

BES Title 10 Discharge Enforcement Administrative Rules

ENB – 4.30

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ENVIRONMENTAL SERVICES
CITY OF PORTLAND
working for clean rivers

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These are administrative rules for the Bureau of Environmental Services (BES) Title 10 Discharge Enforcement Program.

1. Applicability

These rules pertain to discharges that violate PCC Title 10 (Erosion and Sediment Control) and that are administered and enforced by BES, as established by PCC 10.10.30.

2. Purpose

These rules are implemented in conjunction with the BES Enforcement Program Administrative Rules (PPD item ENB-4.15) and implement the following BES program goals:

- A. Control or prevent pollution at the source;
- B. Educate property owners and other persons about their responsibilities to prevent and control erosion and sediment-laden runoff from their properties; and
- C. Comply with the provisions of the City's National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Discharge permit and Underground Injection Control (UIC) Water Pollution Control Facility (WPCF) permit.

3. Definitions

Certain terms used in these rules are defined in PCC Title 10 and by the following:

- A. **“Visible-and-Measurable Standard”** means a standard for assessing violations that is based on:
 - 1. The offsite deposition of more than one-half cubic foot of mud, dirt, sediment or similar material onto public streets or into the City storm sewer or drainage system; or
 - 2. Evidence of on-site erosion such as concentrated flows of water over bare soils or turbid or sediment-laden flows, the runoff from which is not filtered or captured on the site.

4. Regulatory Authority

- A. **Primary Authority.** PCC Section 10.10.030 A.3 authorizes BES to take enforcement action as specified in PCC Chapter 10.70.
- B. **Relationship to Other City Regulations.** These rules may be enforced in combination with other City rules and regulations. In some cases, BES may use other or additional discharge or other Code enforcement authorities to address Title 10 violations.

5. Violation Investigations

The City may investigate possible violations in accordance with the procedures specified in the BES Enforcement Administrative Rules (ENB-4.15).

6. Violation Classification

Violation classes are described in the BES Enforcement Administrative Rules (ENB-4.15) and include the following specific violations and criteria.

- A. *Violations.* BES may assess multiple violations for non-compliance with PCC Title 10, Chapter 17.34, or Chapter 17.39.

B. Class I Violations. Class I violations include releases of large amounts of sediment from sites for which site development permits are not required.

C. Class II Violations. Class II violations include:

1. Failure to install required BMPs;
2. Tracking, depositing, discharging or flushing sediments or construction-related material into the City ROW or City storm sewer or drainage system; or
3. Failure to install vegetative or other soil covers.

D. Class III Violation. Class III violations include:

1. Incorrect installation of a required BMP;
2. BMPs that are inadequate to control discharges or are non-functional;
3. Inadequate maintenance of required BMPs; or
4. Failure to post required hotline signage onsite;
5. Vegetative or other soil covers are installed, but are inadequate to prevent or stop erosion.

E. Warning Notice (WN) Violations. A warning notice may be issued for de minimis discharges of visible sediment.

7. Enforcement Tools

Enforcement tools are described in the BES Enforcement Administrative Rules (ENB-4.15). In addition, BES may issue a stop work order as described in PCC 10.70.030. Orders may only be lifted by the BES Environmental Compliance Manager.

8. Penalties and Cost Recovery

Penalties will be assessed as described in the BES Enforcement Rules (ENB-4.15) and all applicable BES staff guidance. Violation of a stop work order will be penalized as a compliance order violation per ENB 4-15. In accordance with BES Enforcement Rules (ENB-4.15), BES may recover all City costs related to the abatement of a violation and all outstanding penalties from the person(s) assessed a violation.

9. Administrative Review

Persons subject to enforcement action may request reconsideration of a BES decision through administrative review and may subsequently appeal to the Code Hearings Officer as described in the BES Enforcement Rules (PPD item ENB-4.15). In addition to the Administrative Review criteria in ENB-4.15 Section 9, the following criteria apply to the BES Title 10 program:

A. Reviewable Items. Administrative review may be requested for the following:

1. BES assessment of a violation of PCC Title 10 or these rules; or
2. Specific corrective actions required, including submittals and compliance timelines.

B. Non-Reviewable Items. BES's designation of costs associated with City abatement of a violation will not be administratively reviewed and may *not* be appealed.

C. BES Evaluation. The Title 10-specific criteria of Section 9.A of these rules will be used in addition to the general criteria in the BES Enforcement Rules (PPD item ENB-4.15) to make a final determination on an administrative review request.

10. Appeals

An appeal of an administrative review final determination may be made to the Code Hearings Officer in accordance with BES Enforcement Rules (PPD item ENB-4.15) Section 10 and with PCC Title 22. Additional appealable items include those listed under Section 9.A of these rules.