substantial waterbodies.
- Sites with over 5 acres of disturbance.

On the Town of North Greenbush Stormwater Management Project Spreadsheet, projects shall be identified as having one of the following Priorities:

- **High:** This category includes new construction sites in which SWPPP measures are being initially installed and stabilized; active sites with a history of SWPPP violations; sites in close proximity to a DEC or ACOE wetland or adjacent to substantial waterbodies; sites over 5 acres of disturbed area; and sites otherwise deemed as High Priority by the Town. Since the rainfall event criteria can be applied to any site, it is not in itself a reason to identify a particular site as High Priority.
- **Medium:** This category includes all other sites engaged in standard construction activities and not otherwise covered by one of the other Priority categories.
- **Low:** This category includes sites on which work is not currently occurring and the site is stabilized.

For sites in which NYSDEC lists the permit coverage as Terminated, no priority is assigned.

5. Pre-Inspection Preparation

The following items are to be completed prior to traveling to the construction site for an inspection:

- Notify the office of the time and location of the upcoming inspection.
- Coordinate the inspection with any other regulatory or oversight authorities that may be conducting inspections at the job site, as applicable.
- Verify that proof of credentials are on your person, including a photographic ID and any training certificates (wallet cards) associated with the tasks to be performed.
- Prepare the Field Inspection Form with static information such as the inspector's name, the project location, the permit number and other such details as can be entered prior to traveling to the site. A copy of the inspection form is included with this document.
- Review the SWPPP, past inspection reports, phasing plan, construction sequence, Consent Orders, site-specific issues and other pertinent project paperwork and drawings.
- Assemble any personal protective equipment, monitoring equipment, tape measures, cameras and other tools or apparatus as may be required to conduct the inspection or enter the job site.

6. On-Site Inspection Process

The following general procedure shall be used while conducting Comprehensive Inspections:

- Notify the Construction Manager or designated Person-in-Charge identified during the preconstruction kickoff meeting that an inspection is taking place.
- Complete the remainder of the Field Inspection Form header sections for specific site conditions at the time of the inspection such as times and conditions, including current weather as well as weather conditions since the last inspection, if noteworthy.
- Review on-site records. At a minimum, copies of the following items are to be kept in a known location (SWPPP Box) at the project site and should be verified:
 - Construction stormwater permit.
 - Notice of Intent (NOI).
 - SWPPP.
 - Prior Town inspection reports.
 - Prior Self-Inspection reports.
- Conduct a site walk. At a minimum, the following items should be visually inspected and noted, with supporting digital photographs as required:
 - The location and characteristics of waters entering the site (receiving waters).
 - The location and characteristics of waters leaving the site and any descriptions or evidence of previous or ongoing discharges of sediment or other pollutants from the site.
 - Stabilized construction entrances and concrete washout areas.
 - Material storage or stockpiling areas.
 - Disturbed areas not currently being worked.
 - Dewatering operations.
 - Sloped areas, particularly those under construction and requiring stabilization.
 - The installation and maintenance of stormwater control measures or best management practices (BMPs) listed in the SWPPP such as silt fencing, storm drain inlet protection, swales, check dams and other measures.
 - Locations where BMPs are installed but are failing to operate as designed or intended.
 - Locations where additional BMPs are needed but do not currently exist.

7. Post-Inspection Exit Interview

When the inspection is complete, attempt to conduct a post-inspection exit interview with the site foreman or designee. The following items should be discussed:

- Noted deficiencies for installed BMPs requiring maintenance, upkeep or restoration and the expected timeline to address the issues.

- The Contractor's plan for addressing the noted deficiencies. It should be noted that, for deficiencies and design shortcomings, the Town does not want to dictate the action to be taken. Rather, it is the job of the site manager or their design engineer to propose solutions to noted deficiencies.
- The schedule for initiating and completing work for the noted deficiencies. Work on deficient areas is to begin within 24 hours and be completed as quickly as possible, within reason.
- Shortcomings in the BMPs that require engineering design changes or additions to the SWPPP and the expected timeline to address the items.
- Consequences for not addressing items in a timely manner.

If possible, a copy of the inspection checklist should be signed by the site manager as an acknowledgement of the items discussed and intended path forward.

8. Post-Inspection Documentation

Following a Comprehensive Inspection or Reconnaissance Inspection, the inspector should take the following steps once returning to the office:

- Compile the inspection notes and photographs into a single, multi-page document and scan the document electronically.
- Prepare a cover letter using the Stormwater Compliance Inspection Cover Letter Template (sample included as part of this exhibit), or similar third-party template, addressed to the Owner/Operator pertaining to the specific inspection performed.
- For Comprehensive Inspections in which a violation has been identified, in addition to the cover letter indicating that a violation has been noted, the Town of North Greenbush SWPPP Inspection Summary Sheet (included as part of this exhibit) shall be submitted to the Owner/Operator and is to be placed immediately following the cover letter. **The SWPPP Inspection Summary Sheet, in the format provided by the Town, shall be submitted with each report, regardless of who conducts the inspection, as the Town will use this document to both verify and track violations.**
- Send a copy of the cover letter, Town of North Greenbush SWPPP Inspection Summary Sheet, and inspection report to the site manager or other Owner/Operator contact with a read receipt request. If the inspection is conducted on behalf of the Town by a TDE representative, the Town Building Department is to be copied on the e-mail. This should be done within one day of the completing the inspection.
- Place a copy of the inspection report and photographs in the Town's Inspection Binder and update the Stormwater Management Project Spreadsheet.

It is understood that this may be redundant to items discussed in the Post-Inspection Exit Interview. However, this will reiterate the fact that the Town is looking to move to a policy that steps away from just verbal communication to a more formal, documented system, particularly for items requiring attention.

Following a Self-Inspection, the inspector should take the following steps once returning to the office, as they relate to the Town, in addition to any internal procedures:

- For Self-Inspections in which a violation has been identified, in addition to areas identified within the inspection report, the Town of North Greenbush SWPPP Inspection Summary Sheet shall be submitted to the Owner/Operator and is to be placed immediately on top of the report or following a cover letter. **The SWPPP Inspection Summary Sheet, in the format provided by the Town, shall be submitted with each report, regardless of who conducts the inspection, as the Town will use this document to both verify and track violations.**
- Send an electronic copy of the inspection to the Building Department. This should be done within one day of completing the inspection.
- Place a copy of the inspection report and photographs at the site's SWPPP box. For sites with deficiencies, this is to be done within 24 hours. If no deficiencies were noted, this report and photographs shall be placed in the site's SWPPP box within 72 hours.

9. Enforcement Escalation – SWPPP Practices

The Owner/Operator/landowner, applicant, site manager and any contractor/subcontractor (Contractor) working within the Town must comply with all conditions of the SWPPP submitted pursuant to the Town's Local Law. In the event that the Town determines that a land development activity is not being carried out in accordance with the requirements of the SWPPP, the Building Inspector, Zoning Officer, Town Engineer, or an appointed designee (Officer), shall take the following steps to address the violation(s):

- **Initial Notification:** The Contractor will be notified of the violation(s) and told that work for addressing the violation(s) is to begin within 24 hours and shall be completed as quickly as practicable. This communication shall be in writing, and the day of issuance for the Initial Notification shall be considered as the start of the enforcement timeline outlined below.
- **Failure to begin addressing the violation(s) within one business day of notification:** A follow-up email shall be sent to the Contractor reiterating the noted violation(s) and the expectations for addressing the deficiencies.
- **Failure to begin addressing violation(s) within two business days of notification:** A Stop Work Order shall be issued for Earthwork activities not directly associated with Erosion and Sediment Control measures. The scope of earthwork allowed to continue shall be discussed and approved by the Town. Activities that have no effect on

earthwork such as framing, roofing, painting, interior utilities installation, and other similar tasks may continue provided they do not affect the required stabilization measures or draw personnel away from addressing the SWPPP violation(s).

- Failure to begin addressing violation(s) within four business days of notification: A Stop Work Order shall be issued for the entire site and no construction activity may occur that is not directly associated with addressing the noted violation(s), maintaining E&SC measures, or as would otherwise jeopardize the health and safety of workers or residents. The scope of activities allowed to continue shall be discussed and approved by the Town.
- Failure to begin addressing violation(s) within five business days of notification: In addition to the Site-Wide Stop Work Order, the Town will begin the process for issuing fines for each violation as dictated by the Town Code.
- Failure to begin addressing violation(s) within ten business days of notification: The Town will refer the matter to the New York State Department of Environmental Conservation (DEC), the Army Corps of Engineers (ACOE), or other Authority Having Jurisdiction (AHJ), for assistance in enforcement.

As a point of clarification, a business day is considered as any weekday (Monday through Friday) that is not a local, state or federal holiday. Additionally, if a Contractor is unable to implement corrective actions within one business day of the Initial Notification, or cannot address violation(s) in a manner consistent with the SWPPP, the Contractor must notify the Town, immediately and in writing, why this is so and propose an alternate remediation plan for addressing the violation(s) as well as a revised schedule for their implementation. The Town may then adjust the enforcement escalation schedule at its discretion. Finally, for violations that pose the imminent threat of a Water Quality Violation or constitute a substantial public health or safety issue, the Town reserves the right to require the Contractor to accelerate the remediation schedule, independent of weekdays or holidays.

In addition, the Town may also undertake the following enforcement actions, at its discretion, for ongoing SWPPP violations:

- Withholding Building Permits: The Town may withhold the issuance of Building Permits for new construction until SWPPP violations are addressed.
- Withholding Certificates of Occupancy: The Town may withhold Certificates of Occupancy for completed construction until SWPPP violations are addressed.
- Restoration of Lands: Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

10. Enforcement Escalation – Workers and Operators

In cases where SWPPP practices and E&SC measures are repeatedly ignored or routinely damaged by an individual construction worker or equipment operator, the Town will address what it perceives to be instances of a lack of care, attention, or training by/of such individuals as outlined below. It shall be noted that this section does not address the enforcement of violation(s), as those items are discussed in Section 9, but rather the actions of the worker.

- **Initial Notification:** The Contractor will be notified that a violation(s) appears to result from the lack of care, attention or training for an individual worker or operator and that the Contractor is to address this issue with the individual and provide proof of this conversation, or proof of supplemental training, as applies. This communication shall be in writing, and the day of issuance for the Initial Notification shall be considered as the start of the enforcement timeline outlined below.
- **Failure to begin addressing the behavior within one business day of notification:** A follow-up email shall be sent to the Contractor reiterating the expectations for addressing the individual's behavior.
- **Failure to begin addressing the behavior within two business days of notification:** The individual shall be banned from working at the site for a minimum of five days and shall receive supplemental training satisfactory to the Town.
- **Failure to begin addressing the behavior within five business days of notification:** The individual shall be permanently banned from working at the site.

The Town also reserves the right to implement similar enforcement actions for employees that continue to repeatedly ignore or routinely damage SWPPP practices and E&SC measures, even after supplemental training, or if an employee is found to maliciously or deliberately damage said practices and measures.

11. Verification, Tracking, and Escalation Enforcement

The uniform Town of North Greenbush SWPPP Inspection Summary Sheet will be used to verify whether or not a contractor is addressing violations noted during SWPPP inspections in a timely manner. In addition, the Town of North Greenbush SWPPP Inspection Summary Sheet may be used to populate a SWPPP Developer Tracking Sheet (included as part of this exhibit) for projects that appear to be regularly out of compliance with addressing SWPPP violations. The SWPPP Developer Tracking Sheet can be sorted by Date, Location, Observation, or Comments to allow the Town to identify trends and work with the Contractor to address these issues or to escalate enforcement as follows:

- **Similar Non-Compliance:** For Contractors that are found to have continuous similar non-compliance issues, identified by sorting the Location or Observation columns, the Town will work with the Contractor to address these issues as follows:

- Notify the Contractor of the observed trend.
 - Work with the Contractor to eliminate these repeated similar non-compliance issues by identifying whether they are the result of: attempting to use the incorrect E&SC measure (systemic); improper installation or maintenance of the practice (behavioral); or another factor.
 - Issue Stop Work Orders as generally defined in Section 9 of this Exhibit.
 - Issue fines as generally defined in Section 9 of this Exhibit.
 - Withhold Building Permits and Certificates of Occupancy as generally defined in Section 9 of this Exhibit.
 - Seek assistance from DEC in this matter.
- Contractor Response Time: For Contractors that are found to have consistently not addressed violations within a reasonable time frame, identified by sorting the Comments column, the Town will work with the Contractor to address these issues as follows:
 - Notify the Contractor of the observed trend.
 - Work with the Contractor to eliminate the unacceptable response time in addressing violations by identifying whether they are the result of: improper tools and materials (systemic); poor planning or lack of care (behavioral); lack of understanding (inadequate training); or another factor.
 - Issue Stop Work Orders as generally defined in Section 9 of this Exhibit.
 - Issue fines as generally defined in Section 9 of this Exhibit.
 - Withhold Building Permits and Certificates of Occupancy as generally defined in Section 9 of this Exhibit.
 - Seek assistance from DEC in this matter.
- History of Non-Compliance: For Contractors that are found to have a history of non-compliance, identified by sorting any of the columns, the Town will work with the Contractor to address these issues as follows:
 - Notify the Contractor of the observed trend.
 - Work with the Contractor understand the historic lack of compliance and identifying whether this is the result of: improper tools and materials (systemic); poor planning or lack of care (behavioral); lack of understanding (inadequate training); or another factor.
 - Issue Stop Work Orders as generally defined in Section 9 of this Exhibit.
 - Issue fines as generally defined in Section 9 of this Exhibit.
 - Withhold Building Permits and Certificates of Occupancy as generally defined in Section 9 of this Exhibit.
 - Seek assistance from DEC in this matter.



XXXX XX, 2021

Contractor Name
Address
Address
Address

Re: Notice of Town SWPPP Oversight Inspection
Project Name, NYR-Permit Number

Attn: Contact Name

Dear Mr. XXXX,

The Town of North Greenbush (Town) is a New York State Department of Environmental Conservation (NYSDEC) designated Municipal Separate Storm Sewer Systems (MS4) operator. As such, the Town is required to implement a Stormwater Management Program, which includes performing Stormwater Pollution Prevention Plan (SWPPP) construction activity oversight and enforcing the NYSDEC State Pollution Discharge Elimination System (SPDES) General Permit for Stormwater Discharges Associated with Construction Activities regulations.

In compliance with these regulations, the Town reviewed your construction site activities, record keeping, and the implementation of your SWPPP for the above referenced project site on XXXX XX, 2021. Based upon the attached Compliance Inspection Report, your site was found to be **un-satisfactory** with regards to implementing the project SWPPP. You are directed to cease earthwork activity except for corrective action and to:

- Review your project SWPPP with your Qualified Inspector;
- Implement Best Management Practices to effectively comply with your SWPPP;
- Review the Construction General Permit Requirements; and
- Implement the corrective actions indicated in the attached Compliance Inspection Report to comply with the SWPPP within one day of receipt of this letter and to complete these actions in a reasonable time.

If you are unable to implement corrective actions within one day of the receipt of this letter, or cannot implement them in a manner consistent with the SWPPP, you must notify the Town, immediately and in writing, why this is so and propose an alternate remediation plan for addressing the deficiencies as well as a revised schedule for their implementation.

Please note that the Construction General Permit requires that the owner or operator, its contractors, subcontractors, agents and/or assigns who obtained coverage under the Permit certify that they have read or been advised of the Permit conditions, understand them, and agree to comply with all terms and conditions of the Permit. Failure to implement the corrective actions outlined in the Compliance Inspection Report may result in the following actions:

- Issuance of a Stop Work Order;



- Denial of Building Permit and Certificate of Occupancy Requests; and
- Assessment of fines, regulatory agency notification and/or further legal action.

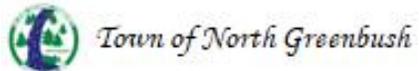
Please contact the Town when the deficiencies outlined in the Compliance Inspection Report have been corrected so that they can be re-inspected for compliance. If you have any questions or comments or would like further clarification on the items discussed within this letter, please do not hesitate to call the Building Department.

Thank you for your cooperation and prompt attention in this matter.

Regards,



Mike Miner, Building Inspector

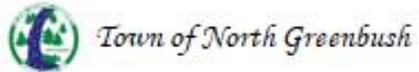


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OR



Eric Westfall, PE



2 Douglas Street
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Attachments: Compliance Inspection Report

Cc: File
Building Department
XXXXXXXXXX



Town of North Greenbush Stormwater Compliance Inspection Report

Project Information

Project Name: _____

Name & Address of SPDES Permittee: _____

On-site Representative: _____

Contractor Name: _____

Inspection Date: _____

Permit #: _____

Weather Conditions: _____

SWPPP Box

Is there a SWPPP Box located on site? YES NO N/A

Does the SWPPP Box contain the appropriate SWPPP Documentation (NOI, SWPPP, SPDES Permit, Contractor Certifications, etc.)? YES NO N/A

Recordkeeping

Are the inspections performed by a qualified professional as required by the permit? YES NO N/A

Are all required reports properly signed/certified? YES NO N/A

Notes/Comments



Visual Observations (Use Photo/SWPPP Inspection Summary Sheet to Elaborate)

Is the site active (not in suspense)?	YES	NO	N/A
Have all disturbances of 5 acres or more been approved prior to disturbance?	YES	NO	N/A
Are stabilization measures installed in inactive areas?	YES	NO	N/A
Adequate perimeter protection installed?	YES	NO	N/A
Sediment tracking?	YES	NO	N/A
Concrete washout installed and maintained?	YES	NO	N/A
Stabilized construction entrances installed and maintained?	YES	NO	N/A
Stockpiled materials stabilized or have perimeter protection?	YES	NO	N/A
Sloped areas stabilized?	YES	NO	N/A
Catch basin inlet protection provided?	YES	NO	N/A
Temporary sediment control basins properly installed, maintained and functioning?	YES	NO	N/A
Water conveyance areas stabilized?	YES	NO	N/A
Check dams installed?	YES	NO	N/A
Installed E&SC measures performing as designed?	YES	NO	N/A
Spills noted?	YES	NO	N/A
Are permanent stormwater control measures implemented?	YES	NO	N/A
Permanent stormwater management area signage installed?	YES	NO	N/A

Other

Water Quality Observations (Use Photo/SWPPP Inspection Summary Sheet to Elaborate)

Were the receiving waters clear on the day of the inspection?	YES	NO	N/A
Was there a discharge into the receiving waters on the day of the inspection?	YES	NO	N/A
Was the discharge into the receiving waters in contrast to the turbidity of the receiving waters?	YES	NO	N/A
Is there a water quality violation?	YES	NO	N/A

Other

Photographs

Attach all reference photographs to the end of this report

Summary/Remarks

Overall Inspection Rating: _____

Name of Inspector: _____

Inspector's Signature: _____

Contractor's Acknowledgment: _____

Town of North Greenbush

SWPPP Developer Tracking Sheet

Project Site/Name: _____ Site XYZ _____ Owner/Developer: _____ Developer 123 _____

Inspector Observation			Town Verification			
Date	Location	Observation	Date Initiated	Date Completed	Initials	Comments