

[TABLE OF CONTENTS](#)[ARTICLE I Snow Policy](#)[ARTICLE II Reserved](#)[ARTICLE III Road Access Culverts](#)[ARTICLE IV Use of Borrow Ditches](#)[ARTICLE V Cattle Guards](#)[ARTICLE VI Miscellaneous Provisions](#)[ARTICLE VII Stormwater Management Programs](#)[ARTICLE VIII Transportation Planning](#)[ARTICLE IX Storm Sewer System](#)[ARTICLE X Construction Site Stormwater...](#)[ARTICLE XI Storm Drainage Criteria](#)[ARTICLE XII Grading Permit Policy](#)[APPENDIX](#)

## ARTICLE IX

### Illegal Discharges and Illicit Connections to Storm Sewer System

#### Sec. 8-9-10. Definitions.

The following words, when used herein, shall have the definitions contained below:

*Authorized Enforcement Agency* means the employees or designees of the Board of County Commissioners designated to enforce the provisions of this Article.

*Best Management Practices (BMPs)* means the schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems. *BMPs* also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

*Clean Water Act* means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

*Construction activity* means those activities subject to NPDES Construction Permits. NPDES Stormwater Phase II permits are required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating and demolition.

*Hazardous materials* means any material, including any substance, waste or combination thereof, which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

*Illegal discharge* means any direct or indirect nonstormwater discharge to the storm drainage system, except as exempted in this Article.

*Illicit connections* means an illicit connection defined as either of the following:

- a. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drainage system, including but not limited to any conveyances which allow any nonstormwater discharge, including sewage, process wastewater and wash water, to enter the storm drainage system and any connections to the storm drainage system from

indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by the Authorized Enforcement Agency; or

b. Any drain or conveyance connected from a commercial or industrial land use to the storm drainage system which has not been documented in plans, maps or equivalent records and approved by the Authorized Enforcement Agency.

*Industrial activity* means activities subject to NPDES Industrial Permits as defined in 40 C.F.R. § 122.26 (b)(14).

*MS4s* means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains) owned or operated by the State or a city, town, county, district, association or other public body (created to or pursuant to state law), including special districts under state law, such as a sewer district, flood control district, drainage district or similar entity, an Indian tribe or authorized Indian tribal organization, or a designated and approved management agency under Section 208 of the Clean Water Act that discharges into waters of the United States, designed or used for collecting or conveying stormwater, which is not a combined sewer and which is not part of a publicly owned treatment works. For the purposes of this Article, MS4s shall be limited to those located within one (1) or more of the Service Area Stormwater Utilities created in Article VII of this Chapter.

*National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit* means a permit issued by the EPA (or by the State under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

*Nonstormwater discharge* means any discharge to the storm drainage system that is not composed entirely of stormwater.

*Person* means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or the owner's agent.

*Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, articles and accumulations, so that the same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; noxious or offensive matter of any kind; and any soil, rock and any type of landscaping.

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

*Storm drainage system* means publicly owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.

*Stormwater* means any surface flow, runoff and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

*Stormwater Management Plan (SWMP)* means a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems and/or receiving waters to the maximum extent practicable.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility, including but not limited to portable urinals. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-20. Applicability.**

This Article shall apply to all water entering the storm drainage system located within one (1) or more of the Service Area Stormwater Utilities created in Article VII of this Chapter, and generated on any developed and undeveloped lands unless explicitly exempted by the Authorized Enforcement Agency. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-30. Responsibility for administration.**

The Authorized Enforcement Agency shall administer, implement and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the Board of County Commissioners to persons or entities acting in the beneficial interest of, or in the employ of, the agency. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-40. Ultimate responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not intend or imply, that compliance by any person will ensure that there will be no contamination, pollution or unauthorized discharge of pollutants. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-50. Discharge prohibitions.**

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the storm drainage system or watercourses located within one (1) or more of the Service Area Stormwater Utilities created in Article VII of this Chapter, any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drainage system is prohibited, except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active ground water dewatering systems), crawlspace pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated -- typically less than one (1) PPM chlorine), firefighting activities, and any other water source not containing pollutants.

2. Discharges specified in writing by the Authorized Enforcement Agency as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires notification to the Authorized Enforcement Agency prior to the time of the test.

4. The prohibition shall not apply to any nonstormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drainage system.

5. The prohibition shall not apply to irrigation return flows from agricultural lands.

**B. Prohibition of illicit connections.**

1. The construction, use, maintenance or continued existence of illicit connections to a storm drainage system located within one (1) or more of the Service Area Stormwater Utilities created in Article VII of this Chapter is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

3. A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-60. Suspension of MS4 access.**

A. Suspension due to illicit discharges in emergency situations. The Authorized Enforcement Agency may, without prior notice, seek the suspension of MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this Article may have MS4 access terminated if such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of MS4 access. The violator may petition the Authorized Enforcement Agency for a reconsideration and hearing.

C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section without the prior approval of the Authorized Enforcement Agency. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-70. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Authorized Enforcement Agency prior to the allowing of discharges to the MS4. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-80. Monitoring of discharges.**

A. Applicability. This Section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

B. Access to facilities.

1. The Authorized Enforcement Agency shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Agency.

2. Facility operators shall allow the Authorized Enforcement Agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

3. The Authorized Enforcement Agency shall have the right to set up on any permitted facility such devices as are necessary, in the opinion of the Authorized Enforcement Agency, to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The Authorized Enforcement Agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Authorized Enforcement Agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Authorized Enforcement Agency access to a permitted facility is a violation of a stormwater discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Authorized Enforcement Agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

7. If the Authorized Enforcement Agency has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Authorized Enforcement Agency may seek issuance of a search warrant from any Court of competent jurisdiction. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-90. Requirement to prevent, control and reduce stormwater pollutants by the use of Best Management Practices.**

The Authorized Enforcement Agency will adopt requirements identifying Best Management Practices for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drainage system or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the applicable municipal storm drainage system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premises which is or may be the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the applicable municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this Section. These BMPs shall be part of a Stormwater Management Plan (SWMP) as necessary for compliance with requirements of the NPDES permit. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-100. Watercourse protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within, or adjacent to, a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-110. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drainage system or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence. In the event of a release of nonhazardous materials, said person shall notify the Authorized Enforcement Agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Authorized Enforcement Agency within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-120. Enforcement.**

A. Notice of violation.

1. Whenever the Authorized Enforcement Agency finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Authorized Enforcement Agency may order

compliance by written notice of violation to the responsible person. Such notice may require, without limitation:

- a. The performance of monitoring, analyses and reporting.
- b. The elimination of illicit connections or discharges.
- c. That violating discharges, practices or operations shall cease and desist.
- d. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property.
- e. Payment of a fine to cover administrative and remediation costs.
- f. The implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property are 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 Authorized Enforcement Agency may seek the enforcement of the work through injunction or other legal means, or the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-130. Appeal of notice of violation.**

Any person receiving a notice of violation may appeal to the Board of County Commissioners the determination of the Authorized Enforcement Agency. The notice of appeal must be received within fourteen (14) days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Board of County Commissioners shall be final. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-140. Violations deemed a public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin or otherwise compel the cessation of such nuisance may be taken. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-150. Criminal prosecution.**

Any person who has violated or continues to violate this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty as authorized pursuant to Title 30, Articles 15 and 35, C.R.S. The Authorized Enforcement Agency may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Article, including sampling and monitoring expenses. (Weld County Code Ordinance 2005-9)

**Sec. 8-9-160. Remedies not exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies. (Weld County Code Ordinance 2005-9)