

Gladstone IDDE Program and Industrial/Commercial Facilities

Enforcement Response Plan

April 4, 2023

Background:

Consistent with Schedule A.3.c of its National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit, the City of Gladstone must continue to implement and enforce a comprehensive program to detect and eliminate illicit discharges into the MS4, to the extent allowable by state laws. In addition, co-permittees must continue to implement procedures to prevent, contain, and respond to spills, as well as seepage from the sanitary sewer system, which may discharge into the MS4 in accordance with all applicable federal and state laws, including proper notification to the Oregon Emergency Response System (OERS). An illicit discharge is any discharge to an MS4 that is not composed entirely of stormwater. Conditional exceptions are identified in Schedule A.1.d of the MS4 Permit issued September 15, 2021. Procedures and processes required by the MS4 Permit are to be documented or referenced in the SWMP Document.

Purpose:

The purpose of this document is to fulfill requirements of Schedule A.3.c.ii of the September 15, 2021 MS4 permit by describing the steps the City will follow in order to implement enforcement and response procedures in order to implement and enforce a comprehensive program to detect and eliminate illicit discharges into the MS4, to the extent allowable by state laws .

Permit Language:

Schedule A.3.c.ii
Enforcement Procedures

The co-permittees must continue to implement their enforcement and response procedures as developed under the previous permit. The SWMP Document must describe or reference the enforcement and response procedures. The procedures should describe how repeat violations are addressed; the timelines for compliance; specifically address commercial and industrial facilities or activities as described in Schedule A.3.g of this permit; and consider factors such as the amount and type of pollutant discharged, and whether the discharge was intentional or accidental, if known, and whether the discharge could have been prevented.

Procedures:

Once an illicit discharge is confirmed and the source is located, the City will immediately evaluate steps to remove the discharge.

In cases where the source of an illicit discharge has not been immediately identified and controlled by the initial responders, Public Works will implement this *Gladstone IDDE Program and Industrial/Commercial Facilities Enforcement Response Plan*. If sampling is necessary, The City maintains an IGA with Clackamas County WES to conduct stormwater sampling and analysis as needed. In some cases, professional services may be used to conduct sampling.

If a responsible party is identified as the source, the City can choose to initiate enforcement. Enforcement actions will be of a progressive nature. When determining enforcement actions for each event, the City will weigh a number of factors described herein in order to determine a specific enforcement action for each event. The discharger will always be required to stop and clean up the discharge immediately. The City may contact the site owner or responsible party and provide technical assistance or enforcement to address or control the discharge. Based on the amount and type of pollutant discharged, whether the discharge was intentional or accidental, if known, and whether the discharge could have been prevented, if the discharge is caused by a repeat offender, the City may conduct further enforcement actions. The City may take steps to control the discharge in an emergency as needed.

The City will document all complaints or reports of illicit discharges into and from the MS4 and all associated investigation activities. Complaint tracking information from each year will be summarized in the following Annual Report.

The City may require or apply any of the following control options, when appropriate for the discharge:

- Removing an illicit connection to the storm sewer from sanitary sewer system pipe, floor drainpipe, or other illicit connection;
- Implementing operational source control BMPs (e.g., cease use of soap when washing vehicles; wash vehicles indoors);
- Directing discharge to dry land or sanitary sewer, if permitted;
- Construction of a water quality facility (e.g., oil/water separator);
- Capturing and hauling wastewater off-site for proper disposal; or
- Applying for a discharge permit from DEQ.
- Deny use of the MS4 system until the illicit discharge is ceased and corrective action is completed.

Enforcement Action Options:

The City of Gladstone may implement provisions of the GMC in conducting enforcement activities related to illicit discharges. Enforcement actions will be progressive in nature, based on whether the discharge was a repeat violation, the amount and type of pollutant discharged, whether the discharge was accidental or intentional and whether the discharge could have been prevented.

Generally, a verbal warning is given (if a responsible party is identified) or a written notification is distributed, requiring an immediate stop to the discharge. Under GMC Chapter 13.15.020(3), the City Administrator and other duly authorized employee shall be permitted to enter properties to inspect, observe, monitor, measure, and sample the municipal storm sewers.

Depending on the nature of the discharge, clean up measures may be conducted by the responsible party or City. If the City conducts clean-up efforts, an additional 20 percent expense will be added to the code for administrative overhead (Chapter 8.04.170). Follow up inspections and monitoring of the site/ source will be conducted by the City.

Samples collected at the time of the observed illicit discharge will inform remediation/clean up efforts and be used to establish any additional fees, fines, posted notices or penalties. Per GMC Chapter 8.04.149, the City Administrator or designee may also abate nuisances through the municipal court or as described in GMC Chapters 8.04.150 to 8.04.200. The following penalties in addition to a verbal and handwritten notice may be enforced per Gladstone Municipal Code in a progressive manner based on whether the discharge was a repeat violation, the amount and type of pollutant discharged, whether the discharge was accidental or intentional and whether the discharge could have been prevented:

13.15.030 Enforcement—Violation—Penalty.

- (1) The City Administrator or designee shall enforce the provisions of this chapter.
- (2) Failure to comply with any provision of this chapter is a Class “A” Infraction.
- (3) Any person convicted of violating any provision of this chapter may be denied the use of the municipal storm water sewer system until the “illicit discharge” is ceased and corrective action is completed to accomplish the objective of this chapter.

8.04.200 Violation—Penalty.

Violation of any provision of this chapter shall be a Class “A” infraction.

(1) Each day’s violation of a provision of this chapter constitutes a separate offense.

(2) Cleanup may be conducted by the City at the expense of the responsible party and an additional 20 percent expense will be added (GMC Chapter 8.04.170).

Timelines for Compliance:

Once the source of an illicit discharge is determined, The City must take appropriate action to eliminate the illicit discharge, including an initial evaluation of the feasibility to eliminate the discharge, within 5 working days. If the City determines that the elimination of the illicit discharge will take more than 15 working days due to technical, logistical, or other reasonable issues, the City must develop and implement an action plan to eliminate the illicit discharge in an expeditious manner within 20 working days of source identification.

Repeat violations: If the responsible party of an illicit discharge is determined to be a repeat offender, penalties will escalate. Depending on the nature of the discharge and repeat violations, the following may apply:

- Cleanup may be conducted by City at the expense of the responsible party and an additional 20 percent expense will be added (GMC Chapter 8.04.170).
- Any person convicted of violating any provision of this chapter may be denied the use of the municipal storm water sewer system until the “illicit discharge” is ceased and corrective action is completed.
- Issuance of a Class “A” infraction fine per Gladstone Municipal Code.
- Each day that the responsible party is in violation of Gladstone Municipal Code provision constitutes a separate offense.

Commercial and Industrial Facilities or Activities:

Commercial and industrial facilities or activities that address MS4 Permit Schedule A.3.g and result in an enforcement action will utilize this Gladstone IDDE Program and Industrial/Commercial Facilities Enforcement Response Plan.

Amount and Type of Pollutant Discharged: For each discharge enforcement, the City will consider the amount and type of the pollutant discharged when determining the enforcement

action. For instance, a large amount of a highly toxic pollutant will result in a greater enforcement action than a discharge of a small amount of a minimally toxic pollutant.

Accidental or Intentional Discharge: For each discharge, the City will consider whether the discharge was accidental. Intentional discharges will carry a stronger enforcement action than discharges that are accidental by nature.

Preventable: For each discharge, the City will consider whether the discharge was preventable. Discharges that are determined to have been preventable will carry a stronger enforcement action than those are determined to be non-preventable.

Escalating Enforcement Sequence:

1. Notice to correct
2. Notice of violation
3. Stop work order
4. Civil penalty
5. Abatement