City of Yuma Enforcement Response Plan (ERP)

For Compliance with the 2016 Arizona Discharge Elimination System Stormwater MS4 Permit

June 1, 2021

Table of Contents

1.0 Definitions:

1.1 Additional Control Measure (ACM): an additional part of the Stormwater Management Program (SWMP) that describes how the SWMP will control the discharges of 303(d) listed pollutants and to ensure to the maximum extent practicable that discharges from the MS4 will not cause or contribute to the exceedances of surface water quality standards. The ACM must also identify BMPS to control discharges and include monitoring of their effectiveness. Refer for 303(d) definitions at the end of this section.

1.2 Analytical Monitoring Plan (AMP): a plan developed by the City of Yuma and approved by ADEQ with the intent of preventing the exceedance of concentrations of dissolved oxygen and selenium as set by the current Surface Water Quality Standards (SWQS). This AMP uses numerical testing by methods approved by the SWQS as numerical values not to be exceeded.

1.3 Arizona Pollutant Discharge Elimination System (AZPDES): the point source discharge permitting program established under 18A.A.C9, Article 9 of Arizona Administrative Code Title 18 Ch. 9.

1.4 Arizona Surface Water Quality Standards: are state regulations or rules that protect lakes, rivers, streams and other surface water bodies from pollution. These rules contain beneficial use designations; numeric levels and narrative statements (water quality criteria) that are protective of the use designations; and procedures for applying the water quality criteria to wastewater discharges and other sources of pollution. Arizona's surface water quality standards apply to all surface waters within the state (A.A.C. R18-11-101(41)), with the exception of those waters that are within Indian Country, as defined in 18 U.S.C. §1151. Surface waters include rivers, lakes, streams, wetlands, and reservoirs.

1.5 Best Management Practice (BMP): schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent and reduce the discharge of pollutants to the waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

1.6 Canal: an artificial open channel.

1.7 Catch Basin: a drainage structure that collects water. A catch basin maybe either a structure where water enters from the side or through a grating.

1.8 Clean Water Act (CWA): The Federal Water Pollution Control Act enacted in 1972 by Public Law 92-500 and amended by the Water Quality Act of 1987. The CWA prohibits the discharge of pollutants to Waters of the United States unless said discharge is in accordance with an NPDES permit. The 1987 amendments include guidelines for regulating municipal, industrial, and construction stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) program.

1.9 Construction: any repair, construction, reconstruction, upgrading or enhancing of a structure, grading or landscaping that disturbs one or more acres of land in public or private development; or, a City-owned linear project disturbing one-half acre or more of land.

1.10 COY: City of Yuma, Arizona.

1.11 Design Storm: that particular storm that contributes runoff that the drainage facilities were designed to handle. This storm is selected for design based on its probability of exceedance or average recurrence interval.

1.12 Detention: the process of temporarily collecting and holding back stormwater for later release to receiving waters.

1.13 Discharge: the discharge of pollutant into the MS4 or surface waters whether such discharge is a result of illicit discharge, illegal dumping, industrial activity, construction activity, post-construction activity or from a developed site.

1.14 Discharger: person or entity that causes discharge as defined above.

1.15 Disturbed Areas: areas that have been purposefully cleared, grubbed, excavated, or graded; ground surface that has been disrupted by construction activities, including construction access/roads, staging, and storage sites producing significant areas of exposed soil and soil piles.

1.16 Drainage: (1) the process of removing surplus ground or surface water by artificial means. (2) The system by which the waters of an area are removed.

1.17 Drainage Area: a geographical area that drains to a specified point, such as an outfall, on a water body.

1.18 Dry Weather Flows: a small amount of water that flows almost continually due to lawn watering, irrigation or springs.

1.19: Enforcement Response Plan (ERP): a plan that provides guidelines for COY to determine appropriate enforcement actions toward violations encountered in enforcing the provisions of the MS4 regulations and City ordinances.

1.20 Erosion: The wearing a way of land surface by running water, wind or other geological agents. Often the eroded debris (silt or sediment) becomes a pollutant via stormwater runoff. Erosion occurs naturally but can be intensified by human-made activities such as development, farming and agriculture.

1.21 Groundwater: all water that is underground as opposed to on the surface of the ground. Usually refers to water in saturated zones below the water table.

1.22 Impaired Water: waters that have been assessed by ADEQ, under the Clean Water Act, as not attaining a water quality standard for at least one designated use and are listed in Arizona's current 303(d) List or on the 305(b) Category 4 list.

1.23 Impervious: a surface that cannot be easily penetrated; for instance, rain does not readily penetrate asphalt or concrete surfaces.

1.24 Inlet: an entrance into a ditch, storm drain, or other water conveyance system.

1.25 Municipal Separate Storm Sewer System (MS4) that is:

1.25.1 Owned or operated by the United States, a state, city, town, borough, county, parish, 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 an Indian tribe or an authorized Indian tribe organization, or a designated and approved management agency under section the Clean Water Act that discharges to the waters of the United States; or

1.25.2 Not defined as large or medium municipal separate storm sewer systems.

1.26 Notice of Correction (NOC): a formal notice issued by the City for correction actions by a potential violator.

1.27 Notice of Violation (NOV): a formal notice of violation issued by the City.

1.28 Outfall: discharge or point of discharge of a drainage system into a water body (see definition of drainage system above). For the purpose of this plan it refers to City of Yuma stormwater outfalls at the Colorado River.

1.29 Percolating Waters: waters that have infiltrated the surface of the land and moved slowly downward through groundwater aquifers until they reach water table.

1.30 Point Source Pollution: any discernible, confined, or discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This definition does not include return flows from irrigated agriculture or agricultural stormwater runoff.

1.31 Pollutant: fluids, contaminants, toxic wastes, toxic pollutants, dredged spoil, solid waste, substance and chemicals, pesticides, herbicides, fertilizers, and other agricultural chemicals, incinerator residue, sewage, garbage, sewage sludge, munitions, petroleum products, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and mining, industrial, municipal and agricultural wastes and any other liquid, solid or gaseous, or hazardous substance.

1.32 Precipitation: discharge of atmospheric moisture as rain, snow or hail, measured in depth of fall or in terms of intensity of fall in unit time.

1.33 Receiving Waters: All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters subject to the ebb and flow of the tide. Waters of the United States include all interstate waters and intrastate

lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds.

1.34 Retention: the holding of runoff in a basin without release except by means of evaporation, infiltration, or emergency bypass.

1.35 Runoff: (1) the surface waters that exceed soil's infiltration rate and retention areas. (2) The portion of precipitation that appears as flow in streams. Drainage or flood discharge that leaves an area as surface flow or a pipeline flow, having reached a channel or pipeline by either surface or subsurface routes.

1.36 Stop Work Order: Used for construction site control; an inspector issues a Stop Work Order when construction site operator is in violation with Chapter 156 of the Yuma City Code and is identified during an inspection and is not abated.

1.37 Sediment: soil particles, both mineral and organic, that are in suspension, are being transported, or have been removed from its site of origin by air, water, and gravity and have come to rest on the earth's surface.

1.38 Storm: a disturbance of the ordinary, average conditions of the atmosphere that, unless specifically qualified, may include any or all meteorological disturbances, such as wind, rain, snow, hail, or thunder.

1.39 Storm Drain: that portion of a drainage system expressly for collecting and conveying runoff in an enclosed conduit. Often referred to as a "storm sewer", storm drains include inlet structures, conduit, junctions, manholes, outfalls and other appurtenances.

1.40 Stormwater: Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting solely from such precipitation.

1.41 Stormwater Collection System: Curbs and gutter, inlets, medians, roadways, catch basins, pump stations components such as force mains and wet wells, spillways, retention basins, detention basins, storm drain and any part of a street system that can be used to collect, convey, store or dispose of stormwater.

1.42 Stormwater Management Program (SWMP): means a comprehensive program to manage the quality of stormwater discharged from the municipal separate storm sewer system. For the purposes of this plan, the SWMP is considered a single document, but may consist of separate programs (e.g. "chapters") for each permittee.

1.43 Stormwater Pollution Prevention Plan (SWPPP): A plan that is required by the City and includes site map(s), an identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants. The SWPPP must include an Erosion Control Plan (ECP).

1.44 Waters of the United States: all waters that are currently used were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters subject to the

ebb and flow of the tide. Waters of the United States include all interstate waters and interstate lakes, rivers, streams (including intermittent streams), mudflats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds.

1.45 303 (d) List: Section 303 "Water Quality Standards and Implementation Plans" of the Clean Water Act. This section of the CWA authorizes each state to identify waters within its boundaries for which the effluent limitations required by the CWA are not stringent enough to implement any water quality standard applicable to such waters.

2.0 Introduction and Purpose:

2.1 Introduction

The Arizona Department of Environmental Quality (ADEQ) regulates discharges of stormwater to surface waters in Arizona to achieve the goals of the Clean Water Act. This plan contains procedures used by City of Yuma (City) to investigate and respond to instances of noncompliance discharge to surface waters or City's MS4.

Since 2003, ADEQ designated the City of Yuma (City) as Phase II regulated community. All Phase II communities are regulated by the Arizona Discharge Pollutant Elimination System General Permit for Stormwater Discharges from Small Municipal Storm Sewer Separate Systems to Waters of the United States or the MS4 Permit. The current version went into effect on September 30, 2016 and will expire on September 29, 2021.

The 2016 MS4 Permit, hereafter called Permit, requires the development and implementation of an Enforcement Response Plan (ERP) that contains procedures to comply with this Permit and prioritization of schedule that establishes escalated enforcement for non-compliance of illicit discharges, industrial discharges, construction activities and developed sites. This ERP is an additional part of the City's Stormwater Management Program (SWMP) that includes a prioritization schedule that establishes escalated enforcement and non-compliance of stormwater violations and will also address the following requirements:

2.1.1 Prohibit and eliminate illicit connections and discharges to the City Stormwater Drainage System or the City's municipal separate storm sewer system (MS4).

2.1.2 Control the discharge of spills and prohibit dumping or disposal of materials other than stormwater into the MS4.

2.1.3 Require compliance with conditions in the City ordinances, permits, contracts, or orders.

2.1.4 Require owners/operators of construction activities, new or redeveloped land, and industrial and commercial facilities to minimize the discharge of pollutants to the

MS4 through the installation, implementation, and maintenance of stormwater control measures.

2.1.5 To the extent allowed under State law, and per Yuma City Code (YCC), the City has the right to enter private property for the purpose of inspecting at reasonable times any facilities, equipment, practices, or operations related to stormwater discharges to determine whether there is compliance with local stormwater control ordinances.

2.1.6 The City to promptly require violators cease and desist illicit discharges or discharges of stormwater in violation of any ordinance or standard and/or cleanup and abate such discharges.

2.1.7 To the extent allowable under federal, State laws, and YCC, the City will impose civil or criminal sanctions (including referral to City Prosecutor or City Attorney) and escalate corrective response, consistent with this ERP.

2.1.8 Identify departments within the City departments, as outlined in the City's Stormwater Management Program (SWMP), that are involved in the implementation of stormwater-related activities and their roles and responsibilities under the Permit.

2.1.9 Identify and evaluate current local administrative and ordinances available to mandate compliance with this Permit as relates to stormwater pollution; and

2.1.10 A description of how stormwater related-ordinances are implemented and appealed.

2.1.11 Guidelines for personnel in determining appropriate ERP action toward violations.

2.2 Purpose

This plan describes the measures available to the City to exercise its authority and identifies enforcement procedures designed to encourage a timely response by the discharger. Implementation of this plan will ensure a City compliance with the Permit, Citywide consistent response and avoid confusion, delays, and disputes over enforcement for stormwater pollution prevention.

3.0 Legal and Enforcement Authority:

The City owns and maintains most of the stormwater collection system within its jurisdiction. Other jurisdictions such as Yuma County and the United States Bureau of Reclamation also own and operate part of the stormwater collection system in the City jurisdiction. The YCC contains ordinances number O2005-15, O2006-38 and O2007-78 with other ordinances that regulate discharges of stormwater into the MS4 and the waters of the United States (waters of the US). The City is responsible for conducting stormwater

inspections for its own system and projects per aforementioned City ordinances. City Engineering Department, Public Works Departments, Department of Community Development and other departments such as Police, City Prosecutor and Attorney are responsible in the implementation and enforcement of this ERP. City Engineering is the lead department in the implementation of this ERP and related ordinances and can be reached at phone number (928) 373-4520. The City is not required to enforce compliance requirements of the industrial facilities under the AZ Multi-Sector General Permit (AZ MSGP) permit provided that such facility is not connected to the City MS4 and obtained coverage under current AZ MSGP stormwater permit. The City is not also required to enforce the requirements of the AZ Construction General Permit (AZ CGP); however, violators of industrial facilities and/or construction sites may be reported to ADEQ.

3.1 To document compliance with this ERP the City Engineer and his/her authorized personnel have the authority to enter and inspect the premises, processes, and records of any stormwater collection system, construction project or existing facility that falls under the current AZ CGP, AZ MSGP, or City Ordinances No. O2005-15, O2006-38. and O2007-78. All other conditions of YCC as related to City Ordinances No. O2005-15, O2006-38. and O2007-78 are applicable in this ERP.

3.2 This ERP provides guidelines on when to employ the range of regulatory responses from verbal warnings, written notices, citations, clean-up and cost recovery, to administrative or criminal penalties. For further information on the City SWMP, and compliance with the MS4 Permit, refer to the City website at www.YumaAz.gov.

4.0 Description of Investigation for instances of noncompliance:

4.1 City Engineering Department staff receive calls for potential violations in the MS4 that include illicit discharges, construction sites and developed sites. City projects, operations and facilities may be observed by City staff as they conduct regular activities and duties. This ERP classifies stormwater violations into four levels along with four levels of enforcement by the City. Potential violations and non-compliance issues include four components:

4.1.1 Illicit Discharges or dumping into the MS4.

4.1.2 Industrial Facilities: absence or ineffective best management practices (BMPs) of industrial facilities, with or without AZ MSGP coverage with connection to the MS4.

4.1.3 Construction Sites: poor management of construction sites due to failed or ineffective or absence of BMPs that can discharge polluted stormwater runoff into the MS4; and

4.1.4 Developed Sites: discharge of polluted stormwater runoff from developed sites due to failed or ineffective best management practices into the MS4

4.2 Illicit Discharges or Dumping into the MS4 Violations:

Section § 194-07 of the YCC contains legal authorization for the City to regulate the introduction of non-stormwater substances to the MS4 or the waters of the US. The procedures in this plan are primarily focused on accelerating inspection and enforcement actions outlined in Chapter 194 of the YCC in a timely, consistent, fair and equitable procedure. The plan uses different measures in the priority area (P.A.) to ensure constituency with the City Analytical Monitoring Plan (AMP) and current Surface Water Quality Standards (SWQS).

4.3 Industrial Facilities Connections to the MS4:

Sections 194-08 and 19409 of the YCC contain restrictions on industrial activities discharge and monitoring of such discharges into the MS4 or the waters of the US. The procedures in this plan are primarily focused on accelerating inspection and enforcement actions outlined in Chapter 194 of the YCC in a timely, consistent, fair and equitable procedure including suspension of industrial facility MS4 access or reporting facilities with no coverage of AZ MSGP to ADEQ. The plan uses different measures in the priority area (P.A.) to ensure constituency with the City Analytical Monitoring Plan (AMP) and current Surface Water Quality Standards (SWQS).

4.4 Construction Sites:

Chapter 156 of the YCC contain restrictions on construction site activities that may result in a discharge into the MS4 or the waters of the US. The procedures in this plan are primarily focused on accelerating inspection and enforcement actions outlined in Chapter 156 of the YCC in a timely, consistent, fair and equitable procedure including Stop-work order; revocation of permit, violation and penalties. The plan uses different measures in the priority in the P.A. to ensure constituency with the City Analytical Monitoring Plan (AMP) and current Surface Water Quality Standards (SWQS).

4.5 Developed Sites:

Chapter 195 of the YCC contain restrictions on post-construction and developed sites activities that may result in a discharge into the MS4 or the waters of the US. The procedures in this plan are primarily focused on accelerating inspection and enforcement actions outlined in Chapter 195 of the YCC in a timely, consistent, fair and equitable procedure including violation and penalties. The plan uses different measures in the P.A.

to ensure constituency with the City Analytical Monitoring Plan (AMP) and current Surface Water Quality Standards (SWQS).

5.0 Criteria to be used in Determining Severity of Violation:

The following criteria will be used to determine the severity of the violations and the appropriate response by the City:

5.1 Discharge with threat to human health

5.2 Potential of discharging into Colorado River impaired segment

5.3 Wet seasons

5.4 Proximity to City MS4 collection system or another MS4

5.5 Proximity to other surface waters

5.6 Discharge with potential of clogging the MS4

5.7 Repetitiveness of violation

5.8 Association with other surface water or groundwater quality permit

6.0 Levels of Violations and Enforcement:

The following section summarizes enforcement levels and classification of violations. This ERP specifies four levels of enforcement and four classifications of violations.

6.1 Levels of Enforcement:

- 6.1.1 Level I Enforcement
- 6.1.2 Level II Enforcement
- 6.1.3 Level III Enforcement; and
- 6.1.4 Level IV Enforcement

6.2 Classification of Violations. Refer to definition of discharge in Section 1:

- 6.2.1 Potential of discharge
- 6.2.2 Actual discharge into the MS4 outside the Priority Area
- 6.2.3 Actual discharge into the MS4 inside the Priority Area with no potential of reaching Colorado River
- 6.2.4 Actual discharge into the Priority Area with potential of reaching Colorado River

Classification of Violations and Levels of Enforcement

Enforcement Level	Classification of Violation	Action Required by Staff
Level I	Potential discharge to the MS4 at any location	1. Inform potential violator in writing with "a notice to correct a violation" within 28 calendar days and before the next storm event of time to correct. 2. Take photos and document the case. 3. Re-inspect location after 28 calendar days. 4. Document potential violation and action taken with Engineering Department. 5. Suspend the connection to the MS4 or suspend or revoke the building permit if necessary per Sections 194-08 of 156-09 of Yuma City Code.
Level II	Actual discharge into the MS4 outside the Priority Area	1. Inform violator in writing with "a notice of violation" to correct within 14 calendar days and before the next storm event days. 2. Take photos to document the case. 3. Re-inspect location after 14 calendar days. 4. Document potential violation and action taken with Engineering Department. 5. Issue a notice of violation or revoke the building permit if necessary per Sections 194-14 and 156-09 of the Yuma City Code.
Level III	Actual discharge into the MS4 within the Priority Area, with no potential of reaching the Colorado River	1. Inform violator in writing with "a notice of violation" to correct within 14 calendar days and before the next storm event. 2. Take photos to document the case. 3. Re-inspect location after 14 calendar days. 4. Document potential violation and action taken with Engineering Department. 5. Issuing a class one misdemeanor per Sections 194-99 and 156-09 of the Yuma City Code.
Level IV	Actual discharge into the MS4 within the Priority Area, with potential of reaching the Colorado River	1. Inform violator in writing with "a notice of violation" to correct within 7 calendar days and before the next storm event. 2. Take photos to document the case. 3. Re-inspect location after 7 calendar days 4. Document potential violation and action taken with Engineering Department. 5. Close the case. 6. Issuing a class one misdemeanor per Sections 194-99 and 156-09 of the Yuma City Code and reporting the case to Arizona Department of Environmental Quality.