



NOTICE

CITY OF SAN DIEGO

DATE: June 30, 2015

TO: Distribution

FROM: James Nagelvoort, City Engineer, Robert Vacchi, Development Services Director and Afsaneh Ahmadi, Chief Building Official

SUBJECT: Construction Storm Water Program – Escalating Enforcement Implementation

Effective immediately, the City is imposing Escalating Enforcement including monetary citations on construction sites City-wide.

On February 20, 2015, the City of San Diego was issued a Notice of Violation (NOV) Order R9-2015-0031 from the Regional Water Board for violations to the Municipal Storm Water Permit (Permit). The NOV can be found at the following link:

http://www.swrcb.ca.gov/rwqcb9/water_issues/programs/enforcement/docs/docs/2015/Feb/R9-2015-0031.pdf

The NOV stated that the City failed to implement an escalating enforcement process to require implementation of designated minimum BMPs at construction sites within its jurisdiction, in violation of the Municipal permit as well as the City's Storm Water Ordinance and the San Diego Municipal Code (SDMC). In response to the NOV, the City has stepped up its Employee Training Program with regards to BMP education, improving inspections and increasing enforcement.

In an effort to achieve "prompt corrective actions", and as provided in SDMC section §43.0310 Enforcement Authority, the City has elected to exercise its enforcement powers as provided in Chapter 1, Article 3, as is necessary to effectively implement and enforce construction BMP requirements. As such, the Public Works and Development Services Departments will implement an Escalating Enforcement Policy as generally described in SDMC Section §43.0311 Enforcement Remedies:

(a) It is unlawful for any person, business or association to violate the provisions and requirements of SDMC sections 43.0301 through 43.0309. Violations of these provisions may be prosecuted as misdemeanors subject to the penalties provided in SDMC section 12.0201. The Enforcement Official may seek injunctive relief or civil penalties in the Superior Court pursuant to SDMC section 12.0202, or pursue any administrative remedy provided in SDMC Chapter I, Article 2, Divisions 3 through 10.

*(b) Administrative civil penalties assessed pursuant to SDMC Chapter 1, Article 2, Division 8 for violations of any of the provisions and requirements of SDMC sections 43.0301 through 43.0309 shall be assessed at a maximum rate of **\$10,000 per day per violation**. The maximum amount of civil penalties shall not exceed \$100,000 per parcel or structure for any related series of violations.*

*(c) As part of any civil action filed pursuant to SDMC section 12.0202 to enforce any provisions of SDMC sections 43.0301 through 43.0309, a court may assess a maximum **civil penalty of \$10,000 per day per violation**.*

As the City continues to address further improvements to the inspection programs and implementation of its Escalating Enforcement Policy, the City reminds all stakeholders of their duty to comply with the requirements of the Permit and City requirements with regards to implementation and maintenance of required minimum designated construction BMPs year round, including but not limited to housekeeping, erosion control, tracking, and protection of the storm water conveyance system. Violations of the regulations will be subject to progressive enforcement including Stop Work Notices, Administrative Citations (fines), and Administrative Civil Penalties if the City determines that the owner/contractor failed to adequately comply with the Municipal Code and Permit requirements.

In addition, the City reminds Qualified SWPPP Developers and Qualified SWPPP Practitioners hired by contractors that failure to prepare and implement storm water pollution prevention plans which do not meet the requirements in the City's Storm Water Standards Manual, Permit and State Construction General Permit are at risk of losing their underlying certificate should the City file a complaint to the State Board of Professional Engineers, Land Surveyors and Geologists.

For more information on the City's Construction Storm Water Pollution Prevention requirements and to download a copy of the Clean Construction Brochure and Construction Waste Best Management Practices Fact Sheet, go to <http://www.sandiego.gov/thinkblue/public-education/info-for-businesses.shtml> under the Construction Site Best Management Practices heading.

For general questions regarding the information herein, please contact the following staff:

- William Barranon, Assistant Deputy Director, DSD, at 619-980-2816, WBarranon@sandiego.gov or
- Akram Bassyouni, Senior Civil Engineer, DSD, at 619-446-5442, ABassyouni@sandiego.gov or
- Julie Ballesteros, Senior Civil Engineer, Public Works – Field Engineering at 858-573-5012, BallesterosJ@sandiego.gov.

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