



West Virginia Division of Highways Policy: **Drainage Obstruction Removal Policy**

Issued by the Commissioner of Highways

Policy No: DOH 5.22

Issue Date: 07/10/2025

Revised: 07/10/2025

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1.0 PURPOSE

The West Virginia Division of Highways (WVDOH) desires to enact this policy to prohibit, detect, and mitigate improper disposal, detect and remove illicit connections, and eliminate illicit discharges to the storm sewer system.

2.0 SCOPE

This policy shall apply both to illicit discharges to the storm sewer system and stormwater runoff from construction sites to the extent that either applies to storm sewer systems within the WVDOH's control.

3.0 POLICY

The WVDOH is committed to reducing the quantity of pollutants entering State of West Virginia waterways contained in polluted stormwater runoff that may enter a WVDOH controlled stormwater system from third parties, including the public and the construction industry, that are not affiliated with the WVDOH. Stormwater runoff occurs when precipitation from rain or snowmelt flows over the ground. Impervious surfaces like driveways, sidewalks, and streets prevent stormwater from naturally soaking into the ground. To that end, the WVDOH will implement the following program to prohibit and eliminate the following:

- A. **Illicit Discharge** - An illicit connection is defined as either of the following: Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the WVDOH's drainage system, including but not limited to any conveyances that allow any non-storm water discharge to enter the stormwater system.
- B. **Construction Site Stormwater Runoff** - Stormwater runoff from construction sites can carry pollutants into waterways, harming aquatic life and potentially affecting human health. Sediment, debris, chemicals, and other materials can be picked up by stormwater runoff and discharged into nearby WVDOH controlled drainage systems.
 1. ***What is a "drainage obstruction"?***
Illicit Discharges and Construction Site Stormwater Runoff will be considered a "drainage obstruction" by the WVDOH. Drainage obstructions shall include "ashes, cinders, earth, stone, or other material placed on a public road or in any ditch or waterway along such road." W.Va. Code § 17-16-1
 2. ***Who has the duty to remove a "drainage obstruction"?***

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It shall be the duty of the property owner or occupant of land situated along any state or county-district road to remove all obstructions within the bounds of the road which have been placed there by himself or with his consent. W.Va. Code § 17-16-2

3. ***What is the first step for WVDOH personnel to take after identifying illicit discharges and/or construction site runoff into a WVDOH controlled stormwater system?***

Report any illicit discharge and/or construction site runoff to the West Virginia Department of Environmental Protection Agency (DEP). Use the following contact information to file a report:

Emergency Spill Report: (800) 642-3074

Non-Emergency Report: (304) 926-0499

4. ***What is the procedure for WVDOH personnel to follow after identifying non-emergency illicit discharges and/or construction site runoff into a WVDOH controlled stormwater system?***

- a. **Provide Notice to Property Owner by County Highway Administrator or District Utility Supervisor or other DOH authorized person**

Notify the property owner or person responsible for the obstruction that he or she is violating the law in placing, or causing to be placed, the obstruction within the highway right of way limits, and that immediate steps must be taken not only to remove the obstruction, but also to make any necessary repairs resulting from the existence of the obstruction. W.Va. Code R. § 157-6-5.1.a

- b. **Provide Notice to District Engineer/Manager if the Property Owner Fails to Redress the Obstruction**

The County Highway Administrator, District Utility Supervisor, or other authorized DOH person, as appropriate, shall notify the District Engineer/Manager of the circumstances relating [to the property owner's failure to redress the drainage obstruction]. W.Va. Code R. § 157 CSR 6.5.1.b

- c. **District Engineer/Manager Sends Letter to the Property Owner**
The District Engineer/Manager shall notify the responsible party by letter to remove the obstruction [within 10 days]. W.Va. Code R. § 157 CSR 6.5.1.b

- d. **WVDOH Commissioner or Designee Sends Notice to Property Owner or Responsible Person if Obstruction Not Redressed Within 10 Days After Receipt of Letter**

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If the obstruction is not removed within (10) days, the Commissioner, or his duly authorized representative, shall then cause a written notice to be served upon the property owner or person responsible for the drainage obstruction in the manner provided by law for service of notice or process [directing the property owner or responsible party to remove the obstruction within 10 days] . . . W.Va. Code R. § 157 CSR 6.5.1.b

e. **WVDOH May Remove the Drainage Obstruction and Assess Costs if the Drainage Obstruction is Not Redressed Within 10 Days**

If, following service of the Notice, the obstruction is not removed within ten days, the WVDOH will mitigate the drainage obstruction to the extent permitted by law and coordinate with other agencies to the extent that the necessary mitigation is beyond the scope of the WVDOH's legal authority. The costs and applicable penalties for the drainage obstruction removal will be the responsibility of the property owner or responsible person of the obstruction. W.Va. Code R. § 157 CSR 6.5.1.b

5. ***What is the Procedure for Imposing an Assessment for Failure to Redress a Drainage Obstruction?***

- a. WVDOH District Engineer/Manager Serves Notice on Property Owner or Responsible Party.
- b. Within 10 days after service of Notice, an administrative hearing may be scheduled before the WVDOH District Engineer/Manager or Administrator.
- c. Based on evidence presented at the administrative hearing, the WVDOH District Engineer/Manager or Administrator determines the amount of assessment and the party against whom the assessment will be levied.
- d. Once perfected, the amount of the assessment becomes a lien and levied by the Sheriff of the County in which the assessment is made. W.Va. Code §§ 17-16-3, 17-16-4, and 17-16-5.

6. ***How is each step of the escalating enforcement mechanism documented?***

Appropriate parties shall document escalating enforcement steps on an Obstruction Log consistent with Exhibit A, as may be amended from time to time.

4.0 *RELEVANT MATERIALS/DOCUMENTS (or REFERENCES)

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4.1 Exhibit A – Obstruction Log

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Exhibit A

OBSTRUCTION LOG

COUNTY: ROUTE NUMBER:

ADDRESS: PHONE NUMBER:

LOCATION:

STEP 1 – WRITTEN/VERBAL NOTICE TO PROPERTY OWNER AND/OR RESPONSIBLE PARTY TO REMOVE OBSTRUCTION:

(BY COUNTY HIGHWAY ADMINISTRATOR)

Written Notice Mailed to:

Address:

Signed By: Date Sent:

If obstruction is not removed within ten (10) days, forward this form, correspondence, photos, and related documents to the District Engineer/Manager.

STEP 2 – FORWARD FILE TO DISTRICT ENGINEER/MANAGER:

Date File Forwarded:

STEP 3 – DISTRICT ENGINEER/MANAGER SENDS CERTIFIED LETTER WITH RETURN-RECEIPT REQUESTED:

Date Letter Sent: Date Received:

If obstruction is not removed within ten (10) days of receipt of certified letter, send this form etc. to Commissioner for issuance of Notice to Property Owner or Responsible Party.

STEP 4 – DOH COMMISSIONER OR DESIGNEE SERVES NOTICE ON PROPERTY OWNER OR RESPONSIBLE PARTY VIA SHERIFF:

Date Mailed: Date Served:

Comments:

STEP 5 – DOH REMOVES OBSTRUCTION AND DISTRICT ENGINEER/MANAGER OR DESIGNEE HOLDS ADMINISTRATIVE HEARING TO DETERMINE AMOUNT OF ASSESSMENT

Date of Hearing:

Amount Assessed (if any):

Date Assessment Perfected:

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5.0 CHANGE LOG

July 10, 2025 –

- New policy established.

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Effective Date of Policy: July 10, 2025

Approved by:



Stephen T. Rumbaugh, P.E.
Secretary of
Transportation
Commissioner of
Highways

7/10/2025

Date

*The Secretary of the West Virginia Department of Transportation or the Commissioner of Highways may, pursuant to the authority vested with the Secretary and Commissioner in W. Va. Code §5F-2-2, §17-2A-1 *et seq.*, and §17-2-1 *et seq.*, waive the requirements of this policy if the circumstances, in the Secretary or Commissioner's sole discretion, warrant such action.