



City of Phoenix Aviation Department Rules & Regulations

Number: R&R 01-02

Authority: **This Rule and regulation is promulgated pursuant to Phoenix City Code Chapter IV, Article IV, Sections 4-12; 4-109; 4-116.**

The Environmental Protection Agency (EPA) has developed a National program to regulate storm water quality runoff from industrial and urban settings, protecting streams, rivers and lakes fed by these sources.

The EPA has issued a (NPDES) Permit to the City of Phoenix (as a municipality) and to the Phoenix airports (as an industrial source) imposing certain obligations and responsibilities. Airports and associated airline, fueling and FBO activities are specifically required by Federal law to obtain this permit and take certain actions to curtail runoff pollution from these activities. The airports' permits regulate the City's Aviation Department, its tenants and permittees (see the "Multi-Sector General Permit for Industrial Activities, National Pollutant Discharge Elimination Program (NPDES)", dated October 30, 2000, *Federal Register* Vol. 65, No. 210.)

Likewise, the City of Phoenix has the authority to regulate the use of the public storm drainage system. Phoenix City Code Chapter 32C was adopted to reduce to the maximum extent practicable the addition of pollutants such as fuels, chemicals and debris to storm water runoff to prevent violations of the City's NPDES permit or applicable water quality standards.

Phoenix City Code Section 4-109 requires any person who spills or otherwise releases a pollutant on airport property, including disposal of pre-flight check sump fuel on the ramp, to immediately remove the pollutant. Section 4-12 confers ultimate responsibility for all damages to airport property upon an airport tenant, whether caused by the tenant's employees or its contractors.

Rules and Regulations:

Storm Water Enforcement

This Rule explains the possible actions that the City of Phoenix Aviation Department may use to prevent pollution of the Waters of the United States (more specifically the Salt River, Agua Fria tributaries, or Cave Creek drainage) through the municipal storm drain system that provides surface drainage on the three City of Phoenix Airports. The Aviation Department believes that a policy specific for its airports will better ensure that all enforcement actions will be handled with fairness and with consideration for airport operations.



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Initial Self-Reporting Policy/Tenant Responsibility

All tenants and permittees (collectively "tenants") shall report spills, releases and discharges of pollutants, or releases threatening to enter the storm drain system immediately to the Aviation Department. All releases of pollutants must be contained and removed by the tenant or upon request by the City of Phoenix Aviation Department Facilities and Services Division. All costs incurred to the Aviation Department due to the clean up of a tenant-related spill will be forwarded to the responsible tenant. Airport tenants who self-report and respond to such situations demonstrate good faith efforts to comply with this policy, and such action will be considered as a mitigating factor in any enforcement process. Generally, the Aviation Department will not initiate formal enforcement action on a self-reported, unavoidable discharge under circumstances when it is unreasonable to prevent such discharge if the discharge amount is minimal and poses no risk to human health or the environment. Improper disposal of pre-flight check sump fuel on to the ramp is cause for enforcement.

Enforcement Criteria

When a violation of the City Storm Water Ordinance (Chapter 32C) or other applicable environmental regulation is identified, enforcement actions can be taken. The enforcement action (including the amount of any monetary penalties) will depend upon several factors:

1. Severity of the violation; the duration, quality and quantity of pollutants; and effect on public safety and the environment.
2. The violator's knowledge (either negligent or intentional) of the regulation being violated.
3. Any history of violations, including enforcement actions involving the site, business, or individual.
4. The effect of the enforcement action to act as a deterrent of similar violations in the regulated community.

Levels of Enforcement

Several levels of enforcement actions are available to the City. The typical types of enforcement actions are listed below in increasing order of severity.

Informal Enforcement Actions

Each violation will be documented with a written Notice of Violation (NOV) issued by on-site airport personnel. The NOV will require the violating facility to report the incident to the Aviation Environmental Section at (602) 273-8861 within 24 hours of receipt of the NOV. Weekend reporting can be left on the Aviation Department answering machine at the same phone number.



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Except for NOV's that are issued for improper sump fuel disposals, which are subject to the following paragraph of this rule, within 15 calendar days of receipt of the NOV, the violating facility must submit a detailed written report to the Aviation Environmental Section explaining how the incident took place and the corrective action taken to prevent future occurrences. If a tenant's contractor caused the violation, the contractor shall send a copy of the report to the tenant and the tenant is also required to submit a detailed written report. At a minimum, this report must address the following:

1. A summary of the names and positions of persons involved in the incident; equipment involved; and how the incident occurred, including time, place and materials and quantity released.
2. A detailed description of the investigation and conclusions.
3. How cleanup of released materials was performed, including equipment and materials used in the clean up, and how waste was disposed.
4. Corrective action a company has taken or plans to take and the time in which all-corrective action will be completed. If corrective action has not been completed within the 15-day period, a compliance schedule must be submitted for approval by the Aviation Department.
5. What changes to training, equipment, practices (best management practices), procedures, or personnel have been implemented to prevent future incidents from occurring.
6. The report must be signed by the supervisor/manager, and shall contain the following certification:

"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 for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply with these requirements will subject the violator to further enforcement actions. Compliance with this request does not preclude the City from taking additional enforcement action under its authority: Chapter 32C of the Phoenix City Code.



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If additional time is required in order to complete the written report, a written request for an extension must be submitted by the violating facility in time for City approval prior to the due date.

Improper Sump Fuel Disposal NOVs

General Aviation tenants who fail to properly dispose of pre-flight fuel samples in accordance with the General Aviation Handbook will receive a written warning for the first violation. The second violation will result in a \$100.00 penalty. A third violation is grounds for termination of the violator's Aircraft Storage Permit.

Airport Tenant Compliance

1. The Aviation Environmental Section shall notify the Deputy Director of Business and Properties for further enforcement action if any of the following occurs:
 - a. An airport tenant or permittee (collectively "tenant") has received two NOVs within a 24-month period; or
 - b. The tenant has failed to timely provide the detailed written report as required under Section I of this policy; or
 - c. The tenant fails to comply with the corrective actions that the tenant submitted; or
 - d. The tenant fails to follow the Airport's best management practices, or upon recommendation of the Aviation Department Environmental Section.

2. Tenant/NPDES Co-permittees: The Aviation Department has allowed eligible tenants to become co-permittees on the City of Phoenix National Pollutant Discharge Elimination System Storm Water Multi-Sector General Permit for Industrial Activities (the "NPDES Permit") as a means to save eligible tenants substantial costs of obtaining individual NPDES permits. Each tenant who has joined the City as a Co-permittee ("a NPDES Co-permittee") has signed an agreement that sets forth the terms and conditions for being retained on the NPDES permit (the "NPDES Amendment.")

In the event that Section (1)(a), (b) or (c) of this paragraph applies to NPDES Co-permittee, the Deputy Director shall notify the tenant/NPDES Co-permittee's Chief Operating Officer or designee and shall establish a corrective action plan pursuant to the procedures that have been agreed to



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by the parties to achieve compliance with the NPDES Permit and Chapter 32C.

If a NPDES Co-permittee fails to comply with a corrective action plan, including best management practices or other requirements, such non-compliance may be deemed to be a material breach of the tenancy agreement or permit and may provide grounds to terminate the tenant's NPDES Co-Permittee status and/or its ability to do business on airport property.

3. Tenant/Non-NPDES Co-Permittees: If a tenant who has not signed a NPDES Agreement fails to comply with the NPDES Permit or Chapter 32C, the Environmental Section may refer the tenant to the appropriate Deputy Director for further enforcement action or termination of the tenant's permission to do business on Airport property. All Airport users should be aware that any industrial discharge or polluted runoff to the storm drain is a violation of federal law, unless it is specifically authorized by a NPDES permit.
4. The provisions of this Subsection shall be in addition to such other remedies as are provided by this Policy or otherwise provided by law.

Formal Enforcement Actions

Compliance Status Review Meeting

In situations where prior enforcement actions have failed to produce compliance or a reasonable commitment to attain compliance by an established deadline, a "Notice of Compliance Status Review Meeting" letter will be issued to the violator. The Notice will establish a date, time and location for a meeting between the violator and City representatives. The meeting will be held to present evidence establishing the non-compliance and requesting the violator to "show cause" as to why the City should not engage in more serious enforcement actions. At the meeting, the City will review the violations, tenant's responses to the violations, explain the City enforcement policies and identify any potential penalties for non-compliance. An attempt will be made to reach an agreement on the type of compliance activity required. The terms of this agreement will be contained in a Storm Water Settlement Agreement. If agreement cannot be reached, the City may utilize all remedies available as it deems appropriate.

