

# MoDOT Consent Decree

---



## Inspection Protocol

August 2015

### **Consent Decree - Inspection Process**

For any project that MoDOT engages in and includes land disturbance activities of greater than one acre the requirements of the Consent Decree shall be followed. For these projects MoDOT shall assign at least one trained inspector to perform inspections as required by the National Pollutant Discharge Elimination System (NPDES) stormwater permit. The permit requirements specify that inspections shall take place at least once per seven calendar days. In addition, if rainfall or snow melt causes stormwater runoff to occur onsite, inspections must occur within 48 hours after the rain event has ceased. If the runoff event ceases during a non-work day, such as a weekend or holiday, then the inspector has 72 hours to perform a site inspection of the Best Management Practices (BMPs).

Each inspection performed by MoDOT's trained inspector will answer all of the questions on the standard MoDOT Land Disturbance Inspection Checklist. The standard checklist is intended to be a comprehensive guide for the inspector to ensure all BMPs and other pollution control measures are installed and maintained within the requirements established in the NPDES permit and the Stormwater Pollution Prevention Plan (SWPPP). The inspector will perform this visual site inspection for evidence of erosion or sediment deposition throughout the project limits where any disturbance has occurred and where BMPs have been installed. All receiving streams shall be inspected 50 feet downstream of the outfall when practicable.

Upon completion of every inspection MoDOT's inspector conducting the inspection shall enter the report into the MoDOT Stormwater Database (Database). Each inspector should strive to enter the report into the Database as quickly as possible. Up to twenty-four hours to enter the electronic report will be allowed when wireless internet is available. In instances where wireless internet is not provided up to forty-eight hours will be permitted from when the inspection was performed to when it is entered into the online database.

All questions on the Inspection Checklist must be answered by the inspector before the Database will allow the inspector to certify the inspection report. If any deficiencies are found in the inspection process these should be clearly entered into the database individually. Detailed information about the deficiency should include but is not limited to: a detailed description of the deficiency, the location of the deficient item, actions needed to correct the noted stormwater deficiency, the dates actions will be taken to make the required correction deficiencies from a prior inspection were uncorrected and the reason it was uncorrected and whether proposed actions will require any changes to the site map/ SWPPP. Each item will remain in the database until corrective measures have been taken. Once the item is addressed the inspector shall indicate the date of the correction. Any changes required to the site map should also be made at this time. Inspections are not considered completed until the inspector certifies the report.

### **Consent Decree – Inspection Review and Approval Process**

After MoDOT's trained inspector enters and certifies an inspection report it will simultaneously be available to both the MoDOT's Resident Engineer (RE) and the Contractor's Water Pollution Control Manager (WPCM). The RE and WPCM have up to three days to review the inspection report and certify

the report individually in MoDOT's Stormwater Database. After both MoDOT's RE and the Contractor's WPCM have individually reviewed and approved the report, the inspection process will be completed.

### **MoDOT Oversight of Environmentally Sensitive Areas**

For any project that disturbs more than five acres of soil and is located in an environmentally sensitive area an independent oversight inspection shall occur. These inspections will be identified by MoDOT's Stormwater Compliance Coordinator. The Stormwater Compliance Coordinator will assign the respective trained oversight inspectors from MoDOT who will perform this inspection. This oversight inspection will follow the same process as weekly or post-run off inspections. The unannounced oversight inspection shall occur at least once every 90 days where there is active construction on the site. Upon completion of the site inspection the inspection report shall be completed by the oversight inspector. The inspector should strive to enter the report into the database as quickly as possible. Up to 24 hours to enter the electronic report will be allowed when wireless internet is available. In instances where wireless internet is not provided up to 48 hours will be permitted from when the inspection was performed to when it was entered into the online database.

Environmentally sensitive areas are any area that would be directly impacted by stormwater discharges from the project and that federally designed critical habitat for any federally listed threatened or endangered species or that contains an immediate downstream water body that is listed as impaired for sediment by the Missouri Department of Natural Resources (MDNR) under Section 303(d) of the Clean Water Act.

### **Stipulated Penalties – The Consent Decree Rules**

<b>Penalty</b>	<b>Penalty Amount</b>	<b>MoDOT</b>	<b>Contractor</b>
#1. MoDOT shall assign a statewide stormwater compliance specialist	\$1000 initial violation \$750 every 14 days	Central Office Design will assign this person	N/A
#2. MoDOT shall assign one environmental inspector per project. The Contractor shall assign one WPCM per project	\$750 initial violation \$750 every 14 days (for each role)	Every project needs one inspector and a backup assigned	Every project needs one WPCM and a backup assigned
#3. All Individuals shall have up-to-date MoDOT stormwater training certification	\$750 initial violation \$750 every 14 days (for each role)	All REs, inspectors, employees with stop work authority or that work in SWPPP development must attend	WPCM and Contractor's on-site Project Manager. Any subcontractor with full project manager authority shall also attend training

**Stipulated Penalties (Continued) - Summary**

<b>Penalty</b>	<b>Penalty Amount</b>	<b>MoDOT</b>	<b>Contractor</b>
#4. Pre-activity stormwater meeting shall be held prior to any land disturbance	\$750 initial violation \$250 every day after	RE and Inspector must attend	WPCM must attend.
#5. MoDOT shall create and distribute an Inspection Protocol	\$750 per day	Central Office Design will create, update and distribute this document	N/A
#6. Inspections shall be performed per MoDOT's Permit and SWPPP	\$500 Initial Violation \$100 Every day after	Project inspector needs to perform weekly and post – runoff inspections	N/A
#7. Inspections shall be documented per MoDOT's Permit and SWPPP	\$100 per day	Inspection shall be entered 24 or 48 hours after performed, based on availability of wireless connection	N/A
#8. MoDOT's Resident Engineer and the Contractor's WPCM shall review and approve the inspection reports within 3 days	\$250 per day	RE shall review and approve each inspection report within 3 days	WPCM shall review and approve each inspection report within 3 days
#9. MoDOT oversight inspections shall be performed when required	\$1500 Initial Violation \$250 per day	Stormwater Compliance Specialist will assign. MoDOT Oversight will perform	WPCM will follow the same process used for weekly inspections
#10. Failure to comply with any NPDES permit or SWPPP requirement	\$1000 first 10 days \$2500 days 11-20 \$3500 days 21 +	Ensure project complies with the permit and SWPPP	Ensure project complies with the permit and SWPPP
#11. Failure to correct deficiency within 7 day per the SWPPP and Permit	\$1000 first 10 days \$2500 days 11-20 \$3500 days 21 +	Ensure deficiencies are all corrected with 7 days	Ensure deficiencies are all corrected with 7 days
#12. Enter deficiencies into database	\$200 per deficiency per day	Inspectors shall enter all deficiencies individually into the database	N/A
#13 Review Compliance	\$200 per day	REs review deficiencies for their projects every 7 days. Stormwater Compliance Coordinator reviews deficiencies for entire state every 14 day	N/A
#14. Submit a Spill Report	\$750 every late report \$750 every 14 days	Contact MoDOT Environmental if spill occurs on project	Contact MoDOT Environmental if spill occurs on project
#15. Any violation of the Consent Decree not listed in penalty #1 - #14	\$100 per day	Ensure Consent Decree is followed.	Ensure Consent Decree is followed