

Appendix D2: Inspection and Enforcement Program for
Construction Sites, 2016





Inspection Program and Enforcement Response Plan for Construction Sites

**For the City and County of Honolulu
Municipal Separate Storm Sewer System
National Pollutant Discharge Elimination System
Permit No. HI S000002**

DRAFT

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**By:
Department of Facility Maintenance, Storm Water Quality Branch
City and County of Honolulu**



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List of Acronyms

BMPs	Best Management Practices
CIP	Capital Improvement Program
City	City and County of Honolulu
DDC	Department of Design and Construction, City and County of Honolulu
DFM	Department of Facility Maintenance, City and County of Honolulu
DIT	Department of Information Technology, City and County of Honolulu
DOH	Department of Health, State of Hawaii
DPP	Department of Planning and Permitting, City and County of Honolulu
DTS	Department of Transportation Services, City and County of Honolulu
ECP	Erosion Control Plan
ENV	Department of Environmental Services, City and County of Honolulu
ERP	Enforcement Response Plan
ESCP	Erosion and Sediment Control Plan
MS4	Municipal Separate Storm Sewer System
NPDES	National Pollutant Discharge Elimination System
ROH	Revised Ordinances of Honolulu
State	State of Hawaii
SWPPP	Storm Water Pollution Prevention Plan
SWQ	Storm Water Quality Branch, Department of Facility Maintenance, City and County of Honolulu

1. Introduction

The City and County of Honolulu (City) is required under their National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit No. HI S000002, effective February 16, 2015 (hereafter referred to as the NPDES Permit) to implement a construction site management program to reduce, to the maximum extent practicable, the discharge of pollutants from both private and public construction sites. As part of the Construction Site Management Program, the City is required to implement the following:

- **Part D.1.d.(5).(i)**
“Conduct inspections in accordance with the City’s guidance “Inspection and Enforcement Program for Construction Sites (January 2000),” “Rules Relating to Soil Erosion Standards and Guidelines (April 1999)” and updates accepted by DOH.
- **Part D.1.d.(5).(iii)**
“Develop and implement an effective oversight program for both public and private construction projects through the entire construction project until final completion of the project.”
- **Part D.1.d.(6).(ii)**
“Develop and implement an Enforcement Response Plan (ERP) to include written procedures for appropriate corrective and enforcement actions, and follow-up inspections when an inspected project is not in full compliance with its ordinances, City permit requirements and the implementation of City standards.”

1.1. Purpose

The purpose of this document is to satisfy the requirement for the City to develop an ERP and effectiveness oversight program. In addition, this document replaces the January 2000 “Inspection and Enforcement Program for Construction Sites” to reflect the changes in the City’s Construction Inspection and Enforcement Program and the new requirements in the NPDES Permit.

The ERP was designed to be a guidance document for City inspectors/Engineer/Project Manager or authorized third party inspectors to take consistent actions when conducting inspections and issuing enforcement actions. This document includes necessary forms and decision flow charts. The ERP also provides procedures for determining inspection frequencies, performing inspections, and issuing the appropriate enforcement action and correction time frame.

1.2. Responsibilities

Construction under the City’s jurisdiction can be divided into two (2) broad categories: private sector projects and public projects, also known as Capital Improvement Program (CIP) projects. Private sector projects are administered by the Department of Planning and Permitting (DPP). CIP projects are administered primarily by the Department of Design and Construction (DDC), however, the Department of Facility Maintenance - Storm Water Quality Branch (DFM-SWQ), Department of Transportation Services (DTS), Department of Environmental Services (ENV), and Honolulu Authority for Rapid Transportation (HART) are responsible for any City-initiated project that is administered under their department. These roles and responsibilities are formally established in the Memorandum of Agreement, Responsibilities under NPDES Permit HI S000002 City and County of Honolulu’s Municipal Separate Storm Sewer System. This MOA is periodically revised to address NPDES permit changes and reorganizations at the City.

DFM-SWQ is also responsible for third-party inspections and performing inspections at construction sites when complaints or referrals from DPP, DDC, ENV, HART or DTS of illegal discharges from construction sites are forwarded to them. If there is an illegal discharge directly to State waters, the matter will be referred to the State of Hawaii, Department of Health (DOH) for enforcement actions, as the City's jurisdiction is limited to the City MS4.

1.2.1. Private Sector Projects

For private sector projects, DPP issues permits for building, grubbing, stockpiling, and grading to construction projects, as applicable. The City requires all construction projects, subject to City permits, to obtain the appropriate permit(s) prior to commencing construction activities.

Construction management is the responsibility of the developer/ owner. DPP is responsible for inspection and enforcement at private projects. This includes enforcing the requirements and guidance found in the "Rules Relating to Soil Erosion Standards and Guidelines," April 1999, as amended, and "Storm Water Best Management Practice Manual, Construction", November 2011.

1.2.2. Capital Improvement Program Projects

For CIP projects, DDC, DTS, ENV, HART, or DFM-SWQ construction engineer and/ or inspector acts as the client representative. The City construction engineer or inspector is responsible for inspections to ensure that the contractor complies with the contract documents (plans, specifications, and special provisions), including the Erosion and Sediment Control Plan (ESCP), and best management practices (BMPs) listed in the Stormwater Water Pollution Prevention Plan (SWPPP) as required under the State's NPDES General Permit Authorizing Discharges of Storm Water Associated with Construction Activity, or other NPDES permit (ie: hydrotesting water or construction dewatering).

On some projects, a consultant is retained to do the construction management. For these projects, the consultant's contract includes requirements to conduct regular inspections and follow-up provisions, including reporting.

2. Enforcement Authority

Construction projects are required to implement BMPs to prevent discharges of pollutants. The City has the authority under ROH §14-14.2 to enforce policies, standards, requirements, and/ or applicable permits listed below, in addition to any project specific requirements at private sector and CIP projects:

- "Rules Relating to Erosion Control Standards and Guidelines," Department of Planning and Permitting, April 1999, as amended.
- "City and County of Honolulu Storm Water Best Management Practices Manual for Construction," Department of Environmental Services, November 2011.
- Building, grading, grubbing and/ or stockpiling permit
- Contract documents such as: plans, specifications and special provisions (CIP projects only)

The City does not have the authority to enforce the NPDES General Permit Authorizing Discharge of Storm Water Associated with Construction Activity or other NPDES permits (Dewatering, Hydrotesting, or Individual Permit) which are issued by DOH. The City requires private projects and ensures CIP projects obtain the appropriate NPDES permit(s) from DOH. CIP projects have the authority under their contract documents to ensure that contractors are complying with NPDES permits, as applicable.

3. Regulated Projects

The Erosion Rules classify projects into five (5) categories. Projects that fall under one (1) of the five (5) categories is considered a regulated project. The Erosion Rules contain the minimum BMPs and ESCP requirements for Category 1, 2, 3, 4 and 5 projects. Category 1 through 5 projects are defined as follows:

Category 1

Projects which are not required to obtain a grading, grubbing, or stockpiling permit but which require a building permit and if soil disturbance is to occur.

Category 2

Projects which require a grading or stockpiling permit where the area of the zoning lot or portion thereof subject to the permit is less than 15,000 square feet for single-family or two-family dwelling uses and less than 7,500 square feet for other uses.

Category 3

Projects which require a grading or stockpiling permit where the area of the zoning lot or portion thereof subject to the permit is 15,000 square feet or more for single-family or two-family dwelling uses, or 7,500 square feet or more for other uses, but where the total area graded or stockpiled upon is less than 15,000 square feet for single-family or two-family dwellings uses and less than 7,500 square feet for other uses.

Category 4

Projects which require a grading, grubbing, or stockpiling permit where the total area including any areas developed incrementally that is to be graded, grubbed, or stockpiled upon is 15,000 square feet or more for single-family or two-family dwelling uses, or 7,500 square feet or more for other uses, or in the event a proposed cut or fill is greater than 15 feet in height for single-family or two-family dwelling uses, or 7.5 feet in height for other uses.

Category 5

Projects where the total area that is to be graded, grubbed, or stockpiled upon is one (1) acre or more, including any areas developed as part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more of total land, and which require a NPDES General/ Individual Permit Authorizing Discharges of Storm Water Associated with Construction Activity (NPDES General Construction Permit) issued by the DOH.

4. CONSTRUCTION INSPECTION

The City has two (2) inspection programs: a city compliance inspection program and an oversight inspection program. The purpose of the compliance inspection program is to ensure that construction BMPs are installed and maintained properly to prevent discharges of pollutants to the City MS4. The purpose of the oversight inspection is to assess the effectiveness of the city compliance inspection program.

4.1. City Compliance Inspection Program

The City prioritized construction projects into five (5) categories. Construction projects with the highest potential for soil loss and erosion are required to implement more construction BMPs. The City uses the following two (2) documents as guidelines for inspection:

- “Rules Relating to Erosion Control Standards and Guidelines,” Department of Planning and Permitting, April 1999, as amended.
- “City and County of Honolulu Storm Water Best Management Practices Manual for Construction,” Department of Environmental Services, November 2011.
- HAR 11-55, Appendix C- NPDES General/ Individual Permit Authorizing Discharges of Storm Water Associated with Construction Activity (applicable CIP projects only)

While each department has minor policy differences, the basic concept of construction inspection procedures remain the same. This includes inspecting for the following:

- Conformance with building, grading, grubbing, or stockpiling permits; storm drain connection license (private projects); and City ordinances.
- Conformance with the NPDES General Construction Permit (applicable CIP projects only)
- Verification that a pre-construction inspection was conducted prior to the commencement of ground-disturbing activities, except for activities associated with the installation of BMPs. The purpose of the pre-construction inspection is to verify that construction BMPs have been installed correctly and in the correct locations in accordance with the ESCP or Minimum Erosion and Sediment Control BMP Checklist.
- Contractor’s self-inspection checklist to determine whether minimum self-inspections have been performed, as applicable.
- Use of minimum BMP requirements to determine whether they are properly implemented and maintained on the construction site.
- Minimum Erosion and Sediment Control BMP Checklist, ESCP or SWPPP (applicable CIP projects only) to determine whether the requirements of the plan are being implemented and maintained properly on the construction site.
- Whether the contractor is making appropriate adjustments when installed BMPs are ineffective or to remedy any additional site conditions that are potential sources of pollutants to the City’s MS4.

4.1.1. Types of Construction Inspections

There are two (2) types of construction inspections under the Compliance Inspection Program: regular inspections and follow-up inspections. Both of these inspection types require the inspector to document the inspection on an inspection checklist and include photographs to document the site conditions, BMPs, and any deficiencies found. Additional inspections may also be required for projects subject to the NPDES General Construction Permit, Individual Permits, or other permits required by other local, State or Federal Agencies and are the responsibility of the owner to comply with.

Regular Inspections

Regular inspections are performed periodically following the pre-construction inspection. Regular inspection shall be performed in accordance with the inspection frequencies shown in **Table 1**. The purpose of regular inspections is to verify that the construction site is properly implementing the ESCP, maintaining installed BMPs, and adjusting installed BMPs when they are ineffective.

Follow-up Inspections

Follow-up inspections are performed in response to deficiencies. The purpose of the follow-up inspection is to verify that corrective actions were completed within the designated timeframe. Table 1: Inspection Frequency per Project Category

Project Category	Inspection Frequency
1	Monthly or once during the life of the project, whichever comes first, or as-needed to ensure compliance with building permit and City ordinances.
2	Monthly, or as-needed, to ensure compliance with grading permit and City ordinances.
3	Monthly, or as-needed to ensure, compliance with grading permit and City ordinances.
4	Monthly, or as-needed to ensure, compliance with grading permit and City ordinances.
5	Twice a month, or as-needed, to ensure compliance with grading permit, ESCP, General Construction Activities Permit, and City ordinances.

4.2. Third Party Oversight Inspection Program

The purpose of the third party oversight inspection is to assess the adequacy and effectiveness of the inspection program implemented by DDC, DTS, HART, ENV, DFM-SWQ and DPP - Site Development Division, DPP- Building Divisions inspectors and third party Construction Managers at ensuring compliance with the City’s NPDES Permit. At a minimum, the inspection will verify that BMPs were properly installed and at the locations specified in the ESCP or Minimum Erosion and Sediment Control BMP Checklist.

For both private and City CIP projects, third party oversight inspections will be performed by an inspector who is independent (i.e., not involved in the day-to-day planning, design, or implementation) of the construction project to be inspected. The inspector will document the results of the inspection on an oversight inspection checklist and provide it to the department/division responsible for inspections under the Compliance Inspection Program.

4.2.1. Risk Ranking Process

Projects selection for third party/oversight inspections are determined by evaluating the risk of the project for discharging pollutants. The risk level is determined using the following criteria to evaluate Category 1 through 5 projects: 1) total disturbed area, 2) distance to watercourse, and 3) slope. The City will use the process in **Table 2** to determine the overall risk of the project.

Table 2: Risk Ranking Process

RISK CRITERIA	CHECK APPROPRIATE BOX	RATING
1. Total Disturbed Area		
a. ≥ 1 acre	<input type="checkbox"/>	5
b. 7,500 square feet \leq disturb area < 1 acre	<input type="checkbox"/>	3
c. $< 7,500$ square feet	<input type="checkbox"/>	1
2. Distance to Watercourse		
a. ≤ 50 feet	<input type="checkbox"/>	3
b. 50 feet $<$ distance to watercourse ≤ 100 feet	<input type="checkbox"/>	2
c. > 100 feet	<input type="checkbox"/>	1
3. Slope		
a. Length > 10 feet or Height > 5 feet; Slope grade Slope grade $\geq 3:1$	<input type="checkbox"/>	5
b. Length > 10 feet or Height > 5 feet; $4:1 \leq$ Slope grade $< 3:1$	<input type="checkbox"/>	3
c. Slope grade $< 4:1$	<input type="checkbox"/>	1
Total Rating		_____
OVERALL RATING		
7 or greater	High	Monthly
4-6	Medium	Quarterly
3	Low	Once annually or during the life of the project, whichever comes first

4.2.2. Oversight Inspection Frequency

High Risk Projects

High risk projects will receive oversight inspections throughout the construction process, including the vertical phase of construction, until permanent stabilization is achieved.

All high risk projects priority construction projects start with monthly inspections. The inspection frequency may decrease to quarterly if there are no major or critical deficiencies and less than six (6) minor deficiencies with no more than three (3) occurring in one (1) month. The inspection frequency returns to monthly inspections if any quarterly inspection indicates at least one (1) major or critical deficiency, or three (3) or more minor deficiencies.

Medium Risk Projects: Medium risk projects will receive quarterly oversight inspection throughout the construction process including the vertical phase of construction, until final completion of the project.

Low Risk Projects: Low risk project will be inspected at least once annually or once during the life of the project, whichever comes first.

4.3. BMP Deficiencies

Minor

Minor deficiencies means those deficiencies that do not pose a threat of discharging untreated storm water or pollutants to the MS4, surface waters, or State waters, but are not in strict conformance with an approved ESCP or Minimum Erosion and Sediment Control BMP Checklist.

Major

Major deficiencies are non-critical deficiencies that indicate a lack of good-faith efforts to comply with the requirements of these rules and those deficiencies that may reasonably be expected to result in the discharge of pollutants to the MS4 or State waters under rain conditions with a 10 year recurrence interval or less.

Critical

Critical deficiencies are any BMP deficiencies that result in or pose an immediate threat of pollutant discharges to the MS4 or state waters.

4.4. Inspection Procedures

The City inspector shall perform the following during a construction inspection to determine if the construction site is in compliance with Minimum Erosion and Sediment Control BMP Checklists, ESCP, or SWPPP (CIP projects only), as applicable:

1. Review Minimum Erosion and Sediment Control BMP Checklists, ESCP, SWPPP or SSBMP (applicable CIP projects only) previous inspection reports, and any other applicable documentation.
2. Meet with the contractor, developer, or construction manager.
 - a. Discuss general overview of the project.
 - b. Review status of any issues or corrective actions noted in previous inspection reports.
3. Inspect areas that have been cleared, graded or excavated and have not completed stabilization.
4. Inspect all points of discharge from the site.
5. Inspect construction BMPs, including staging areas and stabilized areas, to determine if they are adequate, properly installed, and properly maintained, including but not limited to:
 - a. Erosion Control BMPs
 - i. Inspect slopes and other disturbed areas where no work is planned for at least seven (7) consecutive days to ensure exposed areas have adequate temporary/permanent stabilization.
 - b. Sediment Control BMPs
 - i. Inspect the level of sediment build-up behind silt fences/ sediment barriers or in detention basins.
 - ii. Condition of construction entrances/ exits and if there is any tracking out of the construction site.
 - iii. Condition of inlet and catch basin protection.
 - c. Good Housekeeping BMPs

- i. Inspect trash areas, sanitary/ septic waste area, material storage/ staging areas to ensure waste or materials are properly stored and that pollutants are not exposed to rainfall or runoff.
 - ii. Inspection vehicle/ equipment fueling, maintenance, and storage for leaks and spills.
6. Determine if BMPs are in place as specified in the Minimum Erosion and Sediment Control BMP Checklist, ESCP, or SWPPP or SSBMP (applicable CIP projects only).
 - a. Note any areas where additional BMPs may be needed which are not identified in the plan.
7. Document results of inspection on inspection checklist.
8. Meet with contractor, developer, or construction manager again prior to leaving.
 - a. Discuss effectiveness of current BMPs, additional BMPs needed, maintenance requirements, and any deficiencies that need to be corrected.
 - b. Discuss any discrepancies in the site plans and implementation of construction BMPs.
9. Schedule a follow-up inspection, if needed.
10. If enforcement actions are needed, see Section 5 for more information on enforcement policies and procedures.

5. ENFORCEMENT RESPONSE PROGRAM

For private sector projects, DPP will issue enforcement actions. For CIP, the City construction engineer or inspector responsible for the project will issue enforcement actions. DPP, DDC, HART, ENV and DTS will also refer illicit discharges to DFM-SWQ for enforcement actions.

5.1. Enforcement Policy

The City's policy is to prevent the discharge of pollutants from construction sites by inspecting both private sector and CIP projects and determining if the sites are implementing appropriate BMPs in accordance with the City's NPDES Permit, policies, standards and project-specific requirements and permits. The City is authorized under the Chapter 14 of the Revised Ordinances of Honolulu (ROH) or contract documents to take enforcement actions against the contractor or developer when a construction site is found to be out of compliance.

5.2. Discovery of Deficiencies

The City becomes aware of non-compliance at construction sites primarily by performing permit required inspections. The City occasionally becomes aware of non-compliance through the following sources:

- City personnel conducting routine activities such as driving to or from a construction site or when inspecting other activities at a site.
- Contractor compliance activities, such as conducting and submitting inspection reports or preparing, implementing, and updating ESCPs or SWPPP (CIP projects only).
- Public complaints.
- Regulatory agency inspections or audits.

5.3. Enforcement Actions

Enforcement actions differ between private sector projects and CIP projects. DPP inspectors use

enforcement actions to enforce compliance with the building, grading, grubbing, or stockpiling permit. DDC, DTS, HART, ENV and DFM-SWQ inspectors and construction managers use enforcement actions to enforce compliance with the contract documents.

Enforcement actions are discretionary in nature and generalized enforcement procedures are provided in Section 5.6 for private sector projects and Section 5.7 for public projects. In addition, **Figure 1** and **Figure 2** demonstrate this general procedure in a flow chart for private sector and public projects, respectively.

The City may not always take enforcement actions in the sequence provided and reserves the right to issue enforcement actions based on the facts of the violation, or history of noncompliance at the site or with the contractor/ developer. In general, enforcement actions are based on the type of BMP deficiency found at the site. In the event that no corrective actions were taken during the required time frame, the City will escalate enforcement actions.

5.3.1. Verbal Warnings

Verbal warnings are typically the initial enforcement action used to request corrective action for both private sector and CIP projects. Verbal warnings are issued to the contractor/ developer. The inspector who issues the warning shall document the violation, notification, specific time frame for correction, and follow-up inspection date. Verbal warnings are often sufficient to achieve correction of the violation. Most violations are often corrected while the inspector is still present at the construction site.

5.3.2. Written Notice

Written notices are used for both private and CIP projects. For private projects, written notices may include Notice of Non-Compliance and/ or Cease and Desist Order. For CIP projects, written notices may include Notice of Non-Compliance, Administrative Compliance Order, Administrative Citations or Fines, and/ or Cease and Desist Order.

Written notices are issued either when a prior verbal warning was not corrected within the specified time frame for correction or when the severity of the violation is such that a verbal warning is not strong enough. Written notices shall include the description of the violation, suggested corrective actions, and time frame for correction as well as a follow-up inspection.

5.3.3. Stop Work Order

Stop work orders are used at private projects when a prior written notice was not corrected within the specified time frame, or a significant threat to water quality is observed. Stop work orders prohibit further construction activity until the problem is resolved. The stop work order will not be lifted until the contractor's project supervisor requests the inspector to re-inspect the project and verify that the deficiencies have been corrected. Work may not begin again until the inspector has signed off on the corrections.

The stop work order must include the infraction and specify what corrective action must be taken.

5.3.4. Suspension or Revocation of Permits

Suspension or revocation of permits is used at private projects and only in severe cases of non-compliance or significant discharges. The City may suspend or revoke the building, grading, grubbing, or stockpiling permit that a developer/ contractor is working under or withhold final approval. The developer/ contractor will have to re-submit detail plans and proposals for compliance or re-apply for a permit and meet any requirement(s) that the City may place on the project.

5.3.5. *Contract Enforcement Mechanism*

Contract enforcement mechanisms are used for CIP projects when written notices are insufficient. Construction contracts include language that gives the City inspector and construction manager the right to enforce established policies including withhold payment(s), using contractor's bonds, applying fines, stopping work (without time penalties), or terminating contracts if the contractor performing the construction activities does not comply with contract documents, local ordinances or the NPDES General Construction Permit A or other NPDES Permit, if required.

5.3.6. *Referral to DOH*

City inspectors and construction managers will refer both private sector and CIP projects to DOH for the following three (3) situations:

1. **Critical Deficiency with Potential to Significantly Impact Public Health**

Part D.1.d.(5).iii require the City to notify DOH when a critical deficiency occurs. The procedures the City will implement to notify DOH, once a critical deficiency occurs, are listed as follows:

- Inspector notifies and provides DFM-SWQ of the critical deficiency and corrective actions taken including inspection report and photo documentation.
- DFM-SWQ notifies DOH of the critical deficiency and provides the Critical Deficiency Report, which includes photo documentation. A template for the Critical Deficiency Discharge Report is provided in **Attachment 1**.

In the event that the City believes that a non-compliance situation has the potential to significantly impact public health or the environment, the City will refer the situation to DOH for concurrent enforcement actions.

2. **Exhausted all Enforcement Actions**

In the event the City exhausted all of the enforcement options discussed above, the City will refer the project to DOH by providing DOH with:

- A verbal notification within one (1) week of exhausting enforcement actions, and
- A written report within two (2) weeks of exhausting enforcement actions. The written report shall include inspection checklists, notes and related correspondence in Acrobat Adobe pdf format.

A template written report requesting enforcement action from DOH is available in **Attachment 2**.

3. **NPDES Non-Filers**

In the event the City identifies a site that has not applied for the General Construction Activity Storm Water Permit coverage or any other applicable NPDES permit(s), the City will provide DOH with written notification with two (2) weeks of discovery.

5.4. **Time Frame for Correction**

For each deficiency discovered, the City will determine the time frame the contractor/ developer has to correct the deficiency before enforcement actions are escalated.

For minor deficiencies, the City will require the deficiency to be corrected as soon as possible but no later

than ten (10) calendar days after the deficiency is discovered or before the next forecasted rain event, whichever is sooner.

For major deficiencies, the City will require the deficiency to be corrected as soon as possible but no later than five (5) calendar days after the deficiency is discovered or before the next forecasted rain event, whichever is sooner.

For critical deficiencies, the City will require the deficiency to be corrected or addressed before the close of business on the day that the deficiency was discovered.

5.5. Enforcement Procedures for Private Sector Projects

Perform construction BMP inspection as described in Section 4.3. Please see **Figure 1: Enforcement Action Sequence for Private Projects** for a flow chart of this process.

Step 1. Determine if a BMP deficiency has occurred.

- a. No deficiencies - no enforcement actions necessary.
- b. Minor deficiency - start at Step 2 or 3, depending on the severity.
- c. Major deficiency - start at Step 3 or 4, depending on the severity.
- d. Critical deficiency - start at Step 4 or 5, depending on the severity.
 - i. Notify DFM-SWQ and provide inspection report and photo documentation to forward to DOH.

Step 2. Issue a Verbal Warning by notifying the contractor/ developer.

- a. Document on the construction site BMP checklist the following information:
 - i. Deficiencies to be corrected.
 - ii. Specific time frame for correcting the problem.
 - iii. Follow-up inspection date to confirm correction.
- b. Perform follow-up inspection and document findings in the inspection file.
 - i. If corrective actions were taken, document correction on Construction Site BMP Checklist.
 - ii. If corrective actions were not taken, issue a Written Notice.

Step 3. Issue Written Notice to contractor/ developer's project supervisor and owner/ developer.

- a. Written Notice shall be documented on the BMP checklist and a copy shall be placed in the active inspection file. Written Warning shall include:
 - i. Deficiencies to be corrected.
 - ii. Suggested corrective actions.
 - iii. Specific time frame for correction.
 - iv. Date for follow-up inspection.
- b. Perform follow-up inspection and document findings in the inspection file.
 - i. If corrective actions were taken, document correction on construction site BMP checklist.
 - ii. If corrective actions were not taken, issue Stop Work Order.

Step 4. Issue Stop Work Order and provide copies to contractor's project supervisor and owner/ developer and a copy shall be placed in the active inspection file.

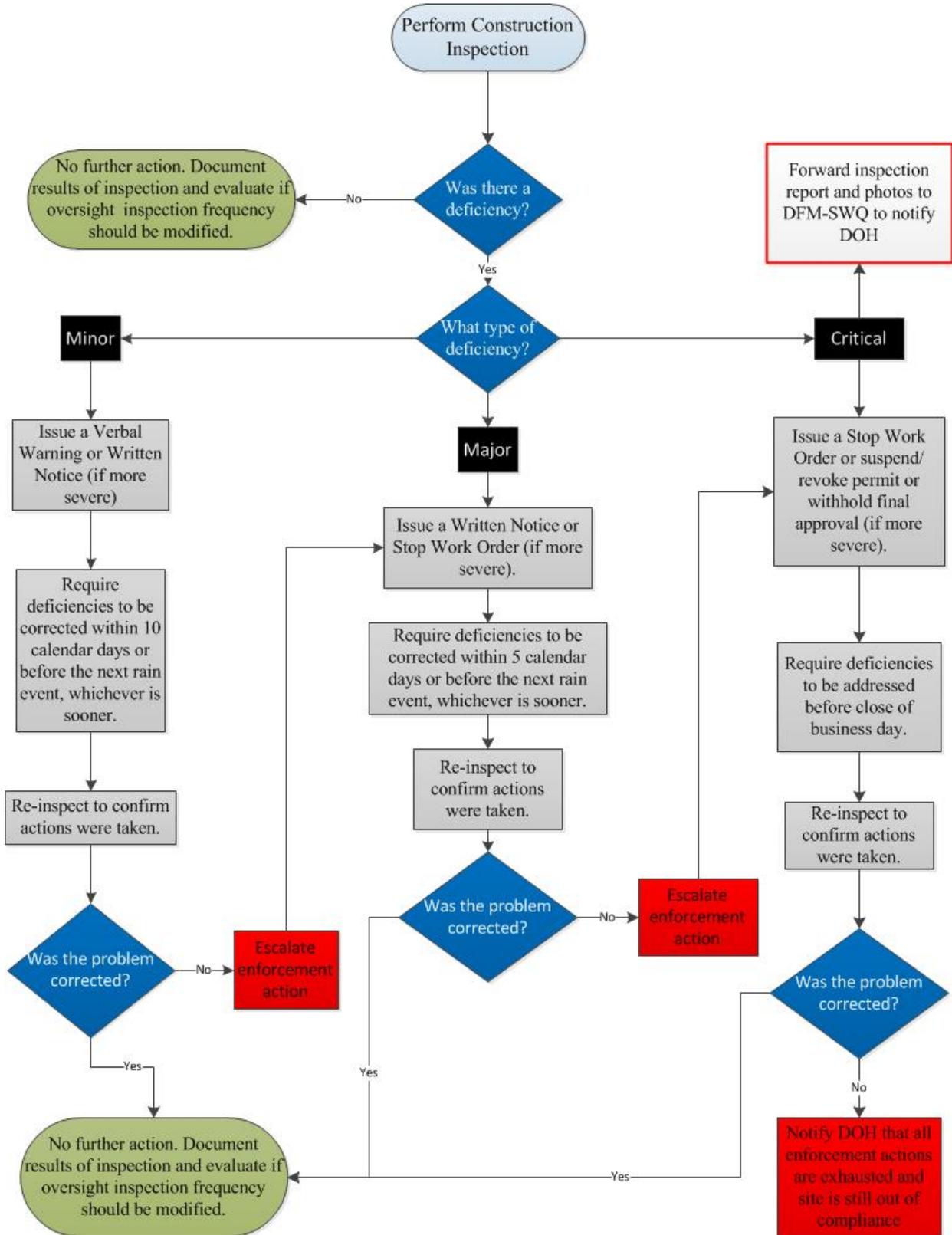
- a. Stop Work Order shall include:
 - i. Deficiencies to be corrected.
 - ii. Specific corrective action that must be taken.
- b. Perform re-inspection when the developer/ contractor's project supervisor requests for one.
 - i. If corrective actions were taken, sign off on the corrections and allow work to proceed.
 - ii. If corrective actions were not taken, discuss with legal counsel if revocation of permit or denial of permits should be sought.

Step 5. Suspend/revoke grading and/ or building permit that the developer/ contractor is working under, withhold final approval, or deny future permits on the project. Discuss with legal counsel, if necessary.

Step 6. Notify DOH if all enforcement actions are exhausted and contractor/ developer is still out of compliance or poses an immediate or significant threat to water quality, and/ or human or environmental health.

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Figure 1: Enforcement Action Sequence for Private Projects

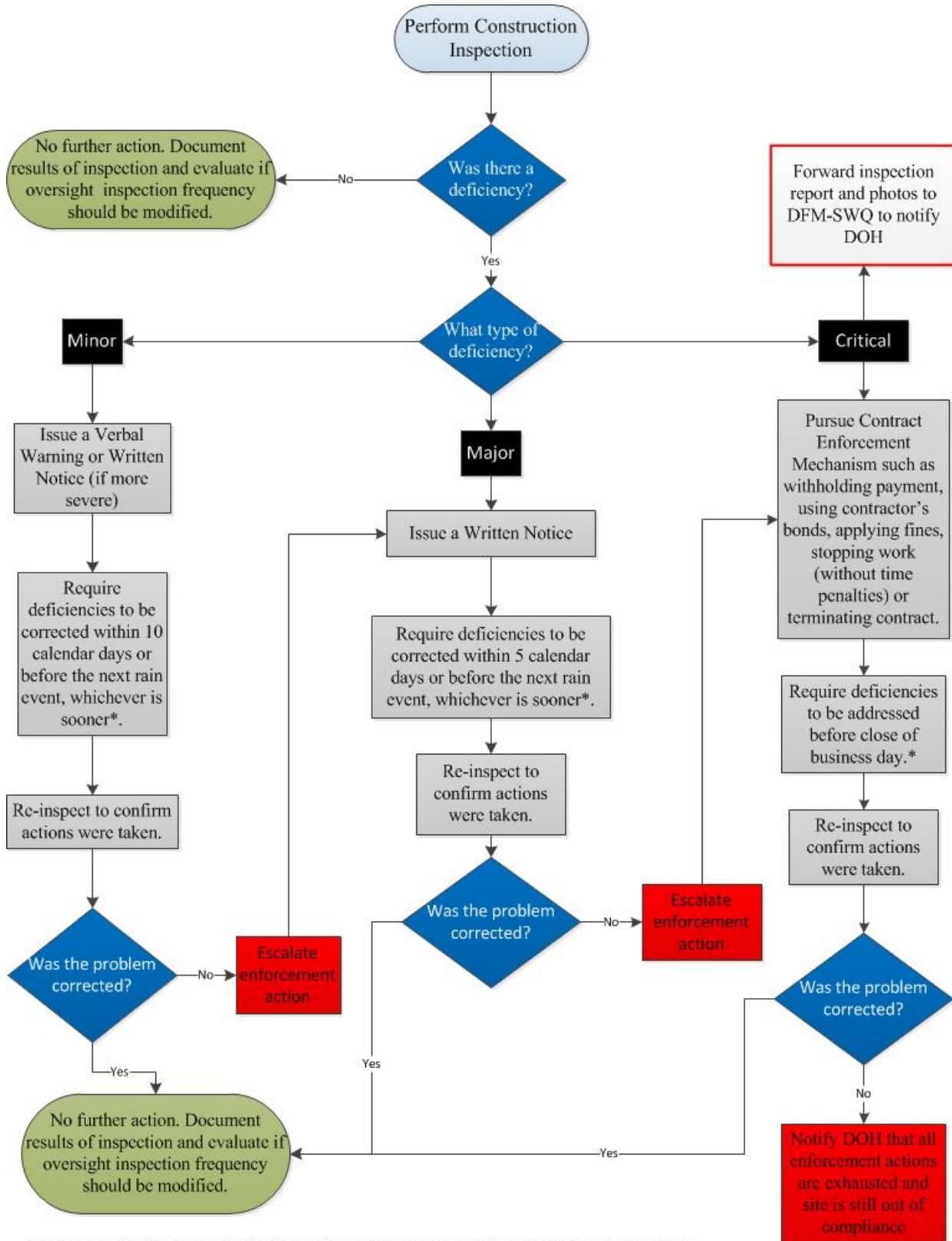


5.6. Enforcement Procedures for Capital Improvement Program Projects

Perform construction BMP inspection as described in Section 4.3 or third-party oversight inspection . Please see **Figure 2: Enforcement Action Sequence for CIP Projects** for a flow chart of this process.

- Step 1. Determine if a BMP deficiency has occurred. Take the following actions depending on the type of deficiency found:
- a. No deficiencies - no enforcement actions necessary.
 - b. Minor deficiency - start at Step 2 or 3, depending on the severity.
 - c. Major deficiency - start at Step 3.
 - d. Critical deficiency - start at Step 4.
 - i. Notify DFM-SWQ and provide inspection report and photo documentation to forward to DOH.
- Step 2. Issue a Verbal Notice by notifying the contractor/ construction manager.
- a. Document on the construction site BMP checklist the following information:
 - i. Deficiencies to be corrected.
 - ii. Specific time frame for correcting the problem.
 - iii. Follow-up inspection date to confirm correction.
 - b. Perform follow-up inspection and document findings in the inspection file.
 - i. If corrective actions were taken, document correction on construction site BMP checklist.
 - ii. If corrective actions were not taken, issue a Written Notice.
- Step 3. Issue a Written Notice to contractor's project supervisor.
- a. Written Notice shall be documented on the BMP checklist and a copy shall be placed in the active inspection file. The Written Notice shall include:
 - i. Violation that is to be corrected.
 - ii. Suggested corrective actions.
 - iii. Specific time frame for correction.
 - iv. Date for follow-up inspection.
 - b. Perform follow-up inspection and document findings in the inspection file.
 - i. If corrective actions were taken, document correction on construction site BMP checklist.
 - ii. If corrective actions were not taken, pursue contract enforcement mechanisms.
- Step 4. Pursue Contract Enforcement Mechanism such as withholding payment, using contractor's bonds, applying fines, stopping work (without time penalties), or terminating contract.
- Step 5. Notify DOH if all enforcement actions are exhausted and contractor/ developer is still out of compliance or poses an immediate or significant threat to water quality and/ or human or environmental health.

Figure 2: Enforcement Action Sequence for CIP Projects.



6. References

City and County of Honolulu, Department of Environmental Services, “City and County of Honolulu Storm Water Best Management Practices Manual for Construction,” November 2011.

City and County of Honolulu, Department of Environmental Services, “Inspection and Enforcement Program for Construction Sites,” January 2000

City and County of Honolulu, Department of Planning and Permitting, “Rules Relating to Erosion Control Standards and Guidelines,” April 1999, as amended.

City and County of Honolulu, Department of Facility Maintenance, “Storm Water Management Program Plan,” February 2016

City and County of Honolulu “Memorandum of Agreement, Responsibilities under NPDES Permit HI 0021229 City and County of Honolulu’s Municipal Separate Storm Sewer System”, September 2015

Revised Ordinance of Honolulu, Chapter 14 Public Works Infrastructure Requirements Including Fees and Services, Article 14 Permits, Bonds and Inspections for Grading, Soil Erosion and Sediment Control.

State of Hawaii, Department of Transportation, “Enforcement Response Plan Construction Site Runoff Control,” October 2014

Attachment 1

Critical Deficiency Report

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CCH CRITICAL DEFICIENCY REPORT

CHECK IF DISCHARGE OBSERVED IS DURING AN INSPECTION

Date:	Inspector/ Engineer:
Project No.:	CCH File No.:
Project Name:	
Weather Conditions:	Inches of Rain in the Past 24hrs:

Location of Work Activities:

Description of Work Activities:

This report is required when a non-storm water or polluted storm water discharge may have or may have potentially entered a storm drain or receiving state waters, if a discharge (e.g., spill) has occurred, if a polluted discharge is observed leaving the project limits, or if there is evidence of an unreported polluted discharge leaving project limits prior to inspection (such as: silty trail, eroded areas beyond site limits).

1. GENERAL INFORMATION

Date of Incident:	Incident Identified/ Reported by:
*Time of Incident:	*Duration of Incident:
Source/ Cause of Incident:	
Describe the Incident:	

*Note if time/ duration is approximate

Is the suspected reason for the discharge that a storm water control is clearly not operating as intended or is in need of maintenance?

<input type="checkbox"/> BMP needs maintenance	<input type="checkbox"/> BMP not operating as intended	<input type="checkbox"/> BMP is not a factor
---	---	---

2. SPECIFIC DISCHARGE INFORMATION

<p>A. Nature of the Discharge:</p> <p><input type="checkbox"/> Sediment - Amount: _____</p> <p><input type="checkbox"/> Concrete – Amount: _____</p> <p><input type="checkbox"/> Oil/ Grease – Amount: _____</p> <p><input type="checkbox"/> Hazardous Materials – Describe: _____ Amount: _____</p> <p><input type="checkbox"/> Other – Describe: _____ Amount: _____</p>	<p>B. Characteristic of Immediate Area Where Discharge Occurred:</p> <p><input type="checkbox"/> Receiving Water(s) – Name(s): _____</p> <p><input type="checkbox"/> Storm Drain – MS4 Owner: _____</p> <p><input type="checkbox"/> Soil – Type: _____</p> <p><input type="checkbox"/> Asphalt/ Concrete Surface</p> <p><input type="checkbox"/> Other – Describe: _____</p>
<p>C. Location Where Discharge Originated (include location map and photos on attached template):</p> <p>_____</p> <p>_____</p> <p><input type="checkbox"/> Map or Photos Attached</p>	<p>D. Description of Path of Discharge (include map and/ or photos on attached template):</p> <p>_____</p> <p>_____</p> <p>Where did the polluted discharge ultimately go?</p> <p><input type="checkbox"/> Entered a Drainage System</p> <p><input type="checkbox"/> Directly entered State Waters (discharged directly into stream or other water body)</p> <p><input type="checkbox"/> Other – Describe: _____</p> <p>_____</p> <p><input type="checkbox"/> Map and/ or Photos Attached.</p> <p>If the polluted discharge entered a drainage system or receiving water (e.g., stream, ocean), complete section 3.</p>

3. INLETS, OUTFALLS, AND RECEIVING WATER INFORMATION

List all inlets and corresponding receiving water outfall locations from each drainage system. If discharge went directly to receiving waters, list the point where discharge entered receiving waters. At each point check the characteristics of the water upstream (if applicable), at discharge or outfall location, and downstream of discharge or outfall location (if applicable) and describe (turbidity, color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of storm water pollutants).

If the discharge did not enter a drainage system or receiving water (e.g., stream, ocean), skip this section.

Inlet Location/ Drainage System Owner (if Applicable):
Outfall/ Discharge Location:
Characteristics of Water (turbidity, color, odor, floating, settled, or suspended solids, foam, oil sheen, and other obvious indicators of storm water pollutants):
Upstream of Location (if applicable):

At Outfall/ Discharge Location: _____
Notes (include information about other inlets entering drainage system prior to outfall, etc.):

4. ACTION TAKEN

A. Describe Immediate Measures Taken (include photos on attached template):

Photos Attached

B. Describe Additional Follow-Up Measures Taken (include photos on attached template):

Photos Attached

5. OTHER NOTES/ COMMENTS

I certify that I am the person who performed the inspection documented above and that all information recorded on this form is a true and accurate representation of what was observed at the construction site recorded above.

Inspector Name and Title	Signature	Date
---------------------------------	------------------	-------------

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name	Date
-------------	-------------

Duly Authorized Person's Name:	
Duly Authorized Person's Position Title:	
Duly Authorized Person's Company or Agency Information:	
Company or Agency:	Phone:
Address:	Fax:
	Email:

LOCATION MAP

Project No.:	DOH File No.:
Project Name:	
Project Location	
Description	

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PHOTOS

Photos Taken By:	
Project No.:	DOH File No.:
Project Name:	

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Attachment 2

Written Report

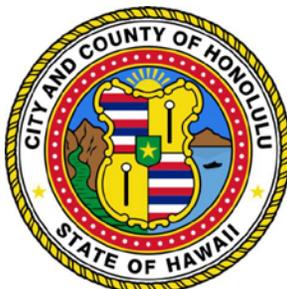
Template Requesting Enforcement Action from DOH

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DEPARTMENT OF FACILITY MAINTENANCE
CITY AND COUNTY OF HONOLULU
1000 ULUOHIA STREET, SUIT 308,
KAPOLEI, HAWAII 96707



To: The Honorable [REDACTED]
Director of Health

ATTN: ALEC WONG, P.E., CHIEF
Clean Water Branch

FROM: [REDACTED]

SUBJECT: NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
REQUEST FOR ENFORCEMENT ACTION BY DOH
[PROJECT NAME], FILE NO. []

The City and County of Honolulu (City) respectfully submits this written report and requests for enforcement action by DOH. The City inspected the construction site on [Date] and found the site to be non-compliant. The City has issued [Verbal Warning, Written Notice, Stop Work Order, Revocation of Permit(s), Denial of Future Permits, Contract Enforcement Mechanisms] to bring the construction site back into compliance.

The [contractor/ developer/ owner] continues to disregard our enforcement actions and remains non-compliant. Attached is a copy of our inspection reports, enforcement letters and photo documentation.

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties or submitting false information, including the possibility of fine and imprisonment for knowing violations.

Should you have any questions or concerns, please contact [NAME, TITLE] at [phone number], of our [branch/ division]. Their fax number is [tax number].

Sincerely,

[Name]
[Title]

Attachment: [list inspection reports (including photos) and enforcement letters]

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