

Attachment 3

Draft NPDES Illicit Discharge Escalating Enforcement Procedure for Permit and Non-Permit Related Illicit Discharges

PROPOSED APPLICATION OF THE ESCALATING ENFORCEMENT APPROACH FOR ILLICIT (NON-STORMWATER) DISCHARGES	
Construction/Development Permits	Existing Sites and/or Activities
<u>EDUCATION</u>	
<p><u>Development Services Permits</u> – Permittees will be educated on illicit discharge requirements, including enforcement provisions, through permit outreach materials and/or through permit review and approval of the site-specific Construction Stormwater Pollution Prevention Plan and/or at the pre-construction meeting with the City inspector.</p>	<p><u>Single Family Residential Properties</u> - Consistent with the Washington State Department of Ecology’s direction, public education programs shall be the primary approach used to address illicit discharges from single family residential property activities that have the potential to result in degradation of surface waters (such as car washing, application of fertilizers and pesticides, etc.).</p> <p><u>Non-Single Family Residential Properties</u> - public education programs will be used to educate non-single family residential property owners (commercial, multi-family, federal, state and municipal properties) about illicit discharges, best management practices to eliminate illicit discharges and enforcement measures.</p>
<u>PREVENTATIVE CORRECTIONS</u>	
<p>Preventative corrections will be required for those activities or conditions which have not yet resulted in degradation of surface water quality.</p>	<p>Preventative corrections will be required for those activities or conditions which have not yet resulted in degradation of surface water quality.</p>

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<u>PREVENTATIVE CORRECTIONS CONTINUED</u>	
<p>These include lack of installation and maintenance of appropriate best management practices (BMPs) and failure to address minor deficiencies in existing BMPs (adding more straw mulch, repairing silt fence, re-covering stockpiles, etc.).</p> <p>Preventative corrections include education, source control measures set forth in the Construction Stormwater Pollution Prevention Plan including changes in behavior (“housekeeping”) and/or structural modifications necessary to prevent illicit discharges, and through technical assistance.</p> <p><i>Notice of preventative corrections may be verbal or written. The time period for implementing preventative corrections is less than one week or prior to the next precipitation event, whichever is less.</i></p>	<p>These include pollutant source control issues such as uncovered stock piles, uncovered barrels and/or storage containers, facilities or site activities that have the potential to discharge to storm system and/or surface water body (such as car wash or gas station facilities or activities).</p> <p>Preventative corrections include education, source control measures including changes in behavior (“housekeeping”) and/or structural modifications necessary to prevent illicit discharges, and through technical assistance.</p> <p><i>Notice of preventative corrections may be documented in a letter to the property owner. The time period for implementing preventative corrections is less than one week or prior to the next precipitation event unless otherwise specified by the City.</i></p>
<u>CORRECTION NOTICES</u>	
<p>A written correction notice shall be issued when the following conditions are identified:</p> <ol style="list-style-type: none"> 1. Evidence of prior degradation of surface water quality is observed; or 	<p>A written correction notice shall be issued when the following conditions are identified:</p> <ol style="list-style-type: none"> 1. Evidence of prior degradation of surface water quality is observed (such as concrete staining from dumpsters); or

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<u>CORRECTION NOTICES CONTINUED</u>	
<p>2. Minor violations have not been corrected within the time set forth by the City; or</p> <p>3. Sediment, silt, turbid runoff or other non-stormwater discharges (as defined in BCC 24.06.125) are being released from the site due to applicant’s activities, despite the implementation of BMPs.</p> <p>The Correction Notice shall:</p> <ol style="list-style-type: none"> 1. Identify the violation and cite the regulation, code, or permit condition being violated; and 2. Identify the work which needs to be performed to correct the violation or abate the degradation of surface water quality; and 3. Establish a specific timeframe for completion of such work; and 4. State that if the work is not commenced and completed within the time specified, the city may take action to have the required work completed, all at the Applicant’s expense. <p><i>Written documentation (such as photos, samples, other supporting documentation attached) in Correction Notice.</i></p>	<p>2. Minor violations have not been corrected within the time set forth by the City; or</p> <p>3. Non-stormwater discharges (as defined in BCC 24.06.125) are being released from the site.</p> <p>4. Illicit connections which do not pose an immediate threat to surface waters or the storm system</p> <p>The Correction Notice shall:</p> <ol style="list-style-type: none"> 1. Identify the violation and cite the regulation, code, or permit condition being violated; and 2. Identify the work which needs to be performed to correct the violation or abate the degradation of surface water quality; and 3. Establish a specific timeframe for completion of such work; and 4. State that if the work is not completed within the time specified, the City may issue a Notice of Violation which will result in fines. <p><i>Written documentation (such as photos, samples, other supporting documentation attached) in Correction Notice</i></p>

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Construction/Development Permits	Existing Sites and/or Activities
<u>STOP WORK ORDERS</u>	
<p>A Stop Work Order (SWO) shall be issued when:</p> <ol style="list-style-type: none"> 1. The site does not have a valid Clearing and Grading permit before starting the work; or 2. The permittee has not requested and attended a pre-construction inspection meeting before starting the work; or 3. Sufficient and appropriate BMPs have not been implemented, as set forth in the approved Construction Stormwater Pollution Prevention Plan (CSWPPP), to prevent degradation of surface water quality; or 4. Permittee fails to address a Correction Notice within the timeframe specified; or 5. A third Correction Notice has been issued for the degradation of surface water quality due to Permittee’s activities (3 Strikes Rule); or 6. An accidental discharge of polluting matter (other than sediment) to the storm drain system or surface waters occurs. <p>Upon issuance of the Stop Work Order, work on the site <i>not directly related to correcting the degradation of surface water quality</i> may be suspended as directed by the City.</p>	<p>A Stop Work Order (SWO) shall be issued when:</p> <ol style="list-style-type: none"> 1. The responsible party fails to address a correction notice within the timeframe specified; or 2. An accidental discharge of polluting matter to the storm drain system or surface waters occurs; or 3. Repeat violations for the same activity. <p>Upon issuance of the Stop Work Order, the activity resulting in illicit discharges is prohibited, such as commercial car washing.</p>

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<u>STOP WORK ORDERS CONTINUED</u>	
<p>Suspended work shall not resume until such problems are resolved to completely abate the degradation of surface water quality and the Stop Work Order is removed by the City. Staff shall follow the SWO Notification Procedure when a SWO is issued.</p> <p>Suspension Of Work During Periods of Wet Weather - Based on the effectiveness of the Permittee’s erosion control measures and site conditions, work may be temporarily suspended by the City when precipitation is forecast if water quality protection cannot be assured.</p> <p>If the Permittee is unable to satisfactorily abate degradation of surface water quality due to adverse weather or construction methods, the City may suspend all or part of the work until such problems are resolved to completely abate the degradation of surface water quality.</p> <p>When three (3) Stop Work Orders resulting from inadequate or ineffective erosion control measures have been issued to a site at anytime during the preceding 12-month period, work that may contribute to the degradation of surface water quality shall be suspended between October 1 and April 30 (rainy season). No work, other than water quality protection maintenance activities, shall take place unless authorized in writing by the City.</p> <p><i>Stop work orders will be documented in writing.</i></p>	

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<u>NOTICE OF CIVIL VIOLATION – MANDATORY FINES</u>	
<p>A Notice of Civil Violation (NOV) may be issued when:</p> <ol style="list-style-type: none"> 1. Permittee fails to comply with a Stop Work Order; or 2. A repeat violation exists as defined in BCC 23.76.190; or 3. The violation creates a situation or condition that cannot be readily corrected (e.g. a pollutant spill that enters a stream, wetland or lake); or 4. The Permittee knows or reasonably should have known that the action is in violation of laws, regulations, codes or permit conditions (e.g. an intentional discharge of polluting matter to the storm drainage system and/or surface waters). <p>When any of the above circumstances exist, city staff shall immediately issue a Stop Work Order, notify the Code Compliance Section and provide documentation supporting issuance of the NOV..</p> <p>A Notice of Civil Violation shall be issued by the Code Compliance Section. The NOV will schedule a hearing at which the City will ask the Hearing Examiner to impose a mandatory civil penalty per BCC 23.76.190.</p>	<p>A Notice of Civil Violation (NOV) may be issued when:</p> <ol style="list-style-type: none"> 1. Responsible party fails to address a correction notice within the timeframe specified; or 2. A repeat violation exists as defined in BCC 24.06.130; or 3. The violation creates a situation or condition that can not be readily corrected (e.g. a pollutant spill that enters a stream, wetland or lake); or 4. The property owner knows or reasonably should have known that the action is in violation of laws and city regulations (e.g. an intentional discharge of polluting matter to the storm drainage system and/or surface waters); or 5. An illicit connection poses a threat to surface waters or the municipal stormwater system. <p>When any of the above circumstances exist, city staff shall notify the Code Compliance section and provide documentation supporting issuance of the NOV.</p> <p>A Notice of Civil Violation shall be issued by the Code Compliance Section. The NOV will schedule a hearing at which the City will ask the Hearing Examiner to impose a mandatory civil penalty per BCC 24.06.130.</p>