

# MEMORANDUM

# State of Alaska

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

TO: Distribution

DATE: May 19, 2011

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FROM: Roger Healy, P.E.  
Chief Engineer

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

This memorandum replaces the CE Directive issued August 16, 2010.

Effective May 29, 2011, use attached Table 641-2 (Version B), Erosion, Sediment and Pollution Control - Liquidated Damages on construction projects that will have Construction General Permit coverage for stormwater discharges.

Use Form 25D-126 to document liquated damages and communicate billing amounts to the Regional Fiscal Office. The Regional Fiscal Office may send invoices to the contractor for individual occurrences, or as a single invoice before final acceptance. Contractor payments for stormwater related liquated damages will be received in a separate account.

The contracting officer may withhold an amount equal to the liquidated damages from Contract payments until the Contractor pays the invoice; or if there is a dispute, until the dispute is resolved.

**TABLE 641-2 (Version B)  
EROSION, SEDIMENT AND POLLUTION CONTROL – LIQUIDATED DAMAGES**

<b>Code</b>	<b>Specification Section Number and Description</b>	<b>Deductable Amount in Dollars</b>	<b>Cumulative Deductable Amounts in Dollars</b>
A	641-1.04 Failure to have a qualified (AK-CESCL or equivalent) Superintendent or SWPPP Manager	Calculated in Code B or F	

<b>B</b>	<p>Failure to meet SWPPP requirements of:</p> <p>(1) 641-2.01.1 Name of SWPPP Preparer and Date of Pre-Construction Inspection</p> <p>(2) Not Applicable</p> <p>(3) 641-3.03.8 Sign and Date SWPPP amendments with qualified person.</p> <p>641-2.01.4 SWPPP Include approving person's name and AK-CESCL expiration date.</p> <p>(4) 641-3.02 Records maintained at project and made available for review</p>	\$750 per omission	
<b>C</b>	641-2.01.3 and 641-303.8 Failure to either reference a BMP manual or publication, or state that no BMP manual or publication was used	\$250 per omission	
<b>D</b>	641-3.03.5 Failure to stabilize a Project prior to Seasonal Thaw	\$5,000 per Project per year	
<b>E</b>	641-2.01.1 Failure to conduct pre-construction inspections before Construction Activities	\$2,000 per Project	
<b>F</b>	<p>641-3.03. Failure to conduct and record CGP Inspections</p> <p>641-3.03.1 Personnel conducting Inspections and Frequency</p> <p>641-3.03.2 Inspection Reports, use Form 25D-100, completed with all required information according to the Consent Decree paragraph 7.c, parts (1) through (11)</p>	\$750 per Inspection	
<b>G</b>	641-3.01.4 Failure to timely accomplish BMP maintenance and/or repairs, In effect until BMP maintenance and/or repairs is completed.	\$500 per Project per day	Not to exceed \$250,000 per year for all projects
<b>H</b>	641-3.01.3 Failure to provide to the Engineer and ADEC a timely oral endangerment report of violations or for a deficient oral endangerment report	\$750 for the first day the report is late or deficient	Additional \$750 for every 14 day period without the required information

<b>I</b>	641-3.01.3 Failure to provide to the Engineer and ADEC a timely written endangerment report of violations or for a deficient written endangerment report	\$750 for the first day the report is late or deficient	Additional \$750 for every 14 day period without the required information
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