

OAKLAND COUNTY MS4 ENFORCEMENT RESPONSE PROCEDURE MAY 2021

I. POLICY:

This policy is to establish the Oakland County MS4 Enforcement Response Procedure as it pertains to illicit discharge elimination, enforcement of soil erosion and sedimentation control program regulations, and ensuring that entities that intend to discharge stormwater to an Oakland County MS4 abide by the appropriate design standards for stormwater management via the Oakland County Water Resources Commissioner's Office (WRC) site plan review and permitting process.

II. BACKGROUND:

The Michigan Department of Environment, Great Lakes and Energy (EGLE) NPDES Phase II Stormwater Discharge Permit Application requires a procedure for Enforcement Response to address noncompliance or violations of the regulatory mechanisms identified in the Stormwater Management Plan (SWMP).

III. PROCEDURE:

The regulatory mechanisms referenced in the Oakland County MS4 SWMP include:

- Illicit Discharge Elimination (WRC) – See Table 1 below
- Part 91 of Act 451 of the Public Acts of 1994, as amended: Regulations for Soil Erosion and Sedimentation Control (WRC):
 - Enforcement via Soil Erosion and Sedimentation Control Permitting and Inspection Programs
- Stormwater Design Standards (WRC):
 - WRC or Local Design Standards
 - Enforcement via Permitting and Site Plan Review Processes, as well as Construction Inspection

As other regulatory mechanisms are completed and passed by the governing body, the enforcement mechanism will be conveyed to the EGLE NPDES Permit Contact.

WRC Enforcement Procedure for Illicit Discharge Elimination

The WRC has permitting authority under the Michigan Drain Code and is able to investigate and permit or require the elimination of illicit connections and direct discharges to County Drains within their jurisdictional authority; however, WRC does not have regulatory authority to investigate or enforce corrective actions to eliminate illicit discharges from public and private property or entering County Drains indirectly through local public or private storm drains. The WRC works with local community authorities, private property owners, the Oakland County Health Department, and other

State and Federal regulatory agencies for investigation and elimination of illicit discharge sources outside of their respective jurisdictions.

A summary of the regulatory authority used for the investigation and elimination of illicit discharges appears in Table 1.

Table 1: Summary of Regulatory Authority Used for Investigation and Elimination of Illicit Discharge Sources

Discharge Type or Source	Agency	Regulatory Authority
Permitting authority, Prohibited discharge of sanitary sewage and waste matter into County Drains	WRC	<p>Discharge of polluting materials to a waterway that is under the jurisdiction of the Water Resources Commissioner will be considered pollution to a county drain and hence a violation of Section 280.423 of the Michigan Drain Code of 1956, as amended. Under the Michigan Drain Code, pollution of a county drain is a criminal misdemeanor and punishable by a fine of \$25,000 or imprisonment.</p> <p>See Items 1-10 of Chapter 18, Section 280.423 of the Michigan Drain Code at: http://legislature.mi.gov/doc.aspx?mcl-280-423</p> <p>See also Section 280.421: Obstructions; removal; expenses, notice; livestock; criminal complaint of Chapter 18 of the Drain Code at: http://www.legislature.mi.gov/%28S%28fpcdzixcmf%28e3wvtvqmyto3x%29%29/mileg.aspx?page=getObject&objectName=mcl-280-421. Cleanup that is needed due to pollution in a drain that results in a lessening of the area of the drain can be determined to be an obstruction. The person causing said obstruction is liable for the expenses incurred by the Drain Office to mitigate that obstruction.</p>
Soil Erosion from Construction Sites	WRC - CEA and APA Local MEA and EGLE Authority	Part 91, Soil Erosion and Sedimentation Control (SESC), of NREPA, Public Act 451 of 1994
Unlawful Disposal of Sewage and Industrial Wastes, Onsite Sewage	Oakland County Health	Oakland County Sanitary Code - Article III, Sect 2.1 - 2.2

Discharge Type or Source	Agency	Regulatory Authority
Disposal (OSDS)	Division	Public Health Code, Public Act 306 of 1927, Sect. 327.201
Illicit connections of sanitary sewage from public and private properties	Local DPW / Building Depts.	Michigan Construction Code: Public Act 230 of 1972, MCL 125.1504. Chapter 3 Sect. 301.3 & Chapter 7 Sect. 701.2 or by local ordinance
Discharges from Mobile Home Parks	MDLEG	Mobile Home Commission Act Public Act 96 of 1987
Discharges to surface of ground, surface water, or public sewer system, Discharges from Part 5 Rules and Industrial NPDES regulated facilities	EGLE-WRD (PEAS Notification)	Part 31, NREPA, PA 451 of 1994
Discharges from agricultural properties and livestock facilities	MDARD	Michigan Right to Farm Act, Public Act 93 of 1981
See "Release Notification Requirements in Michigan" for: Releases of Oil and Polluting Materials, Sewage, Flammable and Combustible Liquids, Hazardous Materials, Hazardous Substances, Infectious Substances, Hazardous Wastes, Leaking Above Ground and Underground Storage Tanks, Bulk Commercial Fertilizers and Pesticides, and Liquid Industrial Wastes	EGLE - WRD & RRD, US EPA, US Coast Guard, NRCS, US DOT, MSP, Local PD, Local Fire Dept., LEPC, LARA, MDARD, Local Health Dept., and CDC	See "Release Notification Requirements in Michigan", Appendix J of OC MS4 IDEP, for Appropriate Regulatory Authority

Illicit discharge elimination procedures are outlined in Section H of the OC MS4 IDEP. All OCSC departments are responsible for illicit discharge elimination and corrective actions on County properties and facilities. WRC is responsible for elimination of illicit discharges to County Drains either directly through drain permits or by working with property owners, local communities, the Oakland County Health Department, and other regulatory agencies, as appropriate, to locate and eliminate the discharge sources outside of their jurisdictional authority.

The following information is tracked as it relates to a confirmed illicit discharge to the Oakland County MS4:

- Name
- Date
- Location of Violation (address, cross streets, etc.,)
- Residence/Business/Agency/Organization (as appropriate)
- Description of Violation
- Description of Enforcement Response
- Date Violation was Resolved

WRC Enforcement Procedure for Soil Erosion and Sedimentation Control

The WRC is both an EGLE-approved County Enforcing Agency (CEA) and Authorized Public Agency (APA). WRC has a stellar inspection program and a formal process for responding to soil erosion-related complaints.

- See SE-1302, "Soil Erosion Inspection" Work Instruction
- See SE-1303, "Soil Erosion Complaints" Work Instruction

WRC has a Soil Erosion Manual that explains the County's program as a CEA. Detailed information on how to obtain single-family and non-single-family (commercial) soil erosion permits is available on the WRC Website [here](#).

WRC also has an internal manual available that outlines compliance with APA procedures. See the "Oakland County MS4-SESC" Policy for details.

WRC has an "enforcement acknowledgement" that is detailed on every single soil erosion permit issued and states the following:

A. Failure to comply with the applicable requirements of Part 91, Soil Erosion and Sedimentation Control of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended ("Part 91"), is a civil infraction and will result in one or more of the following actions taken by this office: (1) a fine up to \$2,500; (2) installation of soil erosion and sedimentation controls by county enforcing agency with all costs related to the administration, legal costs, permit or renewal fees and implementation of controls to be assessed against landowner which may become a lien on the property if not paid; (3) a temporary restraining order will be filed in court to restrain any and all further construction at the property site, and to recover damages to the natural resources of the state; and (4) any other legal action necessary to ensure compliance with Michigan law.

B. A person who knowingly violates Part 91 or knowingly makes a false statement in an application for a permit or in a soil erosion and sedimentation control plan may be ordered to pay a fine of up to \$10,000 for each day of violation.

C. If corrective action is not taken within five (5) days of the date of a Notice of Determination of Violation letter, the permit holder will be responsible for a payment of a civil fine of not less than \$2,500 or more than \$25,000 for each day of violation. MCL 324.9121(1); 9121(2); and 9121(3).

D. By applying for and accepting this permit, the landowner hereby consents to the following: (1) the authority of the Michigan Department of Natural Resources and Environment, or the county enforcing agency to enter upon the property at all reasonable times for the purpose of inspecting and investigating conditions or practices that may be in violation of Part 91; (2) installation of soil erosion and sedimentation controls by the county enforcing agency with all costs related to the administration, legal costs, permit or renewal fees and implementation of controls to be assessed against the landowner which may become a lien on the property.

E. No earth disruption can occur on this site before the issuance of the soil erosion permit.

F. A violation re-inspection fee of \$105 will be assessed if the violations are not corrected within the five (5) day period.

WRC has the authorization to hire a contractor to install SESC measures on properties where their current measures are inadequate. The WRC then bills the landowner for reimbursement to WRC for installation of those BMPs. WRC tracks this information on a "Soil Erosion Corrective Action" form, DC-572.

WRC Procedure for Compliance with Current WRC Stormwater Design Standards

A. Construction Projects Within a County Drain

Prior to beginning a new or existing construction project (commercial buildings or structures, homes or other property alterations), the landowner or developer must contact the County to determine if they are building within a County drain or if the construction project will affect the area's drainage systems.

If the County finds that the construction project is within the Water Resources Commissioner's jurisdiction, the landowner/developer must get approval. Prior to a permit being issued, engineering plans must be submitted for review to ensure conformance with engineering design standards that have been developed by the Water Resources Commissioner's Office to protect the integrity and usefulness of existing facilities. Plans are reviewed to ensure that there is adequate stormwater detention/retention to protect the integrity of receiving water systems.

At the time of construction for work in which a permit has been issued, an inspection is made to assure that the job is done properly and in accordance with the approved engineering plans. A fee and/or deposit is charged to offset the cost of this inspection.

B. Drain Use Permits and Subdivision Plan Reviews

If a landowner/developer is going to make any changes, modify or do any work within a County drain or its easement, approval is required from the WRC and may include the submittal of engineering plans/drawings and other information.

Electronic submittals of engineering plans/drawings, including subdivision construction plans under Section 192 of Act 288, P.A. 1967, The Subdivision Control Act, are required to be

submitted online via WRC's "[Permitting & Soil Erosion Application Portal](#)".

Drain engineering staff conduct an extensive and detailed review of construction plans to ensure adequacy of design and make provisions for inspections to ensure compliance with WRC construction standards.

Landowners are encouraged to call the WRC office to find out if they need the County's approval for work they are doing and for more information regarding the approval process.

C. Bonding of Contractors

WRC has adopted a policy requiring bonding of contractors to include County Drain work. Contractors connecting or disconnecting to Oakland County Water Resources Commissioner sanitary/combined sewers and/or interceptors and any county drain work must be bonded with the Water Resources Commissioner's office. A \$500 cash deposit, a current \$5,000 surety bond and liability insurance naming WRC as additional insured must be on file with the Permit department. The surety bond is valid for one year and can be renewed by the bonding agent. The original continuation certificate must be submitted to WRC at the time of renewal.

IV. OTHER:

Any questions on this procedure should be directed to the appropriate agency's Storm Water Manager.

V. PROCESS FOR UPDATING/REVISING THIS PROCEDURE

This procedure shall be reviewed once per permit cycle by the appropriate agency's Stormwater Manager for any updates to streamline the requirements.