

Mahoning County Erosion and Sediment Control SWPPP Review Procedure & Enforcement Escalation Plan



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1.0 Introduction

The Mahoning County Erosion and Sediment Control Enforcement Escalation Plan has been prepared as part of the Mahoning County Storm Water Management Program (SWMP). The Mahoning County SWMP was submitted in fulfillment of the requirements of Ohio Environmental Protection Agency (Ohio EPA) National Pollutant Discharge Elimination System (NPDES) Phase II General Permit #3GQ000093*AG.

It is the intent of this program to set policy and procedure for the individuals responsible in performing the duties of inspecting construction sites or projects that fall under the Mahoning County Erosion and Sediment Control Rules and the Ohio EPA Permit No. OHC000002. This document shall not override ORC 307.79 Section E for enforcement procedures following violations, injunctions and stop work orders. The ESC inspector must become familiar with the requirements found in ORC 307.79. This document does not carry the force of the law; it is intended to provide framework for fair and consistent application of the ESC Rules throughout Mahoning County.

This manual is not intended and cannot be relied on to create any rights, substantive or procedural, on the part of any person or entity. The Mahoning County Engineer's Office reserves the right to modify this document at any time without public notice. In addition, the Mahoning County Engineer's Office may deviate from this guidance as it deems necessary to carry out the intent of the Mahoning County ESC Rules.

Currently the Mahoning County Engineer's Office is the acting administrator on behalf of the Mahoning County Board of Commissioners' Erosion and Sediment Control Rules. Through a memorandum of understanding (MOU) secured in 2003, the Mahoning SWCD is responsible for ESC Plan review and site inspections for compliance with the Mahoning County ESC Rules and the Ohio EPA Construction General Permit. This document scope includes the unincorporated areas of Mahoning County. All townships which are Phase II specific communities have been encouraged to adopt zoning rules pertaining to Erosion and Sediment Control (except for Springfield Township which is un-zoned). All enforcement for non-compliance sites will be a joint effort between both the ESC Rules administrator, Mahoning SWCD and the local zoning office where applicable. Non-mandated Phase II townships will utilize the Mahoning County ESC Rules administrator and SWCD for enforcement. Municipalities or villages will be responsible for their own policies and procedures that will meet their specific community needs.

2.0 Inspection Policy and Procedure

The Mahoning County Engineer's Office's enforcement mission is to ensure compliance with the Mahoning ESC Rules in order to conserve and protect the environment and public health. The primary goal is to take enforcement actions that require violators to comply with the law and also to remedy any harmful environmental impact caused by the noncompliance.

Enforcement actions will be timely, predictable and include sanctions when appropriate. The Mahoning County Engineer's Office and Mahoning SWCD recognize that goals may be accomplished in most cases through informal means or inspection reports. Nonetheless, administration will use full range of its enforcement authority outlined in O.R.C. 307.79 to ensure its mission.

Every active or idling site which falls under the Mahoning County ESC Rules shall be inspected no less than once every month. Sites that have received "informal verbal warnings", "notice of non-compliance" or "notice of violation" may be inspected more frequently. The degree of noncompliance or off-site impacts will result in the frequency the site may be inspected or the method of enforcement utilized.

The ESC Inspector will use a notebook or inspection checklist for documenting compliance, noncompliance or failing to implement best management practices on-site. The ESC Inspector will carry the SWP3 on-site if they are not familiar with the SWP3 or project site. The inspector will photo document failed best management practices to explain non-compliance to the contractor, developer and consulting engineers. Photos for the enforcement cases should only state time, date and direction. The inspection forms will be used to record findings on-site and build future enforcement cases. All inspection reports will be mailed to the owner, developer, contractor and zoning inspector of the community.

3.0 Description of Enforcement Escalation Policy

There are several gray areas when performing site inspections due to the degree of impacts and the dynamics of the project. This document is used as a guideline to establish procedure but may require the inspector or the community to use their professional judgment to deviate from the typical policy. It is very important that the community and/or ESC inspector documents their rationale on any deviations from this set standard.

3.1 Phase II Townships

The Inspector will inspect the sites based on the frequencies stated above in Section 2.0. After an inspection has been performed the inspector will record the final report utilizing the Urban Site Program Database provided by ODNR or narrative. The inspection report will then be mailed to appropriate parties.

Starting project without approval of ESC Plan:

If earth moving or clearing occurs on a project site proposing disturbance of one acre or greater without approval of their Erosion and Sediment Control Plan, no matter how small of an area is cleared or disturbed, the inspector will issue a "Notice of Violation" (NOV) and an "Immediate Stop Work Order" (ISWO) to be posted on-site. At this point the inspector will schedule a meeting with the owner, developer, contractor, Mahoning SWCD, the Mahoning County Engineer's Office and the phase II community zoning inspector. At this meeting the individuals will be informed of the reasoning behind the ISWO and the process they will follow to obtain approval for construction activity.

Starting the project or impacting waters of the state without permits:

If earth moving or clearing occurs on any project sites proposing disturbance of one acre or greater without proper federal, state or local permits, no matter how small of an area is cleared or disturbed, the inspector will issue a “Notice of Violation” (NOV) and an “Immediate Stop Work Order” (ISWO). At this point the inspector will schedule a meeting with the owner, developer, contractor, Mahoning SWCD, the Mahoning County Engineer’s Office and the phase II community zoning inspector. At this meeting the individuals will be explained the reasoning behind the ISWO and the process they will follow to obtain approval for construction activity.

First noncompliant inspection:

If the project site has all permits and zoning approval and the owner, developer and contractor have attended the pre-construction meeting, then work may commence. The inspector will perform the inspection of the project site. If the inspection shows noncompliance, the ESC inspector will provide a report to the owner, developer, contractor and the community’s zoning inspector. The inspector will perform a follow up inspection no later than one week following the last inspection.

Second noncompliant inspection:

If the project site is still out of compliance, the ESC inspector will provide a report to the owner, developer, contractor and the community’s zoning inspector. Also, it is recommended that a call be placed to the owner, developer and contractor to explain the seriousness of the report and findings. At this point, the ESC inspector shall request a copy of the site’s ESC Maintenance Log. The ESC inspector will perform another follow up inspection no later than one week following the second inspection.

Third noncompliant inspection and posting a NOV on-site:

The ESC inspector will post a NOV on-site and the owner/developer will be provided a copy of the NOV. The Phase II community will be contacted to schedule a meeting with all responsible parties. It is recommended that no work continues until the site is in compliance with their outlined violations. Another inspection will occur within a reasonably short time to correct the specific problems.

Second N.O.V. posted on-site:

Before a second N.O.V. may be issued on-site, 30 days must elapse as stated in O.R.C. 307.79 section E. Fifteen (15) days must elapse from the issuance of the second N.O.V. before requesting permission of the prosecuting attorney to proceed with formal administrative enforcement.

Formal Administrative Enforcement for continued noncompliance:

When the ESC inspector’s professional judgment, circumstances surrounding an enforcement action warrant an escalated response, the inspector may seek to resolve the violations through a formal process that may include sanctions provided under O.R.C.

307.79 section E and the Mahoning County ESC Rules. Any enforcement action sought through the formal administrative process must first be incorporated into an Enforcement Action Recommendation Report to obtain written permission of the prosecuting attorney.

Request from the Board of Commissioners:

If the Board of Commissioners grant an ISWO, the ESC inspector must work closely with both the zoning inspector and prosecutor to have all documentation and records ready for further enforcement. Post the ISWO and perform an inspection the following day.

3.2 Non-Phase II Townships

The Inspector (Mahoning SWCD) will inspect the sites based on the frequencies stated above in Section 2.0. After an inspection has been performed the inspector will record the final report utilizing the Urban Site Program Database provided by ODNR or narrative. The inspection report will then be mailed to appropriate parties.

The methods or process will be the same as stated in section 3.1 of this document, except that the any ESC enforcement escalation will solely be warrant by the esc inspector and prosecuting attorney. The non-mandated communities lack local zoning ESC rules to provide assistance with any enforcement.

3.3 Non-traditional Methods of Enforcement

The inspector may inform or request in writing the Mahoning County Planning Commission for enforcement action due to violations of the Mahoning County Subdivision Regulations.

The inspector can request the Mahoning County Planning Commission to hold all acts of recording the subdivision plat until compliance is achieved. Enforcement mechanism can be found as a violation of the Mahoning County Subdivision Regulations Section 4.7.03.

The inspector may request all permits to be withheld (ie. zoning permits or building) until the site is in compliance with the ESC rules.

Informal administrative enforcement, meaning verbal warning on-site or through phone conversations may be utilized when noncompliance can be corrected within a reasonably short time. It is recommended that they provide a schedule on correcting the specific problems.

Individual Lot Inspections

The policy for individual lot will be the same as any other construction site for the time length between inspections. Enforcement for individual lots will be through the zoning office, which may require a stop work order or not issuing any other permits to a particular builder until they achieve compliance. The ESC inspector may withhold any approval of individual lot ESC plans until that builder achieves compliance on other existing sites that have been previously approved.

Appendix A
SWPPP Review Outline

Mahoning County Protocol for SWPPP Review

A file must be created for each project, including SWCD "6 notes" and all applicable maps, permits, contact information and other relevant information

A) Permit Compliance

Permits include an EPA NOI, USACE Nationwide or Individual Permit, Local Application, etc.

1. Has an Application for Coverage under the Mahoning County Erosion and Sediment Control Rules (FORM 1) been completed?
2. Have the appropriate fees been paid? They must be submitted with the Plan. Make a copy of the check and keep it in the file.
3. Has an OEPA Notice of Intent been filed or included?
4. Do soils indicate the possibility of wetlands on the site, i.e. hydric or non-hydric with hydric components? If yes the site must be field verified. If it appears that the site contains wetlands, wetland delineation is required. Any filling, grading, etc., resulting in the disturbance of greater than 1/10th of an acre of wetlands is regulated under section 404 or 401 of the Clean Water Act and require a U.S. Army Corps of Engineers and/or Ohio EPA Permit. Permit verification must be submitted with the Plan, prior to approval.
5. Are there any stream crossings, stream relocation, piping of streams at the site? Each of these activities is regulated under section 404 of the Clean Water Act and requires a U.S. Army Corps of Engineers Permit. Permit verification must be submitted with the Plan, prior to approval.

B) Review Process

The review must be completed within 21 days of receiving the SWPPP

1. Does the Plan contain all of the requirements in the OEPA and or SWCD checklist?
2. Does the plan include contact information for all entities involved in the construction process?
3. Are the BMP's appropriate and located in the correct locations?
4. Visit and walk the site with the Plan prior to approval.
5. Send a letter to the site owner, developer and/or engineer approving or denying the Plan as received. If approved, send a copy of an inspection log for use by the site owner, developer and/or engineer to inspect the site once every 7 calendar days or within 24 hours of a ½ inch or greater rainfall event.
6. If the Plan is denied, the letter should identify the deficiencies.
7. If the plan is approved, assign the project a Project code (FORM 1) with a two letter township code. For example, the first project of 2007 in Canfield Township would look like: CA-0001-07
8. Courtesy Copy (CC) the approval/denial letter to the County Engineers Office, Building Department and Township Zoning Inspector

C) Preconstruction meeting

1. Schedule a preconstruction meeting with the contractor, developer and/or engineer either at the site or in the office+
2. Discuss the plan, construction sequence and avoidance issues
3. Walk the site if required

D) Site Inspections

1. Inspect the site bi-monthly
2. Are BMP's installed correctly? Is the construction sequence being followed?
3. Are there any on-site adjustments that need to be made to the SWPPP?
4. Complete an inspection report. Make a record in the SWCD "6 note". If the site is in non-compliance, inform the owner, contractor or developer, whoever holds the permit, of the deficiency. Courtesy Copy the report to the County Engineers Office, Building Department and Township Zoning Inspector.
5. Re-inspect the site in two weeks or less, depending on the severity of the deficiency.

***record all correspondence in the attached "6 note"**

Appendix B
Application for Approval Under the Mahoning County ESC Rules

Application for Approval Under the

Mahoning County Erosion and Sediment Control Requirements

(FORM 1)

Mahoning County Soil and Water Conservation District

ALL NECESSARY INFORMATION MUST BE PROVIDED ON THIS FORM. THE REVIEW AND INSPECTION FEE SHALL BE SUBMITTED WITH THE EROSION AND SEDIMENT CONTROL (ESC) PLANS. ESC PLANS SHALL NOT BE REVIEWED UNTIL THE FEE HAS BEEN PAID.

1. Owner Information

Name _____ Phone: _____
Address _____ Fax: _____
City _____ State _____ Zip _____

2. Agent/Contractor/Homebuilder Information

Name _____ Phone: _____
Contact Person _____ Phone: _____
Address _____ Fax: _____
City _____ State _____ Zip _____

3. Site Location Information

Facility/Site Name: _____ Township: _____
Address: _____ Project Type: _____
(subdivision, commercial, single lot, etc.)
City: _____ State: _____ Zip: _____

4. Soil-Disturbing Activity Information

Total Project Area (in acres) _____ Proposed Start Date (mo/day/yr) _____
Estimated Completion Date (mo/day/yr) _____

5. Receiving Water Information

Receiving Water Body: _____ Watershed Name: _____

6. Additional Natural Resource Permits (if applicable)

Ohio Environmental Protection Agency NPDES Permit # _____ Or NOI (date sent) _____
U.S. Army Corps of Engineers Section 404 Permit # _____ Or NWP # _____
Other Pertinent Natural Resource Permits Required: _____

7. Payment Information

Make Checks Payable to: Mahoning SWCD

Date of Check: _____ Check Number _____ Amount: _____

8. Certification

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision and are to the best of my knowledge and belief, true, accurate, and complete.

Printed Name: _____ Affiliation: _____

Signature: _____ Date: _____

OFFICE USE ONLY

PROJECT CODE:

Appendix C

Site Inspection Forms

Stormwater Construction Site Inspection Report

| General Information | | | |
|--|--|----------------|--|
| Project Name | | | |
| NPDES Tracking No. | | Location | |
| Date of Inspection | | Start/End Time | |
| Inspector's Name(s) | | | |
| Inspector's Title(s) | | | |
| Inspector's Contact Information | | | |
| Describe present phase of construction | | | |
| Type of Inspection <input type="checkbox"/> Regular <input type="checkbox"/> Pre-storm event <input type="checkbox"/> During storm event <input type="checkbox"/> Post-storm event | | | |
| Weather Information | | | |
| Has it rained since the last inspection? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| If yes, provide: Storm Start Date & Time: Storm Duration (hrs): Approximate Rainfall (in): | | | |
| Weather at time of this inspection? | | | |
| Do you suspect that discharges may have occurred since the last inspection? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |
| Are there any discharges at the time of inspection? <input type="checkbox"/> Yes <input type="checkbox"/> No | | | |

Site-specific BMPs

Number the structural and non-structural BMPs identified in your SWPPP on your site map and list them below (add as many BMPs as necessary). Carry a copy of this numbered site map with you during your inspections. This list will help ensure that you are inspecting all required BMPs at your site. Customize this section as needed.

| | BMP Description | BMP Installed and Operating Properly? | Corrective Action Needed | Date for corrective action/responsible person |
|----|-----------------|--|--------------------------|---|
| 1 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 2 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 3 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 4 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 5 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 6 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 7 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 8 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 9 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 10 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 11 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 12 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

| | BMP Description | BMP Installed and Operating Properly? | Corrective Action Needed | Date for corrective action/responsible person |
|----|------------------------|--|---------------------------------|--|
| 13 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 14 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 15 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 16 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 17 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 18 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 19 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 20 | | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

Below are some general site issues that should be assessed during inspections. Please customize this list as needed for conditions at your site.

Overall Site Issues

| | BMP/activity | Implemented? | Maintained? | Corrective Action | Date for corrective action/responsible person |
|---|---|--|--|--------------------------|--|
| 1 | Are all slopes and disturbed areas not actively being worked properly stabilized? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 2 | Are natural resource areas (e.g., streams, wetlands, mature trees, etc.) protected with barriers or similar BMPs? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 3 | Are perimeter controls and sediment barriers adequately installed (keyed into substrate) and maintained? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 4 | Are discharge points and receiving waters free of sediment deposits? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 5 | Are storm drain inlets properly protected? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 6 | Is there evidence of sediment being tracked into the street? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 7 | Is trash/litter from work areas collected and placed in covered dumpsters? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

| | BMP/activity | Implemented? | Maintained? | Corrective Action | Date for corrective action/responsible person |
|----|--|--|--|--------------------------|--|
| 8 | Are washout facilities (e.g., paint, stucco, concrete) available, clearly marked, and maintained? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 9 | Are vehicle and equipment fueling, cleaning, and maintenance areas free of spills, leaks, or any other deleterious material? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 10 | Are materials that are potential stormwater contaminants stored inside or under cover? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 11 | Are non-stormwater discharges (e.g., wash water, dewatering) properly controlled? | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 12 | (Other) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 13 | (Other) | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

Certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Print name: _____

Signature: _____

Date: _____

Erosion Control BMP Inspection Log for Sublots

INSPECTIONS MUST BE CONDUCTED ONCE EVERY 7 DAYS AND WITHIN 24 HOURS OF A 0.5" OR GREATER RAINFALL. ALL SEDIMENT CONTROLS MUST BE INSTALLED PRIOR TO GRADING AND WITHIN 7 DAYS OF FIRST GRUBBING.

ALL REPAIRS TO BMPs SHOULD BE MADE WITHIN 3 DAYS OF THE DISCOVERY OF A DEFICIENCY

Temporary Seeding & Straw Mulching

Yes

No

Keys to look for.....

- Are there any areas of the site that are disturbed, but will lie idle for over 21 days? _____
- Have all dormant, disturbed areas been temporarily seeded & mulched? _____
- Has a 30-foot filter strip been seeded at the road frontage?
Has straw mulch been applied at 1 bale per 10' of curb frontage? _____
- Are areas within 50 feet of a stream, wetland or pond seeded & mulched? _____

Construction Entrance

Yes

No

Keys to look for.....

- Has the drive been constructed by placing geotextile fabric under the stone? _____
- Is the stone 2-inch in diameter? _____
- Has the stone been placed to a depth of 6 inches with a width of 10ft. and a minimum length of 30ft? _____
- Has curb and road frontage been cleaned of sediments? _____

Silt Fence

Yes

No

Keys to look for.....

- Is the fence at least 6-inches into the ground? _____
- Is the trench backfilled to prevent storm water from cutting underneath the fence? _____
- Is the fence pulled tight to withhold water ponding behind it? _____
- Are the ends curled upslope (back towards the house) to prevent storm water from going around the ends of the fence? _____

Storm Sewer Inlet Protection

Yes

No

Keys to look for.....

- Does the water pond around the inlet when it rains? (It's supposed to!) _____
- Has the fabric been replaced when it develops tears or sags? _____
- Is the fabric properly entrenched so water passes through the fabric, not underneath it? _____
- For yard inlet protection, is fabric tight and attached to wood frame and reinforced with chicken wire? _____

Appendix D

Immediate Stop Work Order

Immediate Stop Work Order

MAHONING COUNTY EROSION AND SEDIMENT CONTROL VIOLATION (*County Resolution 07-02-004, Journal Volume 95, Page 60-61*)

ALL WORK ON THIS PROPERTY MUST CEASE AND DESIST IMMEDIATELY

Nature of such violation being:

Mahoning County Erosion and Sediment Control Rules, Section 5:

Failure to properly follow submittal requirements and application procedures prior to beginning soil disturbing activities.

Mahoning County Erosion and Sediment Control Rules, Section 5.3:

Failure of lot owner, developer, engineer, contractor, agent, or party of responsibility to obtain all necessary permits and/or approvals from federal, state, and/or county agencies prior to soil disturbing activities.

Such rules and procedures pursuant to O.R.C. 307.79 and the authority vested in the Mahoning County Engineers by the Board of Mahoning County Commissioners, County Resolution 07-02-005, Journal Volume 95, page 61.

Any person who violates the rules and procedures adopted pursuant to O.R.C. 307.79 may be assessed a civil fine of not less than one hundred (\$100.00) or more than five hundred (\$500.00) dollars per day with each day of violation of a rule or stop work order issued under this section constituting a separate violation subject to a civil fine. Additionally, the Court of Common Pleas may order the construction of sediment control improvements or implementation of other control measures.

Richard A. Marsico, P.E., P.S.
Mahoning County Engineer

Date