

Establishing regulations regarding Illicit Discharges and Connections of Pollutants into the Storm Drainage System in order to implement Federal and Ohio Stormwater Phase II requirements.

NOW THEREFORE BE IT RESOLVED:

SECTION 1: Purpose and Intent

The purpose of these regulations is to provide for the health, safety, and general welfare of the citizens of the unincorporated urbanized areas of Richland County by regulating illicit discharges into the storm drainage system as required by federal and state law. These regulations establish methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) program. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the MS4;
- (2) To prohibit illicit connections and discharges to the MS4; and
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this Resolution.

SECTION 2: Definitions

For the purposes of these regulations, the following shall mean:

Appeals Board: A group of individuals knowledgeable in matters relating to water pollution control, representing diverse interests appointed by the County Commissioner to consider appeals to these regulations. This Board shall include one representative of the County Engineer's Office, two representatives of the development or building industry, one representative of the Township Association, one representative of the Richland Soil and Water Conservation District, and one representative of the Regional Planning Commission. The Richland County Board of Commissioners will maintain a list of those persons on an annual basis.

Authorized Enforcement Agencies: The Mansfield/Ontario/Richland County Health Department, the Richland County Regional Solid Waste Management Authority, the Richland

County Soil and Water Conservation District, the Richland County Sanitary Engineer and the Richland County Engineer.

Best Management Practices (BMPs): Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to the MS4. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act: The federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and all subsequent amendments thereto.

Discharge: Any addition of any pollutant or combination of pollutants to surface waters of the state from any point source.

Hazardous Materials: Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. Hazardous materials include all wastes classified as hazardous by the federal Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.) and the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.).

Illegal Discharge: Any discharge to a municipal separate storm sewer that is not exempt under Section 7 of these regulations and any dumping, releasing, or depositing of pollutants into the MS4.

Illicit Connection: Any man-made conveyance connecting an illicit discharge directly to the MS4.

Including: Including but not limited to.

Municipal Separate Storm Sewer System (MS4): Any conveyance or system of conveyances, including roads with drainage systems, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, owned or operated by Richland County that are designed or used for collecting or conveying solely stormwater. The MS4 does not include any combined sewer or any portion of a publicly owned treatment works.

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: A permit issued by USEPA (or by a State under authority delegated pursuant to 33 U.S.C. 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NPDES: The National Pollutant Discharge Elimination System established by the Clean Water Act, which Ohio EPA implements in Ohio pursuant to authorization from USEPA.

NPDES Permit: A permit issued by USEPA, or by Ohio EPA pursuant to its authorized NPDES program.

Owner/Operator: Any person that owns, rents, leases, operates, or controls a property subject to these regulations.

Person: Any individual, association, organization, partnership, firm, corporation, government entity, or other entity recognized by law.

Point Source: Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff.

Pollutant: Anything that causes or contributes to pollution. Pollutants include: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform, and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises: Any facility, building, property, or parcel of land.

Stormwater: Any surface runoff, stormwater runoff, snow melt runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Surface Waters of the State: All streams, lakes, reservoirs, ponds, marshes, wetlands, or other waterways which are situated wholly or partly within the boundaries of the State, except those private waters which do not combine or effect a junction with a surface water. Waters defined as sewerage systems, treatment works, or disposal systems in R.C. 6111.01 are not included.

Urbanized Area: An area defined as an urbanized area by the U.S. Bureau of the Census, and which is subject to NPDES requirements for municipal separate storm sewer systems.

USEPA: United States Environmental Protection Agency.

SECTION 3: Applicability

These regulations apply in the unincorporated urbanized areas of Richland County.

SECTION 4: Responsibility for Administration

The Mansfield/Ontario/Richland County Health Department, the Richland County Regional Solid Waste Management Authority, the Richland County Soil and Water Conservation District, the Richland County Sanitary Engineer and the Richland County Engineer are authorized to

administer, implement and enforce these regulations. Each agency and office is responsible for addressing the pollutants within the scope of their established authority and duties as described in Appendix A.

SECTION 5: Severability

The provisions, clauses, sentences, and paragraphs of these regulations are hereby declared to be severable. If any provision, clause, sentence, or paragraph of these regulations or the application thereof to any person, establishment, or circumstances is held invalid, such invalidity shall not affect the other provisions or application of these regulations.

SECTION 6: Ultimate Responsibility

Compliance with these regulations shall not relieve any person from responsibility for damage to any person or property otherwise imposed by law, nor shall it create a duty by or cause of action against Richland County, the Commissioners, County Engineer, or any other county agency, officer, employee, or agent to those damaged by the discharges and connections subject to these regulations.

These regulations shall not relieve the owner/operator of the responsibility to determine the applicability of any other legal requirements. The standards set forth herein are minimum standards; therefore compliance with these regulations may not ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants under any other legal provisions.

SECTION 7: Prohibition Against Illegal Discharges

No person shall cause or allow an illegal discharge into the MS4, nor shall any person place or allow the placement of any pollutant in a location where it can cause an illegal discharge into the MS4.

The following are not illegal discharges:

- (a) Flows from water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (only if dechlorinated – typically less than one part per million of chlorine), fire fighting activities, and any other water source not containing pollutants;
- (b) Discharges specified in writing by the authorized enforcement agency for Richland County as being necessary to protect public health and safety;

- (c) Dye testing, if verbal notification has been provided to the authorized enforcement agency prior to the test;
- (d) Discharges authorized and in compliance with an NPDES permit other than the Ohio EPA MS4 NPDES permit, if an authorized enforcement agency has granted written approval for the discharges; and
- (e) Discharges composed entirely of stormwater.

SECTION 8: Prohibition of Illicit Connections

The construction, use, maintenance, or continued existence of illicit connections to the MS4 is prohibited. This prohibition includes illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

No person shall connect a line conveying sewage to the MS4, or allow such a connection to continue.

SECTION 9: Termination of MS4 Access

The authorized enforcement agency is authorized to issue an order proposing to terminate or modify a discharge or connection to the MS4 that violates these regulations. No later than 30 days after receiving notice of the proposed order, the violator may petition the authorized enforcement agency to hold an adjudication hearing to contest the proposed order. On the basis of such hearing, the authorized enforcement agency may finalize the proposed order, modify and issue it, or withdraw it.

The authorized enforcement agency is authorized, without prior notice or hearing, to issue a final emergency order directing a person to immediately cease or modify an illegal discharge or illicit connection to the MS4 when emergency action is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, the MS4, or surface waters of the state. Such an order shall be effective immediately. The person to whom the order is directed may file an appeal of the order with the Appeals Board no later than 30 days after receiving notice of the order's issuance. Any person to whom the order is directed shall comply with it immediately, but upon request to the Appeals Board shall be afforded a hearing as soon as possible and no later than twenty days after such application. Based on this hearing, the Appeals Board shall continue such order in effect, modify it, or revoke it.

No person shall continue a discharge or connection terminated by such an order. No person shall resume a discharge or reconnect a connection terminated by such an order.

SECTION 10: Discharges from NPDES-Permitted Facilities

Any person subject to an NPDES permit shall discharge only in compliance with all provisions of such permit. The owner/operator shall provide the authorized enforcement agency, upon its request, with proof of compliance with this permit in a form acceptable to the agency.

SECTION 11: Compliance Monitoring

(a) The authorized enforcement agency is authorized to inspect, sample, and photograph any facilities, pollutants, or conditions related to past or present discharges or threatened discharges into the MS4, copy records relating to any past or present discharges or threatened discharges, determine whether illegal discharges have occurred, are occurring or are threatened, or otherwise determine compliance with these regulations and is authorized to enter any premises or have access to any point source at reasonable times for these purposes.

The owner/operator shall allow entry or access to the premises or point source for these purposes. If the owner/operator has security measures that require proper identification and clearance before entry or access, the owner/operator shall make the necessary arrangements to allow entry or access to representatives of the authorized enforcement agency.

(b) The authorized enforcement agency is authorized to install devices on any premises or point source to monitor and/or sample any discharge.

(c) The authorized enforcement agency may require an owner/operator of a premises or point source to install monitoring equipment to monitor or sample any discharge. The owner/operator shall maintain the sampling and monitoring equipment in a safe and proper operating condition at its own expense. All such devices shall be calibrated to ensure their accuracy.

(d) Any temporary or permanent obstruction to safe and easy entry or access to which an authorized enforcement agency is entitled under these regulations shall be promptly removed by the owner/operator at its own expense at the written or oral request of the authorized enforcement agency and shall not be replaced.

(e) No person shall unreasonably delay the entry or access of the authorized enforcement agency to a premises or point source to which the agency is entitled under these regulations.

(f) Any authorized enforcement agency may seek a search warrant from a court of competent jurisdiction to obtain entry or access to any premises or point source at which the agency is authorized to conduct the activities described in this section.

SECTION 12: Best Management Practices

The authorized enforcement agency is authorized to issue a final order requiring the owner/operator of any premises or point source to institute structural and/or non-structural Best

Management Practices to prevent, minimize, or stop illegal discharges into the MS4. The order may identify the BMPs to be instituted, and/or may require the owner/operator to submit a plan proposing BMPs for agency review and approval. Such an order shall be effective immediately or on a later date designated by the agency.

SECTION 13: Notification of Spills

If the owner/operator of any premises or point source has information about any threatened, suspected, or known illegal discharge from the premises or point source into the MS4, the owner/operator shall take all necessary steps to prevent the illegal discharge and shall ensure the discovery, cessation, containment, and cleanup of any discharged pollutants. Any person who dumps, releases, or deposits pollutants into the MS4 or in a location from which the pollutants may discharge into the MS4 shall take all necessary steps to prevent the illegal discharge and shall ensure the discovery, cessation, containment, and cleanup of any discharged pollutants. If hazardous materials have been or are threatened to be discharged, the owner/operator or discharger shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. If non-hazardous materials have been or are threatened to be discharged, the owner/operator or discharger shall notify the authorized enforcement agency for Richland County in person, by phone or by facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice, addressed and mailed to the authorized enforcement agency for Richland County within three business days of the phone notice. If an illegal discharge has originated from a commercial or industrial establishment, the owner/operator shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. These records shall be retained for at least three years.

SECTION 14: Appeals

Any person to whom a final order is directed under Section 9 or 12 may appeal the order to the Appeals Board by filing with the Appeals Board a writing identifying the action being appealed and describing the grounds for the appeal no later than 30 days after receiving notice of the order's issuance. The appellant may request the Appeals Board to stay the order pending a hearing on the merits by demonstrating good cause for the stay. The Appeals Board shall hold an evidentiary hearing to consider the appeal on the merits. The standard of proof at the hearing on the merits shall be based on the preponderance of the evidence. The burden of proof shall be on the authorized enforcement agency issuing the order. If a simple majority of the participating members of the Appeals Board finds in favor of the appellant, the Appeals Board shall grant relief to the appellant by written order affirming the order, vacating it, or modifying it.

SECTION 15: Enforcement

No person shall violate any provision of these regulations or any order issued pursuant to these regulations. If the Board of County Commissioners determines that these regulations or such an order have been violated, the Board may request the County Prosecuting Attorney or the Board's duly retained counsel to seek an injunction or other appropriate relief in a court of competent jurisdiction to enforce the regulations or order.

APPENDIX A

General responsibilities for each participating agency of Richland County

The authorized enforcement agencies of Richland County shall be responsible for administering, implementing, and enforcing these regulations with respect to the following categories of pollutants. Where more than one agency has responsibility for a discharge or dumping of pollutants, the agencies shall agree among themselves as to which agency will take the lead in dealing with the discharge.

1. Richland County Solid Waste Management Authority:
rubbish
litter
2. Richland County Soil and Water Conservation District:
agricultural wastes
sediment from erosion
3. Richland County Sanitary Engineer:
sanitary sewage
4. Richland County Engineer and Highway Department:
pollution of the drainage system within the county highway right of way
5. Mansfield/Ontario/Richland County Health Department:
on-site sewage disposal systems
all other pollutants