

ENFORCEMENT RESPONSE PROCEDURE



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CHARTER COUNTY OF WAYNE
C/O DEPARTMENT OF PUBLIC SERVICES
WATER QUALITY MANAGEMENT DIVISION
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POLICY

This policy establishes the Wayne County Enforcement Response Procedure required under the current application requirements for a National Pollutant Discharge Elimination System (NPDES) Permit for Discharge of Storm Water to Surface Waters of the State from a Municipal Separate Storm Sewer System (MS4) (“MDEQ NPDES MS4 Permit Application”).

The Wayne County Enforcement Response Procedure provides for enforcement to address violations of or nonconformance with the regulatory mechanisms supporting the Wayne County Storm Water Management Program, including the illicit discharge elimination program, construction storm water runoff control program, and post construction storm water management program. Various divisions from the Wayne County Department of Public Services (WCDPS) are responsible for implementing this procedure, including the Engineering Division, Facilities Management Division (FMD), Land Resources Management Division (LRMD), and Water Quality Management Division (WQMD); all are assisted by the Wayne County Department of Corporation Counsel.

I. PROCEDURE

Wayne County utilizes federal, state, County, and local regulatory mechanisms in its enforcement of provisions of the Wayne County Storm Water Management Program. The sections below describe the regulatory mechanisms and procedures specific to enforcement of the illicit discharge elimination program, construction storm water runoff control program, and post construction storm water management program

A. Enforcement Procedure for Illicit Discharge Elimination Program

As described in the County’s Illicit Discharge Elimination Program provided as part of its MDEQ NPDES MS4 Permit Application, Wayne County has utilized a collaborate approach with local communities since 1987 to eliminate identified illicit discharges to its MS4 and surface waters in the County. All WCDPS departments are responsible for illicit discharge elimination and corrective actions on County properties and facilities. WCDPS is responsible for elimination of illicit discharges to County Drains and County Roads either directly through drain permits or by working with property owners, local communities, the Wayne County Health Department, and other regulatory agencies, as appropriate, to locate and eliminate the discharge sources coming from outside of our jurisdictional authority.

Wayne County derives its authority to investigate and require elimination of illicit discharges to its MS4 from a variety of regulatory authorities as summarized in Table 1.

**Table 1: Summary of Regulatory Authority Used by Wayne County for
Investigation and Elimination of Illicit Discharge Sources**

Discharge Type or Source	Agency	Regulatory Authority
Permitting Authority for sanitary sewage and waste matter into County Drains	FMD/WQMD	<p>Discharge of polluting materials to a waterway that is under the jurisdiction of the WCDPS - FMD 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> <ul style="list-style-type: none"> • See Items 1-10 of Chapter 18, Section 280.423 of the Michigan Drain Code • See also Section 280.421: Obstructions; removal; expenses, notice; livestock; criminal complaint of Chapter 18 of the Drain Code at: 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 to mitigate that obstruction. <p>Wayne County Sewer Use Ordinance – Title V, Chapter 101</p>
Permitting Authority for County Road Drains	EDDPF	Public Highways and Private Roads Act 283, 1909 Sect. 224.19b
Soil Erosion from Construction Sites	<p>FMD-APA</p> <p>LRMD-CEA</p> <p>EDDPF-APA</p> <p>Local MEA and MDEQ</p>	<p>Part 91, Soil Erosion and Sedimentation Control (SESC), of NREPA, Public Act 451 of 1994 and associated rules</p> <p>Wayne County Code of Ordinances, Title V, Chapter 94 – Soil Erosion and Sedimentation Control</p>
Unlawful Disposal of Sewage and Industrial Wastes, Onsite Sewage Disposal (OSDS)	Wayne County Health Department	<p>Wayne County Code of Ordinances, Title V, including but not limited to, Chapter 105</p> <p>Public Health Code, Public Act 368 of 1978; MCL 333.1101 et seq., including Part 127, Water Supply and Sewer Systems and</p>

Discharge Type or Source	Agency	Regulatory Authority
		<p>associated rules</p> <p>Wayne County Ordinance No. 99-527, Wayne County On-Site Sewage Disposal System Evaluation and Maintenance Ordinance</p>
Illicit Connection of Sanitary Sewage from Public and Private Properties	Local DPW/ Building Depts.	<p>Michigan Construction Code: Public Act 230 of 1972, MCL 125.1504 and associated rules.</p> <p>Wayne County Code of Ordinances as described herein.</p>
Illicit Discharge of solid waste, rubbish, yard clippings and similar litter materials upon the public or private property or rights-of-way.	WCDPS	Wayne County Code of Ordinances, Title V, Chapter 97 – Litter Control
Discharges from Mobile Home Parks	MDLEG	Mobile Home Commission Act Public Act 96 of 1987 and associated rules.
Discharges to surface of ground, surface water, or public sewer system, Discharges from Part 5 Rules and Industrial NPDES regulated facilities	MDEQ-WRD (PEAS Notification)	<p>Part 31, Water Resources Protection, and Part 41, Sewage System, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451 of 1994, as amended, MCL 324.3101 et seq, and associated rules</p> <p>Wayne County Code of Ordinances, Title V, Chapter 97 – Litter Control</p> <p>Wayne County Sewer Use Ordinance – Title V, Chapter 101</p>
Discharges from agricultural properties and livestock facilities	MDARD	Michigan Right to Farm Act, Public Act 93 of 1981
<p>See “Release Notification Requirements in Michigan” for:</p> <p>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</p>	<p>MDEQ- WRD & RRD, USEPA, US Coast Guard, NRCS, US DOT, MSP, Local PD, Local Fire Dept., LEPC, LARA, MDARD, Local Health Dept., and CDC</p>	<p>See “Release Notification Requirements in Michigan”, Attachment F of WC MS4 Collaborative IDEP, for Appropriate Regulatory Authority</p>

Discharge Type or Source	Agency	Regulatory Authority
Commercial Fertilizers and Pesticides, and Liquid Industrial Wastes		

The County's response mechanism for addressing violations of its program pertaining to illicit discharges is authorized by, among other authorities, the Wayne County Code of Ordinances Chapter 101, particularly Articles V, VI and VII and the associated rules, providing for inspection and investigation authority, consent agreements, compliance orders, civil infractions, fines, civil actions and criminal penalties.

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

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

B. Enforcement Procedure for Construction Storm Water Runoff Control

Wayne County is a MDEQ-approved Soil Erosion and Sedimentation Control (SESC) County Enforcement Agency (CEA) and is an Approved Public Agency (APA) for internal public service projects. The primary regulatory authorities utilized by Wayne County for enforcement of its Construction Storm Water Runoff Control Program are:

- Part 91 of Act 451 of the Michigan Public Acts of 1994, as amended: Regulations for Soil Erosion and Sedimentation Control;
- Wayne County Code of Ordinances, Title V, Chapter 94 – Soil Erosion and Sedimentation Control; and
- Wayne County Code of Ordinances, Title I, Chapter 2 – Municipal Civil Infractions, and Title V, Chapter 94, Sec. 94-5.

Soil Erosion and Sedimentation Control County Enforcement Agency Program

The County's SESC CEA program is approved by the Michigan Department of Environmental Quality and is administered by the WCDPS Land Resources Management Division (LRMD) in the 35 of 43 Wayne County municipalities. Considerable information about the County's SESC CEA, including program overview and detailed information on how to obtain single-family and non-single family (commercial) soil erosion permits is

available from the County's website at <http://www.waynecounty.com/doe/1029.htm>. All SESC permits issued by LRMD include an "enforcement acknowledgement" which states the following:

- 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 per violation per day pursuant to County ordinance and \$25,000 per day pursuant to Part 91; (2) an order to stop work ; (3) 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; (4) 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 (5) any other legal action necessary to ensure compliance with Michigan law.
- 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.
- If corrective action is not taken within five (5) days of the date of the 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).
- By applying for and accepting this permit, the landowner hereby consents to the following: (1) the authority of the Michigan Department of Environmental Quality, 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.
- No earth disruption can occur on this site before the issuance of the soil erosion permit.
- LRMD has the authorization to hire a contractor to install SESC measures on properties where their current measures are inadequate. The LRMD then bills the landowner for reimbursement to LRMD for installation of those BMPs.

The County's response mechanism for addressing violations of its soil erosion and sedimentation control ordinance (Wayne County Code of Ordinances Chapter 94) is authorized by, among other authorities, Sections 94-1 through 94-7 of Chapter 94 and the associated rules, providing for consent agreements, penalties, civil infractions and fines.

The following information is tracked as it relates to violations of the County's ordinance and associated regulatory mechanisms:

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

Enforcement of Soil Erosion and Sedimentation Control Requirements under Approved Public Agency Program for Wayne County Drain Projects

The WCDPS Facilities Management Division (FMD) is the MDEQ-approved APA for soil erosion and sedimentation control for Wayne County Drain improvement projects.

For Wayne County Drain improvement projects that involve earth change activities, FMD, through qualified engineers and contractors, designs construction projects to include appropriate SESC measures and conducts site inspections during construction for SESC compliance by contractors. Please refer to FMD's APA operating procedures, on file with MDEQ, for further detail.

Enforcement of Soil Erosion and Sedimentation Control Requirements under Approved Public Agency Program for Wayne County Road Projects

The WCDPS Engineering Division is the MDEQ-approved APA for soil erosion and sedimentation control for projects undertaken by Wayne County involving earth change activities within, and in some cases adjacent to, the right-of-way for Wayne County Roads.

The Engineering Division ensures that the design of Wayne County Road construction projects includes appropriate SESC measures. Requirements for proper installation and maintenance of SESC measures by the construction contractor are specified within the construction contract for each project, along with procedures and penalties for failure to comply with the provisions of the construction contract. The Engineering Division conducts site inspections during Wayne County Road construction projects for SESC compliance by its contractors. Please refer to the Engineering Division's APA operating procedures, on file with MDEQ, for further detail.

C. Enforcement Procedure for Post Construction Storm Water Runoff Control Program

The Wayne County Post-Construction Storm Water Runoff Program is generally described in the Wayne County Storm Water Ordinance, Administrative Rules, and Standards Manual.

The current versions of these documents, along with other related guidance, are available online at <http://waynecounty.com/doe/1170.htm>.

As described in Chapter 4 of the Wayne County Storm Water Standards Manual, the primary mechanisms employed by Wayne County to ensure that development projects in Wayne County subject to the Wayne County Post-Construction Storm Water Runoff Program comply with program requirements are:

- Review of project design and construction plans and specifications submitted as part of an application for a Permit to Construct for the development project,
- Issuance of Permits to Construct for satisfactory permit applications,
- Submission by the applicant of adequate financial assurances to be held by the County during construction of the project,
- Inspection of the storm water management system during construction, and
- Issuance of long term Maintenance Permits for the project and release of financial assurances, upon satisfactory construction of the project in compliance with the approved Permit

The Permit Office of the Engineering Division completes the work summarized above to ensure that the requirements of the Wayne County Post-Construction Storm Water Runoff Program are met.

The County's response mechanism for addressing violations of its Storm Water Management Ordinance (Wayne County Code of Ordinances Chapter 95) is authorized by, among other authorities, Articles VIII and IX of Chapter 95 and the associated rules, providing for inspection and investigation authority, consent agreements, compliance orders, civil infractions, fines, civil actions and criminal penalties.

The following information is tracked as it relates to violations of the County's Storm Water Management Ordinance and associated regulatory mechanisms:

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

IV. OTHER

Any questions on this procedure should be directed to Wayne County's Storm Water Program Coordinator.

V. PROCESS FOR UPDATING/REVISING THIS PROCEDURE

This procedure will be reviewed once per permit cycle by appropriate Wayne County personnel and updated as necessary. Should the County adopt any new or revise existing regulatory mechanisms relative to this Enforcement Response Procedure, relevant information will be conveyed to the MDEQ NPDES Permit Contact.

ATTACHMENTS

Attachment 1 Listing of Online Links to County and State Regulations Referenced in
Wayne County Enforcement Response Procedure

Attachment 1

Listing of Online Links to County and State Regulations Referenced in Wayne County Enforcement Response Procedure

Wayne County Ordinances

1. Title V, Chapter 94 – Soil Erosion and Sedimentation Control

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22civil%20infraction%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH94SOERSECO_S94-5MUCIIN

2. Title V, Chapter 95 – Storm Water Management

<http://www.waynecounty.com/doe/1170.htm>

or

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22storm%20water%20management%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH95STWAMA

3. Title V, Chapter 97 – Litter Control

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22litter%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH97LICO

4. Title V, Chapter 101 – Sewer Use

<http://waynecounty.com/doe/1029.htm>

or

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22sewer%20use%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH101SEUS

5. Title V, Chapter 105 – Solid Waste

<http://waynecounty.com/doe/1060.htm>

or

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22solid%20waste%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH105SOWA

6. Wayne County On-Site Sewage Disposal System Evaluation and Maintenance Ordinance and Administrative Rules, Ordinance No 99-527

http://waynecounty.com/documents/hhs/HHS_2014_0306_Wayne_Co_Ord_99_527.pdf#toolbar=1&view=FitH

7. Wayne County Municipal Civil Infractions Ordinance

Title 1, Chapter 2 – Municipal Civil Infractions

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22municipal%20civil%20infraction%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITIGEPR_CH2MUCIIN_S2-2MUCIINACCO

Title V, Chapter 94, Sec. 94-5

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22municipal%20civil%20infraction%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzz

[y%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH94SOERSECO_S94-5MUCIIN](#)

Title V, Chapter 95, Article IX, Sec. 95-97

https://www.municode.com/library/mi/wayne_county/codes/code_of_ordinances?searchRequest=%7B%22searchText%22:%22municipal%20civil%20infraction%22,%22pageNum%22:1,%22resultsPerPage%22:25,%22booleanSearch%22:false,%22stemming%22:true,%22fuzzy%22:false,%22synonym%22:false,%22contentTypes%22:%5B%22CODES%22%5D,%22productIds%22:%5B%5D%7D&nodeId=TITVENDR_CH95STWAMA_ARTIXCOEN_S95-97MUCIIN

State of Michigan Regulations

1. Michigan Drain Code of 1956
<http://legislature.mi.gov/doc.aspx?mcl-280-423>
2. Public Highways and Private Roads Act 283, 1909 Sect. 224.19b
<https://www.legislature.mi.gov/%28S%28w5nx5becio3o1leoe0kct2sz%29%29/documents/mcl/pdf/mcl-Act-283-of-1909.pdf>
3. Part 91, Soil Erosion and Sedimentation Control (SESC), of NREPA, Public Act 451 of 1994 and associated rules
<http://www.legislature.mi.gov/documents/mcl/pdf/mcl-451-1994-II-2-SOIL-CONSERVATION-EROSION-AND-SEDIMENTATION-CONTROL-91.pdf>
4. Michigan Construction Code: Public Act 230 of 1972, MCL 125.1504 and associated rules.
<http://www.legislature.mi.gov/%28S%284g551obolahf5fudl2mcpwda%29%29/mileg.aspx?page=getObject&objectName=mcl-125-1504>
5. Mobile Home Commission Act Public Act 96 of 1987 and associated rules.
<http://legislature.mi.gov/doc.aspx?mcl-act-96-of-1987>
7. Part 31, Water Resources Protection, and Part 41, Sewage System, of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451 of 1994, as amended, MCL 324.3101 et seq, and associated rules.
<http://legislature.mi.gov/doc.aspx?mcl-451-1994-II-1-31>
8. Michigan Right to Farm Act, Public Act 93 of 1981.
<http://legislature.mi.gov/doc.aspx?mcl-286-472>

9. Public Health Code, Public Act 368 of 1978; MCL 333.1101 et seq., including Part 127, Water Supply and Sewer Systems and associated rules.
[http://www.legislature.mi.gov/\(S\(0gtpesyt0sjnrk45h0egdcMZ\)\)/documents/mcl/pdf/mcl-368-1978-12-127.pdf](http://www.legislature.mi.gov/(S(0gtpesyt0sjnrk45h0egdcMZ))/documents/mcl/pdf/mcl-368-1978-12-127.pdf)