

Wenatchee Valley Stormwater Management Program
Illicit Discharge Detection & Elimination

Appendix A: IDDE Response Procedure

Illicit Discharge Detection & Elimination

City of East Wenatchee IDDE Response Procedure

I. Purpose

The purpose of the Illicit Discharge Detection and Elimination (IDDE) Response Procedure is to set forth the City of East Wenatchee's policies and procedures for investigating and responding to instances of noncompliance with regards to the city's municipal separate storm system (MS4).

Illicit discharges include any discharge to the municipal storm system that is not rain or snowmelt, with a few exceptions allowed under the City of East Wenatchee Code Section 13.20. An illicit discharge may include a connection to the system or it may be a discharge released directly to a catch basin or an area with the potential to run into surface water. Illicit connections are any infrastructure connection to the MS4 that is not intended, permitted or used for collecting and conveying stormwater.

II. Administration

The IDDE Response Procedure will be administered by the Environmental Manager under the supervision of the Public Works Director. Documentation of complaints, inspections and enforcement action will be kept electronically and in files maintained by the Environmental Division.

III. Response Plan

A. Means of Detection

Illicit discharges and illicit connections will be detected by the following means:

1. Detection by city staff
2. Notification of a spill/accidental discharge
3. Complaint received by citizen or business
4. Detected through field assessments
5. Detected during an inspection of an industrial or commercial facility
6. Detected during random or targeted monitoring

B. Response Timeline

City staff will investigate any complaints or reports of potential illicit discharges within 7 days.

Any illicit discharge into a stormwater system which could constitute a threat to human health, welfare or the environment will be investigated immediately and the appropriate action taken to correct or minimize the threat. The response may include referral of the violation to another appropriate agency such as the local emergency response team or the Department of Ecology.

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Potential illicit connections to the storm sewer system will be investigated no later than 21 days from the time of the initial report or discovery. Upon confirmation of an illicit connection city staff will work with the responsible party to have the connection eliminated within 6 months.

C. Field Investigation Steps

While conducting any field investigation, city staff are required to follow all safety procedures. Before entering private property, city staff will attempt to contact the property owner.

1. Locate the illicit discharge and begin documentation.
 - a. Is the nature of the spill known?
 - b. Did the spill enter the MS4?
 - c. Did the spill discharge to a water body?
 - d. Is the spill continuing, has it been stopped?
 - e. Look for possible infrastructure connections
2. Determine the level of hazard and if additional help is needed. This can be done by surveying the immediate area for the source of the discharge, looking for physical characteristics including odor, color, staining of floatable material, or pulling samples for field testing such as pH, residual chlorine, turbidity or temperature.
 - a. If hazardous, immediately call 911 and the DOE Spill Response Team
 - b. If non-hazardous, look for the responsible party.
 - c. If a responsible party is not present or is unable to handle the discharge, contact additional city staff as needed.
 - i. Non-hazardous, small volume under 18" diameter—Environmental & public works crews
 - ii. Large Volume & Non-hazardous—Public works crews
3. If it is safe to do so look for ways to contain or stop the discharge. Look for ways to prevent the discharge from reaching the MS4.
4. If the source of the discharge is not clear, use the following methods for tracking the discharge:
 - a. Inspect area and storm drain system using the storm sewer system map and inventory
 - b. Trace using an identified characteristic: pH, color, or damage to infrastructure.
 - c. Sample collection
 - d. Dye testing
 - e. Video inspection of storm sewer
 - f. Review aerial photographs

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5. If sampling is necessary the samples must be pulled and analyzed within an appropriate timeframe to assure the data is valid. Chain of Custody forms must be completed for all samples. (Appendix B-2) Laboratory analysis must be performed by a state accredited laboratory.

D. Document field investigation

Documenting an incident of illicit discharge begins at the time the spill/discharge is reported and continues throughout the investigation, clean-up, and enforcement of the incident. Initially the incident is documented by filling out a stormwater complaint form, which is found in the Land and Water Resource Program Managers office. (Appendix B-1) If this is not done by the person receiving the phone call, it will be done by the staff member of the Environmental Division who receives the forwarded complaint.

Documentation of the field investigation not only includes written documentation, but also may include photographs of the spill location and any infrastructure or water bodies associated with the illicit discharge. If samples were collected for field analysis or laboratory analysis include the chain of custody forms and the analysis results with the documentation.

At the conclusion of the incident complete all of the information and close the complaint form. Compile all of the paperwork and file it in the stormwater complaint folder in the Land and Water Resource Program Managers office.

E. Notify DOE

If there is a discharge or spill into the storm system with potential harm to health or the environment, it is required that the DOE be notified within 24 hours. Any water quality violations require notification of DOE in writing within 30 days of the incident.

F. Disposal of cleanup materials

The party responsible for the illicit discharge is also responsible for cleanup of the discharge. The environmental department may provide technical assistance such as DOE contacts, hazardous waste contractors, materials for cleanup, etc. Cleanup materials must be disposed of in a proper manner. The hazardous waste may need to be disposed of by a hazardous waste contractor.

G. Equipment

The appropriate vehicles are maintained continuously with spill response equipment necessary to clean a non-hazardous small spill. Field testing and sampling equipment is

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also maintained in the vehicles. Additional equipment may be needed depending on the level of hazard of spill, particularly a large or hazardous spill that requires the street, utility, collection or professional clean-up crew.

IV. Enforcement Action

In addition to verbal and written warnings, enforcement actions for an illicit discharge or illicit connection will follow provisions of East Wenatchee City Code 13.20.

A. Allowable Enforcement Action

The following actions are allowed:

1. Verbal Warning/ Public Education (this warning can also come in the form of a door hanger)
2. Written Warning – Notice of Non-Compliance (Appendix B-3) (Give the responsible person the white copy, if unable to hand deliver send it by certified mail. Keep the yellow copy for our files. If the property owner is different than the responsible person send the property owner a copy of the Notice of Non-Compliance)
3. Notice of Violation
4. Compliance Order
5. Emergency Cease & Desist Order
6. Suspension of MS4 Access
7. Compensatory Action
8. Noncompliance Fines
9. Recovery of Costs
10. Criminal Prosecution

In addition, the City has the right to take any, all or any combination of these actions concurrently or sequentially against a non-compliant user or take other actions as warranted by the circumstances.

When an Enforcement Action is taken, the user has the right to the following:

1. Administrative Hearing (must be requested in writing by the user within 15 days of receiving an Enforcement Action document)
2. Appeal to City Council (must be requested by the user by filing a written notice of appeal with the city clerk user within 15 days of receiving the results of the Administrative Hearing)
3. Judicial Review (the user must submit a petition to the Chelan County Superior Court within in 20 days of the results of the Appeal to City Council)

B. Criteria for Determining Enforcement Action

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When a discharge is non-hazardous the preferred level of initial Enforcement Action is to provide a verbal warning with a public education component. However, this is only an option when the discharge/spill is non-hazardous in nature and the person has not had previous warning about the same type of violation.

A person is defined as: any individual, association, organization, partnership, firm, corporation or other entity public or private and acting as either the owner or as the owner's agent. (WCC 13.05)

The following are types of violations: *Note that the list is not all inclusive.*

1. Not maintaining Best Management Practices (BMPs) – examples are tracking material off site, silt fences failing, catch basin socks are full of debris
2. Not cleaning up spills
3. Discharging wash water – examples are pressure washing with soap or chemicals, washing painting supplies, cement wash water
4. Storing materials in the roadway
5. Leaking equipment – both general automotive and construction equipment
6. No BMPs in place

Use the following criteria when determining the appropriate level of enforcement action:

1. The magnitude of the violation
2. The duration of the violation
3. The effect of the violation on the Columbia River
4. The effect of the violation on the MS4
 - a) Caused damage to the system
 - b) Caused a violation to the NPDES permit
5. Compliance history of the person – violations by the same person on other sites should be looked at when compliance history is being determined
6. Good faith of the person

If a person appears to be acting in good faith to comply with the requirements, enforcement actions should be on a more cooperative level than if the person does not appear to be acting in good faith. However, one should be aware that the Clean Water Act requires exemplary efforts to comply with its requirements in a timely way. Congress expresses the standard by which good faith must be measured:

The Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business as usual is not enough. Prompt, vigorous, and in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this act, that administrative and judicial reviews are sought on the discharger's own time. Legislative History of the Clean Water Act, Number 95-14, Volume 3, Page 463

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Therefore, if a person challenges a requirement and delays progress toward compliance, the person is assuming the risk that it will be upheld on judicial review. If a decision is not made in favor of the person and it is only after the adverse decision that the person proceeds aggressively to come into compliance, the person cannot be considered to have acted in good faith. Additionally, if a person follows business as usual procedures, it cannot be considered to have acted in good faith.

V. Flow Chart

Appendix A: IDDE Enforcement Action Flow Chart

VI. Priority Areas / Outfalls

Exhibit 1: City of East Wenatchee Priority Areas and Outfalls

VII. Forms and SOPs

Appendix B-1: Stormwater Complaint Form

Appendix B-2: Chain of Custody Form

Appendix B-3: Notice of Non-Compliance

Appendix B-4: Stormwater Inspection SOP

City of East Wenatchee

List of Priority Areas and Outfalls

Ten outfalls are located within the City of East Wenatchee city limits and discharge to the Columbia River or infiltration facilities. These locations have been separated into three levels of priority (e.g., low, medium, high). The outfalls within each of the three levels are prioritized by the following criteria:

1. *Potential public risk*
2. *Potential for erosion or damage to the outfall*
3. *Land use*
 - a. *Commercial Industrial*
 - b. *Residential*
4. Past illicit discharges

The field assessment priority list is as follows:

I. High Priority

- A. Canyon A
- B. Grant Road
- C. 9th Street NE

II. Medium Priority

- A. 3rd Street & Eastmont Pond
- B. 9th Street & Eastmont Pond
- C. 19th Street & Eastmont Pond

III. Low Priority

- A. Pace Drive Pond
- B. 3rd Street SE Ponds
- C. 8th Street Pond
- D. Rock Island Pond