

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities
Statewide Design & Engineering Services Division
Design & Construction Standards Section

TO: Distribution

DATE: August 16, 2010

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Superseded by Chief Engineer Directive of May 19, 2011 on
liquidated damages for violating CGP terms

FROM: Roger Healy, P.E. *RJH*
Chief Engineer *for RKH*

SUBJECT: **Chief Engineer Directive
Deducting Damages for
Violating Terms of CGP**

Effective August 18, 2010, for each construction project with a Notice of Intent; when the contractor fails to abide by the terms of the Construction General Permit (CGP) or specifications, require the contractor to pay damages according to Table 641-2 (below). Standard Specification for Highways 107-1.01 (Airports GCP 70-01) provides contract authority to require the Contractor to hold the state harmless from liability related to violations of laws, regulations or decrees. The state is liable for at least the sums listed in Table 641-2 for the contractor's violations because the state is considered a co-operator under the CGP.

The description of the incidents and amount of damages should be reviewed by the Project Engineer and Storm Water Coordinator. Invoices for damages should be sent to the Contractor from the Regional Fiscal Office, with directions to pay the invoice within 30 days. Contractor payments for damages should be held in a separate account that will be identified within the next 30 days.

The contracting officer should withhold the invoiced amount from Contract payments until the Contractor pays the invoice; or if there is a dispute, until the dispute is resolved. The Contractor should use the claims process described in Standard Specifications for Highways 105-1.17 (Airports GCP 50-17) if they wish to dispute the damages.

**TABLE 641-2
EROSION, SEDIMENT AND POLLUTION CONTROL – DAMAGES**

Description	Deductable Amount in Dollars	Cumulative Deductable Amounts in Dollars
Failure to train Superintendent, SWPPP Manager, or SWPPP Manager's Representative, before performing duties required by the CGP	750 per occurrence	Additional 750 per person accrues every 14 days, until training is completed
Failure to meet SWPPP Requirements (all documents completed, signed and certified according to specification and CGP)	750 per occurrence	
Failure to reference a BMP manual or publication (or failure to state that no manual or publication was used as a source) (Note 1)	250 per omission	
Failure to stabilize a project prior to Seasonal Thaw	5000	5,000 for each additional year
Failure to conduct and document pre-construction inspection before construction activity (Note 2)	2000	
Failure to conduct and record CGP inspections by required dates	750 per occurrence	Additional 750 for each 24 hour period until inspection occurs
Failure to sign and date inspections and amendment logs. Failure to initial and date other reports required by the CGP	750 per occurrence	
Failure to timely accomplish BMP maintenance or repairs	500 per BMP per location	Additional 500 for each day until BMP maintenance or repairs is complete
Failure to provide timely or complete oral report to Project Engineer, of noncompliance that endangers health or the environment	750 first day report is late or deficient	Additional 750 for each 14 days information not provided or until written report is submitted

Failure to sign Department's written report, of noncompliance that endangers health or the environment	750 first day report is late or deficient	Additional 750 for each additional 14 days information not provided
Failure to complete work required by the SWPPP	750 per occurrence	Additional 750 for each 24 hour period per each incident
Failure to complete corrective action noted during an inspection	750 per occurrence	Additional 750 for each 24 hour period per each incident

Note 1: For BMPs added to projects on or after August 18, 2010.

Note 2: For projects awarded on or after November 16, 2010.

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