

# UNDERSTANDING WHEN TO REPORT SPILLS OR RELEASES

## STATE OF MICHIGAN INDUSTRIAL STORM WATER PROGRAM

The Michigan Department of Environment, Great Lakes, and Energy (EGLE) has developed this document to help permittees understand the spill reporting requirements of the National Pollutant Discharge Elimination System (NPDES) permit that authorizes the discharge of storm water associated with industrial activity.

It is important for permittees to understand that there is a difference in reporting depending on what type of material has been released. This document will describe the difference between polluting materials and significant materials and explain what considerations the permittee needs to make in regard to spill reporting.

### SPILL REPORTING REQUIREMENTS

*First, some Part 5 regulations and definitions to understand:*

The Part 5 Rules, Spillage of Oil and Polluting Materials, are promulgated pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). These rules became effective August 31, 2001. The specifics regarding the Part 5 Rules are described in the Michigan Administrative Rules: 324.2001 to 324.2009. The information below is found in the Part 5 Rules and related guidance materials found on the [EGLE Part 5 Rules webpage](#).

**Polluting Materials** are limited to the following items:

- Oil of any type and in any form is covered, including, but not limited to: petroleum; fuel oil; sludge; oil refuse; oil mixed with wastes other than dredged spoil; fats, oils or greases of animal, fish, or marine mammal origin; vegetable oils, including oil from seeds, nuts, fruits, or kernels; and other oils and greases, including synthetic oils and mineral oils.
- Salt means sodium chloride, potassium chloride, calcium chloride, and magnesium chloride, and solutions or mixtures of these compounds in solid or liquid form.
- Any material specified in Table 1 in Rule 324.2009
- Any compound or product that contains 1%, or more, by weight, of any material listed above (oil, salt, or any material specified in Table 1 in Rule 324.2009) based on material safety data sheet formulation information for the compounds or products.

“**Polluting material**” does not include manufactured items.

**Release** is defined in section 20101(1)(bb) of NREPA which states, in part, that a release includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of a hazardous substance into the environment, or the abandonment or discarding of barrels, containers, and other closed receptacles containing a hazardous substance. For the purposes of the Part 5 Rules “release” does not include any of the following:

- Spilling, leaking, or discharging less than 1000 gallons of a polluting material into a secondary containment structure that complies with the Part 5 Rules, if recovery of the material spilled, leaked, or discharged is initiated within 24 hours of detection, is completed as soon as practicable, but not more than 72 hours after detection, and if no polluting materials are released directly or indirectly to any public sewer system or to the surface waters or groundwaters of this state.
- Spilling, leaking, or discharging less than 55 gallons of oil to the ground surface, if the spill, leak, or discharge is detected and the oil recovered within 24 hours of the spill, leak, or discharge, and if oil is not released directly or indirectly to any public sewer system or to the surface waters or groundwaters of this state.
- Spilling, leaking, or discharging less than 55 gallons of oil to the surface waters of the state, if effective recovery measures are implemented in response to the spill, leak, or discharge immediately upon detection
- Releases of air contaminants as defined in section 5501(a) of the NREPA.
- Permitted releases as defined in section 20101(1)(aa) of the NREPA.

**Threshold Reporting Quantity** means any of the following:

- Oil
  - For releases of oil to the surface of the ground, 50 pounds.
  - For releases of oil to the waters of the state, any quantity that causes unnatural turbidity, color, visible sheens, oil films, foams, solids, or deposits in the receiving waterbody.
- Salt
  - For release of salt to the surface of the ground, or waters of the state, 50 pounds in solid form, unless the use is authorized by WRD for deicing purposes, or 50 gallons in liquid form, unless authorized by WRD as a dust suppressant or deicing agent or permitted under Part 31, Water Resources Protection, of the NREPA. NOTE: See Rule 323.2210(b) in the Part 22 Groundwater Quality Rules about applications for deicing and dust control. Specifics regarding the Part 22 Rules should be discussed with [WRD Groundwater discharge program district staff](#).

- Other polluting materials as specified in Table 1 in Rule 324.2009:
  - For releases of all other polluting materials to the surface of the ground, or waters of the state, the quantity specified in Table 1 in Rule 324.2009, or any quantity that causes unnatural turbidity, color, visible sheens, oil films, foams, solids, or deposits in the receiving waterbody.

**Releases of Polluting Materials** that meet the **Threshold Reporting Quantity** criteria as described above must be reported according to the following permit requirements:

The permittee shall immediately report any release of any polluting material which occurs to the surface waters or ground waters of the state, unless the permittee has determined that the release is not in excess of the threshold reporting quantities specified in the Part 5 Rules (Rules 324.2001 through 324.2009 of the Michigan Administrative Code), by calling WRD at the number indicated in the NPDES permit, Certificate of Coverage, or if the notice is provided after regular working hours call the EGLE 24-hour Pollution Emergency Alerting System telephone number, 800-292-4706 (calls from out-of-state dial 517-373-7660). Within ten days of the release, the permittee shall submit to WRD a full written explanation as to the cause of the release, the discovery of the release, response (clean-up and/or recovery) measures taken, and preventive measures taken, or a schedule for completion of measures to be taken, to prevent reoccurrence of similar releases.

## NONCOMPLIANCE REPORTING REQUIREMENTS

*Now, the reporting requirements for spills or releases that do not meet the criteria described above...*

**Significant Materials** are industrial materials that are associated with the regulated industrial activity. It is important to note that the definition of **significant materials** also include **polluting materials**. The NPDES permit defines significant materials as:

“Any material which could degrade or impair water quality, including but not limited to: raw materials; fuels; solvents; detergents; plastic pellets; finished materials such as metallic products; hazardous substances designated under section 101(14) of Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (See 40 CFR 372.65); any chemical the facility is required to report pursuant to section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA); **polluting materials** (as defined above); Hazardous Wastes as defined in Part 111 of the Michigan Act; fertilizers; pesticides; and waste products such as ashes, slag, sludge, and plant and animal wastes that have the potential to be released with storm water discharges.”

The following scenarios should be considered when permittees are evaluating how to report a spill or release of a **significant material** that doesn't meet the **polluting material** reporting criteria described above:

### SCENARIO 1

A quantity of significant material is spilled. The spilled material is isolated to a manageable area and did not enter the on-site storm water conveyance system. The spilled material is cleaned up and disposed of properly. Case closed.

**Reporting Requirements:** None needed.

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### SCENARIO 2

A quantity of significant material is spilled. The spilled material has entered the on-site storm water conveyance system. An investigation is performed, and the spilled material did not migrate off site to the municipal storm sewer system or to the surface waters of the state. The spilled material is cleaned up and disposed of properly. The spilled material is removed from the impacted on-site storm water conveyance system, and the system is cleaned appropriately. Case closed.

**Reporting Requirements:** A written report of the incident is to be filed with the Storm Water Pollution Prevention Plan (SWPPP) file and retained on-site for three years.

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### SCENARIO 3

A quantity of significant material is spilled. The spilled material has entered the on-site storm water conveyance system. An investigation is performed, and there is reason to believe that the spilled material did migrate off site to the municipal storm sewer system or to the surface waters of the state.

**Reporting Requirements:** This would be considered an unpermitted discharge and a noncompliance event. Therefore, the NPDES permit requires that verbal notification to the district office be made within 24 hours the permittee became aware of the non-compliance event. Though the permit language states verbal notification within 24 hours, immediate verbal notification is highly recommended and required if the material spilled or released is a polluting material. A written report of the incident is required to be submitted to the district office within five days. The written report shall include:

- 1) A description of the discharge and cause of noncompliance.
- 2) The period of noncompliance, including exact dates and times; or if not corrected, the anticipated time the non-compliance is expected to continue, and the steps taken to reduce, eliminate, and prevent recurrence of the non-complying discharge.

The [EGLE Spill/Release Report](#) is recommended to be used for the written report. This report is also required to be filed with the SWPPP file and retained on-site for three years.

Given the information within this document, it is important for the permittee to understand that when it comes to spill or release reporting, the most stringent permit conditions described under the Spill Notification or the Noncompliance Notification sections in the NPDES permit must be met.

## WHERE TO GO FOR HELP

If there are any questions regarding spill reporting as it relates to the Industrial Storm Water Program, or what is required by the NPDES permit, contact your [WRD district compliance staff](#).

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