

Chapter 13.25 STORM WATER ILLICIT DISCHARGE DETECTION AND ELIMINATION

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13.25.010 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

“Accidental discharge” means a discharge prohibited by this chapter, which occurs by chance and without planning or consideration prior to occurrence.

“Authorized enforcement agency” or “agency” means the City Engineer’s office or Board of Public Works.

“Best management practice” or “BMP” means any structural or nonstructural control measure utilized to improve the quality and, as appropriate, reduce the quantity of storm water runoff. The term includes schedules of activities, prohibitions of practice, treatment requirements, operation and maintenance procedures, use of containment facilities, land use planning, policy techniques, and other management practices.

“Conveyance” means any structural process for transferring storm water between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

“Household hazardous waste” or “HHW” means solid waste generated by households that:

- (1) Is ignitable, as defined under [40 CFR 261.21](#);
- (2) Is toxic, as defined under [40 CFR 261.24](#);
- (3) Is reactive, as defined under [40 CFR 261.23](#);
- (4) Is corrosive, as defined under [40 CFR 261.22](#); or

(5) Otherwise poses a threat to human health or the environment.

"Illicit connection" means:

(1) Any drain or conveyance, regardless of whether said drain or conveyance had been previously allowed, permitted, or approved by an authorized enforcement agency, whether on the surface or subsurface, which allows an illicit discharge to enter the municipal separate storm sewer system (MS4); or

(2) Any drain or conveyance connected from a commercial or industrial land use to the municipal separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an agency having proper authority.

"Illicit discharge" means any discharge to a municipal separate storm sewer system conveyance that is not composed entirely of storm water, except naturally occurring floatables, such as leaves or tree limbs, that are not deliberately concentrated. Sources of illicit discharges include sanitary wastewater, septic tank effluent, car wash wastewater, oil disposal, radiator flushing disposal, laundry wastewater, roadway accident spillage, household hazardous wastes, and deliberately concentrated yard waste.

"Industrial activity" means an activity subject to National Pollutant Discharge Elimination System industrial permits as outlined in [327 IAC 15-6](#).

"MS4 operator" means the person responsible for development, implementation, or enforcement of the minimum control measures (MCMs) for a designated MS4 area.

"Municipal separate storm sewer system" or "MS4" means a conveyance or system of conveyances, including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains, that is:

(1) Owned or operated by a:

(a) Federal, State, City, Town, County, district, association, or other public body (created by or pursuant to State law) having jurisdiction over storm water, including special districts under State law such as a sewer district, flood control district, or drainage district, or similar entity, or a designated and approved management agency under Section 208 of the Clean Water Act (33 USCA 1288) that discharges into waters; or

(b) Privately owned storm Water Utility, hospital, university, or college having jurisdiction over storm water that discharges into waters of the State;

(2) Designed or used for collecting or conveying storm water;

(3) Not a combined sewer; and

(4) Not part of a publicly owned treatment works (POTW) as defined in [40 CFR 122.2](#).

"National Pollutant Discharge Elimination System (NPDES) storm water discharge permit" means a permit issued by the Indiana Department of Environmental Management (IDEM) under authority delegated by the United States Environmental Protection Agency (U.S. EPA).

“Person” means an individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

“Premises” means any building, lot, or parcel or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

“Storm water” means water resulting from rain, melting or melted snow, hail or sleet.

“Yard waste” means and includes, but shall not be limited to, garden, lawn or tree trimmings, leaves, plants, weeds and other organic matter. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.01.]

13.25.020 Purpose and intent.

The purpose and intent of this chapter is to comply with the requirements of [327 IAC 15-13-14](#) through the regulation of illicit discharges to the MS4 and to establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.02.]

13.25.030 Applicability.

This chapter shall apply to all illicit discharges directly or indirectly entering or deposited into the MS4, unless explicitly exempted by the agency. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.03.]

13.25.040 Discharge prohibitions.

Unless approved in writing by the MS4 operator, agency, or other State or Federal entity having the authority and jurisdiction, the commencement or continuance of any direct or indirect illicit discharge or illicit connection to the MS4 is prohibited. This prohibition expressly includes illicit discharges or connections made in the past, regardless of whether the discharge or connection was permissible under law or practices applicable or prevailing at the time of connection. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.04.]

13.25.050 Accidental discharges.

In the event of any accidental discharge into the MS4, the person responsible for the discharge, or their representative, shall immediately give notice to the agency or MS4 operator. The person responsible shall take all reasonable steps necessary to minimize any adverse impact to the MS4. A written report shall be provided within five days of the time of the accidental discharge, unless this requirement is specifically waived by the agency or operator. Reporting to the agency or MS4 operator does not relieve the person responsible of any other reporting requirement by any other laws or regulations. The report shall contain the following information:

- (A) A description of the accidental discharge including location of discharge, material discharged, amount discharged, amount recovered, receiving conveyance, and any other pertinent information.
- (B) The date and time of the accidental discharge.
- (C) Measures being taken to eliminate and prevent perpetuation or recurrence of the discharge.

(D) The name, title, mailing address and telephone number of person making the report. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.05.]

13.25.060 Inspection and monitoring of discharges.

(A) The agency or any designated employee thereof shall be permitted to enter and inspect premises subject to regulation under this chapter as necessary to determine compliance with this chapter. If security measures are in force which require proper identification and clearance before entry onto premises, the property owner shall make the necessary arrangements to allow access. Denial or unreasonable delays in allowing access to premises subject to regulation under this chapter is a violation of this chapter and violators will be subject to the same fines and penalties set forth herein.

(B) The agency shall have the right to mobilize and operate on any premises such devices as are necessary to conduct monitoring, sampling or testing of the property's storm water discharge. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.06.]

13.25.070 Requirement to prevent, control and reduce storm water pollutants by the use of best management practices.

The agency may establish requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of the MS4. The person responsible for any such activity, operation or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of these structural and nonstructural BMPs. Any person responsible for a property or premises which is or may be the source of an illicit discharge or illicit connection may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the MS4. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.07.]

13.25.080 Notice of violation and enforcement.

(A) If any person owning or occupying premises is discovered to be in violation of this chapter, the agency or MS4 operator may serve upon said person a written notice of violation (NOV) by personal service or registered or certified mail and order the correction of any such violations. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or contractor thereof and all direct and indirect expenses and costs thereof shall be charged to the violator. Within 15 days of the receipt of an NOV, or shorter period as may be prescribed in the NOV, the person served the NOV must submit to the agency or MS4 operator a written explanation of the violation and a plan for the satisfactory correction thereof. The plan shall include specific actions to correct the violation and restore any land areas adversely affected by the violation. Submission of the plan will not affect liability and violators will be subject to the same penalties set forth herein.

(B) The agency or the MS4 operator may, without prior notice, issue an order to suspend or terminate MS4 access to stop an actual or threatened illicit discharge. If the responsible person fails to comply with an order suspending or terminating access to the MS4, the agency or the MS4 operator may

take any and all measures necessary to prevent or minimize damage to the MS4 and the violator shall be liable for all direct and indirect expenses and costs in addition to the penalties set forth herein. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.08.]

13.25.090 Appeal of notice of violation.

Any person receiving a notice of violation from the agency may appeal in writing within five business days from the date of the notice of violation. The agency will hold a hearing on the appeal within 15 business days from the date of receipt of the notice of appeal and the decision of the agency shall be final. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.09.]

13.25.100 Enforcement measures after appeal.

If an appeal is denied by the agency, the responsible person shall correct the violation in accordance with the terms of the notice of violation and/or any modifications to the notice of violation as determined during the appeal hearing. In the event that the responsible person fails to correct the violation in accordance with the terms of the notice of violation and/or appeal hearing, the agency shall utilize all applicable provisions of this chapter to correct the violation and the responsible person will be assessed any and all related costs. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.10.]

13.25.110 Emergency orders and abatements.

The agency may order the abatement of any illicit discharge from any source to the MS4 when, in the opinion of the agency, the discharge causes or threatens to cause a condition that presents an imminent danger to the public health, safety, or welfare of the citizens of the City or to the environment. If such emergency situations occur and the responsible person cannot be located, or time constraints are such that service of a notice and order to abate cannot be completed without presenting an immediate danger to the public health, safety, or welfare or to the environment, the City may undertake the abatement of said threat or danger and the violator shall be liable for all related abatement costs in addition to the penalties set forth herein. [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.11.]

13.25.120 Penalty.

Any person who violates any provision of this chapter or who has failed to comply with any provision of this chapter shall be subject to the penalties set forth in EMC [1.05.180](#). [Ord. [G-2008-10](#) § 1, passed 4-9-08. 1983 Code § 5.54.12.]

The Evansville Municipal Code is current through Ordinance C-2018-30, passed September 24, 2018.

Disclaimer: The City Clerk's Office has the official version of the Evansville Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.



