

<h1>POLICY MANUAL</h1>	Date Adopted: May 23, 1995
Classification: STORM WATER QUALITY	Date Last Amended:
Subject: Illicit Discharge Response	Approved By:

I. Policy:

The Fresno Metropolitan Flood Control District shall, in cooperation and coordination with other regulatory agencies, implement an action program to eliminate non-storm water discharges to the District storm drainage system, which may occur through illicit connections, or discharges.

II. Purpose:

It is the objective of the District to eliminate from the storm drainage system those non-storm water discharges prohibited by the federal Clean Water Act, the state Porter-Cologne Act, and the District National Pollutant Discharge Elimination System (NPDES) discharge permit. Such elimination shall be for the purpose of protecting water quality within the District and to minimize the expenditure of public resources required to operate and maintain the District's facility systems.

III. Definitions:

A. Illicit Connections: Any physical connection to a storm drainage system which allows non-storm water or pollutants to enter District channels, basins, storm drains, or pumping plants including but not limited to:

1. Any connections, which allow sewage, process wastewater, and wash water;
2. All connections from indoor drains or sinks; and
3. All unapproved, undocumented drains from roofs, loading docks, and hazardous materials handling areas, directly connected to the storm drainage system.

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- B. Illicit Discharges: Any non-storm water flow either intentionally or inadvertently discharged to the District's storm drainage system; provided, however, that discharges made pursuant to NPDES point source discharge permits and discharges specifically exempted pursuant to federal and state regulations, local ordinances, and the District's Prohibited and Conditionally Allowable Non-Storm Water Discharges Policy shall not be considered illicit discharges.

- C. Non-Storm Water Discharges: Discharges consisting of any solid or liquid other than rainfall runoff, including but not limited to industrial process water, wastewater, vehicle/machinery wash water or solvents, dewatering water from contaminated sites, concrete wash waters, saw-cut slurry residue, steam cleaning waters, incidental waters discharged from mechanical street sweeping operations, paint rinsate waters, waste container wash waters, chlorinated waters, and solid and liquids from other sources. Some non-storm water discharges are conditionally allowed into the District's storm drainage system.

- D. Operator: The owner of the property, business, or activity causing the discharge is generally considered to be the party or parties responsible for compliance with NPDES storm water quality regulations. District efforts to secure compliance shall be directed first to the business or activity owner, or other designated representative who is authorized to direct operations or improvements at the subject site. Correspondence may also be directed to the corporate level or property owner, when necessary to effect compliance.

- E. Storm Water: Surface runoff and drainage produced solely by rain storm events and snow melt.

IV. Regulatory References:

- A. Federal Water Pollution Control Act (Clean Water Act): Prohibits non-storm water discharges to storm water drainage systems; requires operators of municipal storm drainage systems to effectively prohibit non-storm water discharges and to implement best management practices to reduce storm water pollutants to the maximum extent practicable. (33 U.S.C. Sections 1251-1357)

- B. Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65):

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Designated employees must report to local officials, within 72 hours, the illegal discharge or threatened illegal discharge of hazardous waste which is likely to cause substantial injury to public health or safety. [Health and Safety Code Sections 25180.7(b)]

- C. NPDES Storm Water Regulations: Regulations promulgated by the U.S. EPA to establish application and compliance requirements for municipal and industrial storm water permits. The regulations require manufacturing, transportation, mining, construction, waste-related industries, and others generating polluted storm water to secure storm water discharge permits, to eliminate non-storm water discharges, to prepare and implement storm water pollution prevention plans, and to monitor and report storm water discharge quality and permit compliance. (40 CFR Part 122.26)
- D. State NPDES General Permits for Storm Water Discharges: Issued by the California Water Resources Control Board, two General Permits apply to all regulated industrial and construction related storm water discharges (the General Industrial Activities Storm Water Permit and the General Construction Activity Storm Water Permit, respectively). The General Permits impose the same requirements as are set forth in paragraph IV.C of this policy, to reduce storm water pollutants.
- E. Fresno County Code (FCC) Section 8.28.020: Specifically prohibits discharges of industrial waste into facilities other than sanitary sewers.
- F. FCC Section 14.12.030(c), Fresno Municipal Code Section 9-502(c), and Clovis Municipal Code Section 6-4.02: Prohibit discharges of sewage/liquid wastes into facilities other than sanitary sewers.
- G. FCC Section 8.24.040: Prohibits sewage discharges into waterways.
- H. FCC Section 13.40.010: Prohibits dumping of debris into any public waters.

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- V. **FCC Chapters 8.22, 8.24, 8.28 and 13.40:** Prohibit improper disposal of waste materials; Section 8.22.020 imposes liability for all cleanup costs upon any person responsible for illegal dumping.

(See Appendix A for excerpts of related local ordinances.)

VI. **Procedure:**

When the District has reason to suspect, or receives a complaint or other evidence of an illicit connection or discharge, the following procedures shall be followed:

- A. **Proposition 65 Compliance:** Whenever an employee obtains information in the course of his or her official duties of an illicit discharge or threatened illicit discharge of a hazardous material which is likely to cause substantial injury to public health or safety, the employee shall, within 72 hours, report such information to the County of Fresno, Department of Community Health (County Health) and the District Environmental Resources Manager. County Health shall notify the County Board of Supervisors as required by law.
- B. **Emergency Response:** If a District employee understands or believes that an illicit discharge may cause or threatens to cause immediate or emergency hazards to responding personnel, the public or the environment, he or she shall immediately call emergency dispatch (911). Response to such an incident shall be performed by the County Health Emergency Response Team or city fire department. In no event shall a District employee perform, or allow others to perform, response activities for which they are not adequately trained.
- C. **Storm Drainage System Inspection:** In the event an illicit discharge which, due to its chemical characteristics, physical characteristics, quantity, or concentration, is not a threat to the health and safety of the responding District employee (hereinafter, "inspector"), the responding employee shall, using reasonable and appropriate safety precautions, inspect the storm drainage system in the vicinity of the suspect area to confirm the discharge and identify, locate, and characterize the source and type of discharge. Examples of such discharges include but are not limited to the release of used motor oil; small quantities of paints, paint thinners, and solvents; used antifreeze; and other non-hazardous liquid or solid waste. The

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inspection shall be documented on the Incident Response Report (Exhibit 1), noting the evidence found of the illicit discharge(s) and of the potential source(s). The location and ownership of the potential source shall be identified on an Assessor's Parcel Map. County Health shall be notified as required in Section A for all incidents found to involve hazardous materials.

- D. Facilities Regulated by NPDES General Permits: The inspector shall determine if the potential source of an illicit discharge is an industrial activity which is subject to an NPDES storm water permit requirement. If so, the inspector shall request to meet with the site operator to discuss storm water discharge requirements and regulations. The inspector shall provide the operator an explanation of the NPDES permit requirements and copies of the relevant State General Permit and District compliance assistance documents.
- E. Permission to Enter to Inspect: The inspector shall request permission to enter the premises of the suspected illicit discharger to inspect the site, facilities, and operations. Only upon permission of the operator shall an inspection proceed on private property.

Under the State NPDES General Permits, the District is delegated the authority to inspect private facilities subject to NPDES storm water permits. The District inspector may assert this authority to operators of regulated facilities, but shall not enter any site unless permission to inspect is verbally granted.

- 1. If the District inspector is denied inspection access, the inspector shall elevate the matter to a supervisory level in the Environmental Resources Department. The following steps shall be implemented:
 - a. A letter shall be prepared and mailed to the site operator describing the suspected violation of the Clean Water Act, citing the District's authority, and requesting an appointment to inspect. The letter shall be followed with telephone communication.
 - b. If access continues to be denied, the complaint and related documentation shall be referred to County Health for suspected

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illegal dumping violations and/or to the Regional Water Quality Control Board (Regional Board) for suspected violations of storm water discharge regulations. The District shall request the County and/or Regional Board to perform an inspection within a reasonable time, and to report resolution of the matter to the District.

2. If permission to inspect is granted:
 - a. The inspection shall be documented on the Storm Water Quality Management Inspection Report (Exhibit 2).
 - b. All violations of storm water regulations and related local ordinances shall be noted on the inspection report, including specified corrective measures to be taken within specified time intervals. The completed report shall be reviewed with the site operator.

F. Illicit Connections.

1. Suspected unapproved, undocumented directly connected drains shall be confirmed through facility inspection, review of master plan sheets, site grading plans or facility records available at the District office. If a connection is not documented, the site operator shall be provided written notice to: (a) secure District approval of the connection or (b) disconnect the subject drain(s), with reasonable time (no less than 30 days) given to comply and submit documentation to the District. Approval may be withheld by the District if the direct connection is determined by the District to be a potential source of non-storm water discharges, or is determined to cause hydraulic overload of the storm drainage system.

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2. If the notice requires disconnection of the drain(s) the site operator shall be referred to the City of Fresno, Department of Public Utilities, Wastewater Management Division, or County Health, as applicable, for direction with regard to securing proper wastewater disposal and associated permits. A copy of the notice shall be provided to the District Engineer, Environmental Resources Manager, Operations Engineer, and the appropriate wastewater regulatory agency.

3. If there is inadequate effort by the operator to secure approval of or eliminate the illicit connection(s) within the specified time period, the District shall provide notice of its authority and intent to plug the connection to the District's system. The operator shall be requested to attend a meeting to consult with staff at the District office. At the meeting the operator shall be provided a final specific time period in which to demonstrate substantial progress toward compliance. Failing such progress, the District shall install a temporary plug. A plug may only be installed with the express written authorization of the General Manager-Secretary. The plug may be removed upon the operator's demonstration, to the satisfaction of the District, of compliance with all District requirements.

- G. Other Violations. If there is evidence of illicit discharges or other violations of storm water regulations or related local ordinances, the operator shall be provided a written notice, including a detailed listing of the violations, applicable storm water quality compliance information, and a warning to correct the violation(s) within a specified period of time.

- H. Re-inspection. A facility shall be re-inspected approximately 30 days after the written notice provided pursuant to sections F., and G. Physical observations, facility management directives, construction permits, and other evidence may be used to document efforts by the site operator to comply.

- I. Continuing Violations. If violations persist, a complaint and all relevant documentation shall be filed with County Health and/or the Regional Board.

- J. Record Keeping. All documentation related to a complaint associated with an

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NPDES regulated facility shall be placed in District file 510.1714, labeled by site address. The District's NPDES regulated facility inventory shall be up-dated and amended as necessary. Incident reports of other violations of storm water regulations not related to NPDES regulated facilities shall be placed in District file 530.30.

VI. Attachments:

- Exhibit 1: Incident Response Report
- Exhibit 2: Storm Water Quality Management Inspection Report
- Appendix A: Related Local Ordinances

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APPENDIX A: RELATED LOCAL ORDINANCES

Fresno County Codes (FCC): Section 8.22.020 Liability for Cleanup Costs

Any person who deposits, causes to be deposited or permits the deposit of any waste matter in or upon any public highway or road, including any portion of the right-of-way thereof, or upon any private road or other private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for waste disposal purposes, or in or adjacent to any waterway, canal, irrigation ditch or any other body of water, shall be liable for all costs to cleanup or remove such waste material. A county enforcement officer shall either cause such waste matter to be cleaned up or removed at the expense of the person responsible for its deposit or shall give notice to such person to cleanup or remove it. The failure or refusal to cleanup or remove such waste matter upon notification is a violation of this section. Each day that waste deposited in violation of this section remains after notice shall be considered a separate violation.

If the waste matter is not removed or cleaned up after notice has been given and the enforcement officer determines that the public interest requires immediate cleanup or removal, the enforcement officer may, without further notice, cause such removal or cleanup. The person responsible for deposit of the waste matter shall be liable for all costs of such removal or cleanup.

(Ord. 88-001 §1 (part), 1988)

FCC Section 8.28.020 Disposal Permit--Required

It is unlawful for any person to dispose of any industrial waste other than through a sewer system operated by a public agency or other than in strict conformity with the terms of a permit therefore previously issued by the health officer in accordance with Chapter 850 of this code. (Ord. 88-020 §3 (part): prior code §446.)

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FCC Section 8.24.040 Sanitary Facilities--Discharge into Waterway

It is unlawful for any person to hereafter establish or install any sanitary facility which is designed to or which does discharge any contents or effluent, whether previously filtered or otherwise treated or not, from any privy, water closet, cesspool or septic tank into any river, stream, canal, lake or other surface body of water, or discharge the same in such near proximity thereto that the same might reasonably be expected to enter such waters by seepage, percolation, drainage or otherwise and in no event within one hundred feet of the high water mark of such body of water. (Prior Code §441.2)

FCC Section 13.40.010 Dumping Debris

It is unlawful for any person to dump or place in any public waters any human waste, sewage, garbage, trash, gasoline, oil, sawdust, debris or other foreign matter whether from a boat, the shore or any other place. (Prior code §585.)

FCC Section 14.12.030 Mandatory Sewer Connections

Section 9-502. (c) No person shall cause, suffer or permit the disposal of sewage, or other liquid wastes into any drainage system on any lot, which is not connected to a public sewer when such connection is required by this section.

Clovis Municipal Code Section 6-4.02. Sewer Connections: Required

- a) Every building or structure in which plumbing fixtures are installed and every premises having drainage piping thereon which conveys sewage or other liquid waters to a legal point of disposal shall be connected to the public sewer if it is available. A public sewer shall be available, for the purposes of this section, if the sewer has been constructed and is available for use in any public street, alley, or right-of-way adjacent to a lot or within 100 feet thereof, measured along a public street, alley, or right-of-way to the nearest property line to the sewer.
- b) Building or structures connected to septic tanks or cesspools at the time a public sewer becomes available shall be connected to the public sewer within three (3) years after the sewer becomes available; provided, however, if the Council determines that the continued use of the septic tank or cesspool will create a health menace, the property shall be connected within the time specified by the Council.
- c) No person shall cause, suffer, or permit the disposal of sewage or other liquid wastes

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into any drainage system on any lot, which is not connected to a public sewer when such connection is required by the provisions of this section. (§2, Ord. 328.)