

ILLICIT DISCHARGE DETECTION AND ELIMINATION REGULATIONS



BUTLER COUNTY, OHIO

As Adopted:
November 12, 2009

Butler County Board of Commissioners:

**Donald L. Dixon
Gregory V. Jolivette
Charles R. Furmon**

**Butler County Administrative Center 130 High Street, Hamilton, OH 45011
Phone: (513) 887-3413 Fax: (513) 785-5723**

Resolution No. 09-11-1954

Resolved By the Board of County Commissioners of Butler County, Ohio, That

WHEREAS, the Board of County Commissioners did establish the "Ohio Revised Code Section 6117 Butler County Storm Sewer District" (Resolution No. 02-3-267) for the purpose of administering the NPDES Phase II Permit for Butler County; and

WHEREAS, Ohio Revised Code Section 6117.01(D) provides County Commissioners may adopt, publish, administer, and enforce rules for the...protection, and use of county-owned or county-operated...drainage facilities outside municipal corporation, and of sanitary and drainage facilities within municipal corporations that are owned or operated by the county or that discharge into sanitary or drainage facilities owned or operated by the county...The rules shall not be inconsistent with the laws of this state or any applicable rules of the director of environmental protection; and

WHEREAS, Butler County also submitted to the Ohio EPA the Butler County Storm Water Management Plan which outlines six Minimum Control Measures which are expected to result in reductions in pollutants discharged within Butler County. Section 3.4 of the SWMP requires: "To the extent allowable under State or local law, the District will effectively prohibit, through ordinance, or other regulatory mechanism, illicit discharges into its storm sewer system and implement appropriate enforcement procedures and actions."; and

WHEREAS, said regulations have been drafted and distributed to interested parties for their review and input;

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the following illicit discharge detection and elimination regulations.

Resolution No. 09-11-1954

Requestor : Annette Peters
Request Date: November 06, 2009

Commissioner Furmon moved for the adoption of the foregoing resolution.
Commissioner Jolivette seconded the motion and upon call of the roll
the vote resulted as follows:

Commissioner Dixon	Yea
Commissioner Jolivette	Yea
Commissioner Furmon	Yea

Adopted: November 12, 2009

Attest: Hora K. Butler clerk

**BUTLER COUNTY
ILLICIT DISCHARGE AND CONNECTION STORMWATER
RULES AND REGULATIONS
RESOLUTION NO. 09-11-1954**

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ILLICIT DISCHARGE DETECTION AND ELIMINATION REGULATIONS

RESOLUTION NO. 09-11-1954

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Intent

The purpose of these Rules and Regulations are to provide for the health, safety, and general welfare of the citizens of Butler County, Ohio and specifically those located in the unincorporated areas thereof and the various local jurisdictions who are members of the Butler County Storm Water District ("BCSWD") through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. These Rules and Regulations establish methods and standards for best management practices (BMPs) 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) Phase II permit process and as required by the Butler County Storm Water Management Plan. These Rules and Regulations are created and enacted by the statutory authority contained in Ohio Revised Code Sections 307.15, 6117.01(D) and 6117.01.2, as amended.

The objectives of these Rules and Regulations are:

- A. To regulate the contribution of pollutants to the Municipal Separate Storm Sewer System (MS4) owned or operated by Butler County and member jurisdictions of the BCSWD by stormwater discharges by any user of the MS4;
- B. To prohibit Illicit Connections and Discharges to the Municipal Separate Storm Sewer System (MS4);
- C. To protect water quality and satisfy the requirements of the Clean Water Act, Ohio Law, and Ohio Revised Code, including Section 6111 thereof; and
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Regulation.

1.2 Definitions

For the purposes of this Regulation, the following terms shall be interpreted to mean:

- A. "Authorized Enforcement Agency" shall mean employees or designees of the director of the governmental agency designated to enforce these Rules and Regulations. The Butler County Storm Water District, and its designee, shall be

responsible for those matters of which Butler County has jurisdiction. When this Regulation is used by a Local Jurisdiction that has its own statutory or home-rule powers and responsibility for compliance with a NPDES permit, such as a municipal corporation or authorized home rule township, this definition shall include such Local Jurisdiction or its legally authorized designee, as determined by such Local Jurisdiction.

- B. "Best Management Practices (BMPs)" shall mean 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 stormwater, receiving waters, or stormwater conveyance systems. 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.
- C. "Board of Appeals" shall mean the Butler County Residential Board of Appeals.
- D. "Clean Water Act" shall mean the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- E. "Commercial Activity" shall mean activities which are undertaken as part of a commercial enterprise. These activities include but are not limited to warehouses; building supply facilities; retail gasoline stations; automobile service stations; junk yards; automobile dealerships; retail warehouses; repair and service establishments for appliances and other goods; professional offices; bank and credit unions; office buildings; retail businesses selling foods or merchandise; golf courses; hospitals and clinics; religious institutions; hotels; motels; and parking facilities.
- F. "Construction Activity" shall mean activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 5 acres or more. As of March 2003, NPDES Storm Water Phase II permits are required for construction projects resulting in land disturbance of 1 acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition, or other alterations of land surface where natural or man-made ground cover is destroyed in a manner exposing underlying soil.
- G. "County" shall mean Butler County, Ohio, and its designated agencies, agents and representatives.
- H. "Hazardous Materials" shall mean 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.

- I. "Illegal Discharge" shall mean any direct or indirect discharge to the Storm Drainage System that is not entirely composed of Storm Water, except as otherwise exempted in this Regulation.
- J. "Illicit Connection" shall mean an illicit connection is defined as either of the following:
 - (1) Any drain or conveyance, whether on the surface or subsurface, which allows an Illegal Discharge to enter the Storm Drainage System including but not limited to any conveyances which allow any Non-Storm Water Discharge including sewage, process wastewater, and wash water to enter the Storm Drainage System and any connections to the Storm Drainage System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency; or
 - (2) Any drain or conveyance connected from a commercial or industrial land use to the Storm Drainage System which has not been documented in plans, maps, or equivalent records and approved by an Authorized Enforcement Agency.
- K. "Illicit Discharge" See definition of Illegal Discharge in these Rules and Regulations.
- L. "Industrial Activity" shall mean activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14), or activities of an industrial nature not covered by the NPDES Industrial Permit.
- M. "Local Jurisdiction" shall mean a city, township, town, or village within Butler County and which operates an MS4, and has ultimate responsibility for compliance with an NPDES permit for Storm Drainage System from MS4's.
- N. "Maximum Extent Practical" shall mean the level of pollution reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must establish.
- O. "Municipal Separate Storm Sewer System (MS4)" shall mean a conveyance or system of conveyances (including roads with drainage systems, streets, catch basis, curbs, gutters, ditches, man-made channels or storm drains) that are:
 - (1) Owned or operated by the state, municipality, township, county, district(s) or other public body (created by or pursuant to state or federal law)

including special districts under state law such as a sewer district, flood control district, or drainage districts or similar entity or a designated and approved management agency that discharges into surface waters of the state;

- (2) Designed or used for collecting or conveying solely Storm Water,
 - (3) Which is not a combined sewer; and
 - (4) Which is not a part of a publicly owned treatment works.
- P. "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" shall mean a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to Waters of the State and/or United States, whether the permit is applicable to an individual, group, or general area-wide basis.
- Q. "Non-Point Source Pollution" shall mean substances that are harmful to the environment that are generated by various land use activities rather than from an identifiable or discrete source, and which is conveyed to waterways through natural processes, such as rainfall, storm runoff, or ground water seepage, rather than by direct discharge.
- R. "Non-Storm Water Discharge" shall mean any discharge to the Storm Drainage System that is not composed entirely of Storm Water.
- S. "Person" shall mean any individual, trust, association, organization, partnership, firm, limited liability company, corporation (municipal or private), township, county, state agency, federal government, or any combination thereof, or other entity recognized by law and acting as either the owner or as the owner's agent.
- T. "Pollutant" shall mean anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances, and accumulations, so that same may cause or contribute to pollution; 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.
- U. "Pollution" shall mean the placing of any noxious or deleterious substance in any Waters of the State or affecting the properties of any Waters of the State in a manner which renders such waters harmful or inimical to the public health, or to animal or aquatic life, or to the use of such water for domestic water supply, or industrial or agricultural purposes, or for recreation.

- V. “Premises” shall mean any building, lot, parcel or tract of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking areas associated with the adjacent land.
- W. “Storm Drainage System” shall mean publicly or privately owned or operated facilities and infrastructure by which Storm Water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- X. “Storm Water” shall mean any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- Y. “Storm Water Pollution Prevention Plan” shall mean a document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce Pollutant Discharges to Storm Water, Storm Water Conveyance Systems, and/or receiving waters to the Maximum Extent Practicable.
- Z. “Violator” shall mean any person, property owner, occupant, or operator who causes and allows an illicit discharge, or any other discharge not allowed by the Clean Water Act, to enter the MS4.
- AA. “Wastewater” shall mean any water or other liquid, other than uncontaminated Storm Water, discharged from a facility.
- BB. “Watercourse” shall mean as defined in County Subdivision Regulations, Section 2.113, meaning a definite channel with bed and banks within which concentrated water flows, either continuously or intermittently.
- CC. “Waters of the State” shall have that meaning as contained in ORC 6111.01(H).
- DD. “Waters of the United States” shall have that meaning as contained in 33 CFR Part 328, Section 328.1 through 328.3, as amended.

1.3 Word Usage

For purposes of these Rules and Regulations, certain rules of word usage apply as follows:

- A. Words used in the present tense include the future tense, and singular tense includes the plural tense.

- B. The term “shall” is always construed to be mandatory and not discretionary. The word “may” is deemed to mean permissive. The term “should” is permissive, but indicates a recommended action.
- C. Any word or term that is not interpreted or defined within these Rules and Regulations shall be construed according to the rules of grammar and common usage, so as to give these Regulations the most reasonable application.

SECTION 2 - APPLICABILITY.

These Rules and Regulations shall apply to all water entering the Storm Drainage System generated on any developed and undeveloped lands unless otherwise explicitly exempted by the Authorized Enforcement Agency or by applicable law.

SECTION 3 - RESPONSIBILITY FOR ADMINISTRATION.

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of these Rules and Regulations. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the Director of the Authorized Enforcement Agency to persons or entities acting in the beneficial interest of, or in the employ of said agency.

SECTION 4 - SEVERABILITY.

The provisions of these Rules and Regulations are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Regulation or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Regulation.

SECTION 5 - ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to these Rules and Regulations are minimum standards; therefore these Rules and Regulations do not intend, nor imply, that compliance by any Person will permit any Person to cause contamination, Pollution, nor unauthorized discharge of Pollutants. All applicable state and federal laws, rules and regulations related to illicit, hazardous, or Pollutant discharges remain in full force and effect.

SECTION 6 - DISCHARGE PROHIBITIONS.

6.1 Prohibition of Illegal Discharges.

No Person shall, or allow another Person under its control to, discharge or cause to be discharged into the Municipal Storm Drainage System or watercourses any materials, including but not limited to Pollutants or waters containing any Pollutants that cause or contribute to a violation of applicable water quality standards, other than Storm Water.

The commencement, conduct or continuance of any Illegal Discharge to the Storm Drainage System is prohibited, except as described as follows:

- A. The following discharges shall not constitute a violation of the discharge prohibitions established by these Rules and Regulations: water line flushing or other uncontaminated potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, 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 wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.
- B. Discharges specified in writing by the Authorized Enforcement Agency as being necessary to protect public health and safety, or which are otherwise permitted under these Rules and Regulations and applicable law, including those matters set forth in Ohio Revised Code, Section 6111.04.
- C. Dye testing is an allowable discharge, but requires a written notification to the Authorized Enforcement Agency prior to the commencement of the test.
- D. The prohibitions herein shall not apply to any Non-Storm Water Discharge permitted under a valid and unexpired NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and further provided that prior written approval has been granted for any discharge to the Storm Drainage System.

6.2 Prohibition of Illicit Connections.

The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage System and MS4 is strictly prohibited.

- A. This prohibition expressly includes, without limitation, Illicit Connections made prior to the enactment of these Rules and Regulations, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of such connection, subject to Ohio Revised Code, Section 6111.04 (A) and (B), and applicable law.

- B. A Person is considered to be in violation of these Rules and Regulations if the Person connects a line conveying sewage to the MS4, or allows such a connection, whether new or existing, to continue after the approval of these Rules and Regulations, unless otherwise exempted by the Authorized Enforcement Agency or otherwise permitted by law.

SECTION 7 - SUSPENSION OF MS4 ACCESS.

7.1 Suspension due to Illicit Discharges in Emergency Situations

The Authorized Enforcement Agency may, in an emergency, without prior notice, suspend MS4 discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4, Waters of the United States or Waters of the State. The Authorized Enforcement Agency shall make a reasonable attempt to contact the Property owner prior to such suspension. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as it deems necessary to prevent or minimize damage to the MS4, or Waters of the State, or to minimize danger to Persons and the public.

7.2 Suspension due to the Detection of Illicit Connections and/or Illicit Discharge

Any Person discharging or connecting to the MS4 in violation of these Rules and Regulations may have their MS4 access terminated if such termination would abate or reduce an Illicit Discharge. The Authorized Enforcement Agency shall notify a property owner or other alleged violator, in writing, of the proposed termination of its MS4 access at least five (5) days prior to such termination, via certified mail and ordinary mail with certificate of mailing to the tax mailing address of the Property Owner. The property owner or other alleged violator may petition the Authorized Enforcement Agency for a reconsideration and hearing pursuant to Section 14 hereof.

A Person commits an offense if the Person reinstates MS4 access to Premises that were otherwise terminated pursuant to this Section 7, without the prior written approval of the Authorized Enforcement Agency.

SECTION 8 - INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any Person subject to an Industrial or Construction Activity NPDES Storm Water Discharge Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Authorized Enforcement Agency prior to the allowing of discharges to the MS4.

SECTION 9 - MONITORING OF DISCHARGES AND CONNECTIONS.

9.1. Applicability

This section applies to all Premises and facilities that have Storm Water discharges associated with Industrial, Commercial, and Construction Activity.

9.2 Access to Facilities

- A. Facility operators shall permit the Authorized Enforcement Agency to enter and inspect Premises facilities during the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday, at other reasonable times, as may be warranted and at any time in the event of an emergency, subject to regulation under these Rules and Regulations as often as may be necessary to determine compliance with these Rules and Regulations or to determine whether an MS4 connection or discharge exists. If a discharger has security measures in force which require proper identification and clearance before entry into its Premises, the discharger shall make the necessary arrangements to allow access for representatives of the Authorized Enforcement Agency as required herein.
- B. Facility operators shall allow the Authorized Enforcement Agency ready access to all parts of the Premises for the purposes of inspecting, sampling, surveying, examining and copying of records that must be kept under the conditions of an NPDES permit, or which pertains to discharge Storm Water, in a NPDES regulated or an unregulated facility, and the performance of any additional duties as defined by applicable state and federal law.
- C. Facility operators shall permit the Authorized Enforcement Agency the right to set up on any permitted facility such devices as are necessary in the opinion of the Authorized Enforcement Agency to conduct monitoring and/or sampling of the facility's Storm Water discharge.
- D. The Authorized Enforcement Agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be installed and maintained at all times in a safe and proper operating condition by the discharger at the discharger's expense. All devices used to measure Storm Water flow and quality shall be regularly calibrated to ensure their accuracy.
- E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Authorized Enforcement Agency and shall not be replaced. The costs of clearing such access shall be borne by the operator of the facility.

- F. Unreasonable delays in allowing the Authorized Enforcement Agency access to a permitted facility is a violation of a Storm Water Discharge Permit and of these Rules and Regulations. A Person who is the operator of a facility which discharges Storm Water associated with Industrial Activity or Construction Activity commits an offense if the Person denies the Authorized Enforcement Agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by these Rules and Regulations.
- G. If the Authorized Enforcement Agency has been refused access to any part of the Premises from which Storm Water is discharged, and the agency is able to demonstrate probable cause to believe that there may be a violation of these Rules and Regulations, or there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with these Rules and Regulations or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Authorized Enforcement Agency may seek issuance of a search warrant from any court of competent jurisdiction.

SECTION 10 - REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Authorized Enforcement Agency shall adopt requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to Pollution or contamination of Storm Water, the Storm Drainage System, or Waters of the State. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 and Storm Drainage System or Watercourses through the use of these structural and non-structural BMPs. Further, any Person responsible for a property or Premises, which is the source of an Illicit Discharge, shall be required to implement, at said Person's sole cost and expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of Storm Water associated with Industrial Activity and Construction Activity, to the Maximum Extent Practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of the County's Storm Water Prevention Plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

SECTION 11 - WATERCOURSE PROTECTION.

Every Person owning or operating property through which a Watercourse passes, or such Person's lessee or vendee, shall keep and maintain that part of the Watercourse within the legal boundaries of the property and areas adjacent to the Watercourse within such Person's direct control, free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard or hinder the flow of water through the Watercourse. In

addition, the owner, operator, or other person in control of the Premises, shall maintain existing privately owned (either permanent or temporary) structures, buildings, and improvements within or adjacent to a Watercourse, so that such structures, buildings or improvements will not become a hazard to the use, function, or physical integrity of the Watercourse.

SECTION 12 - NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any Person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in Illegal Discharges or Pollutants discharging into Storm Water, the Storm Drainage System, MS4, or Waters of the State, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release to protect the health, safety and welfare of the public and to mitigate any damage to the environment and the MS4 .

In the event of such a release of hazardous materials said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (9-1-1) and the Authorized Enforcement Agency via telephone or facsimile. Emergency response agencies shall include without limitation, local fire department, Butler County Emergency Management Agency, and the Ohio Environmental Protection Agency. Such notification in no way alleviates other federal, state, or local reporting obligations imposed by law.

In the event of a release of non-hazardous materials, said Person shall notify the Authorized Enforcement Agency in person or by telephone or facsimile no later than the next business day after the date of said incident. Notifications in person or by phone shall be confirmed by written notice from the Person responsible for such known or suspected release addressed and mailed to the Authorized Enforcement Agency within three business days of the telephone or in person notice.

If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years by the owner. Upon the request of the Authorized Enforcement Agency, copies of such records shall be provided to the agency, at the expense of the owner/operator.

The Authorized Enforcement Agency, if other than the BCSWD, shall provide reports required of property owners hereunder to the BCSWD within fourteen (14) calendar days of the agency's receipt.

The Authorized Enforcement Agency, if other than the BCSWD, shall provide periodic reports to the BCSWD, in a format determined by the BCSWD, and with sufficient detail to support the jurisdiction's compliance with the Ohio Environmental Protection Agency National Pollutant Discharge Elimination System General Permit for Small Municipal Separate Storm Sewer Systems.

Unless a Local Jurisdiction has designated its enforcement obligations to the BCSWD hereunder, compliance with the permit enforcement and reporting obligations in this Section 12 shall be the responsibility of the Local Jurisdiction.

SECTION 13 - ENFORCEMENT.

13.1 Notice of Violation

Whenever the Authorized Enforcement Agency determines that a Person has violated a prohibition or failed to meet a requirement of these Rules and Regulations, the Authorized Enforcement Agency may order compliance by written notice of violation to the responsible Person. The notice shall state and describe the violation and may require, without limitation:

- A. The performance of monitoring, analyses, and reporting;
- B. The elimination of Illicit Connections or Illicit Discharges;
- C. That violating discharges, practices, or operations shall immediately cease and desist;
- D. The abatement or remediation of Storm Water Pollution or contamination hazards and the restoration of any affected property;
- E. Payment of a fee to recover administrative and/or remediation costs incurred by Authorized Enforcement Agency for such violation per ORC 6117.012 (D) and as otherwise permitted by law; and
- F. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation, abatement or restoration shall be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the total cost and expense thereof shall be charged to the violator, as permitted by applicable law, or pursuant to an order from a court of competent jurisdiction.

SECTION 14 - APPEAL OF NOTICE OF VIOLATION.

14.1 Notice of Appeal

Any Person receiving a notice of violation as described in Section 14 hereof, may appeal the determination of the Authorized Enforcement Agency. The notice of appeal must be received by the Authorized Enforcement Agency within twenty (20) calendar days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or its designee shall take

place within twenty (20) calendar days from the date of the Authorized Enforcement Agency's receipt of the notice of appeal.

14.2 Board of Appeals

- A. The Authorized Enforcement Agency shall appoint a Board of Appeals, which shall consist of at least three (3) members, all of whom shall be residents of Butler County. The term of all members shall be of such length, and so arranged, that the term of at least one (1) member, but not all members, will expire each year. Each member shall serve until his successor is appointed and qualified. Members shall be removed for the same causes and in the same manner as provided by the board's rules and regulations. Vacancies of the Board of Appeals shall be filled by the Butler County Board of Commissioners, and shall be for the current unexpired term.

For purposes of these Rules and Regulations, the Board of Appeals shall follow and adhere to the organizational procedures and requirements set forth herein, relating to voting rights and percentages, quorums, notices and similar matters. Except as set forth herein, the Board of Appeals shall follow the procedures outlined in its internal policies and any prior or subsequent Resolutions related to such matters.

- B. Organization. The Board of Appeals shall elect its own officers annually, and shall adopt the procedural rules necessary to the conduct of its affairs. Meetings shall be held at the call of the chairperson, and within the described timeframe set forth in Subsection A of this Section 14, and at such other times as the Board may determine. A majority of the members of the Board of Appeals shall constitute a quorum for the conducting of business.
- C. The chairperson, or in his absence, the acting chairperson, may administer oaths, and compel the attendance of witnesses and production of documents. All meetings and records shall be open to the public.
- D. Official Action. The Board of Appeals shall act by resolution or motion, on which a majority of fifty-one percent (51%) of the total number of members must concur, and shall keep minutes of its proceedings. The minutes shall show the vote of each member upon each question, or if absent or failing to vote, indicating such facts, and a statement of the facts of each appeal considered by the Board, and the Section of these Rules and Regulations, where applicable, which the Board has considered in approving or disapproving any petition, appeal, or other matter brought before the Board. All Persons appearing before the Board shall be sworn before giving testimony.
- E. Right of Petition or Appeal. An appeal of a ruling of the enforcement officer of the Authorized Enforcement Agency shall stay all proceedings, unless the

enforcement officer certifies that, by reason of facts pertaining to the matter in question, a stay, in his opinion, would cause eminent peril to life and/or property. In the event such certification is made by the enforcement officer, proceedings shall not be stayed, except by a restraining order granted by the Butler County Court of Common Pleas. The Board of Appeals, by an affirmative vote of at least fifty-one percent (51%) of its members shall decide the matter before it, and the Board's decisions shall be final. Any appeal of the Board of Appeal's decision shall be in the Butler County Court of Common Pleas, pursuant to Ohio Revised Code, Section 2506.01 *et. seq.*

- F. Hearings. The Board of Appeals shall fix a reasonable time for the hearing of any petition or appeal. The Board shall provide at least fifteen (15) calendar days' prior notice of the time and place of such hearing, and such notices shall be provided to the enforcement officer, the petitioner or appellant, and to the owners of records of real property within five hundred feet (500') of the premises in question. Such notice shall be delivered personally, or by regular U.S. Mail, addressed to the respective owners at the address given on the last assessment role, and by one (1) publication in one (1) or more newspapers of general circulation within the County. Notice by publication shall occur at least five (5), but not more than ten (10) calendar days prior to the hearing date. In the event a hearing is continued, the Board may, but is not required to readvertise or resend notices. Any party may appear at such hearing in person, by agent, or by attorney. The Board shall decide the petition or appeal within a reasonable time, not to exceed fifteen (15) calendar days after conclusion of the appeal hearing.
- G. Powers and Duties. The Board of Appeals shall have all the appropriate powers and duties prescribed by law, and by these Rules and Regulations. The Board shall have the following duties and powers:
- (1) Administrative Review. To hear and decide appeals only in such cases where it is alleged that there is an error in any order, requirement, decision, or determination made by the Authorized Enforcement Agency in the enforcement of these Rules and Regulations. Such appeal must be made as provided for in the first paragraph of this Section 14. The concurring vote of at least a majority equal to fifty-one percent (51%) of the total number of members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the enforcement officer, or to decide in favor of the petitioner or applicant on any matter upon which the Board of Appeals is required to make a decision under these Rules and Regulations.
 - (2) Variances. No variances relating to the enforcement or requirements of these Rules and Regulations shall be granted by the Board of Appeals and no such authority to grant variances is contained herein.

- H. Effective Date. The Board of Appeals shall make specific finding of fact upon which it bases its order or decision. The Board of Appeals' order or decision shall become effective upon final determination of the issue by the Board of Appeals as described herein. Written notification of the Board's decision shall be provided to the petitioner or appellant within ten (10) calendar days of the Board's final determination on the issue. The effective date of the Board's Decision shall be the date of the hearing at which the final determination was made, unless otherwise identified in the notice of the Board's determination.

SECTION 15 - ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, no later than twenty (20) calendar days after the decision of the Board of Appeals upholding the decision of the Authorized Enforcement Agency, then representatives of the Authorized Enforcement Agency may, as permitted by applicable law or pursuant to an order from a court of competent jurisdiction, enter upon the subject Premises and take any and all measures necessary to abate the violation and/or restore the Premises. Written notice shall be provided to the owners of the Premises at least seventy-two (72) hours prior to entry upon the Premises by the Authorized Enforcement Agency. If the operator of the premises is not the owner, the Authorized Enforcement Agency shall make reasonable efforts to notify the operator of the property at the time of notice to the owner. It shall be a violation of the Rules and Regulations and unlawful per Ohio Revised Code, Section 6117.99 for any Person, owner, agent or Person in possession of any Premises to refuse to allow the Authorized Enforcement Agency or its designated contractor to enter upon the Premises for the purposes set forth above.

SECTION 16 - COST OF ABATEMENT OF THE VIOLATION.

Within sixty (60) calendar days after abatement of the violation by the Authorized Enforcement Agency, the owner of the property/Premises will be notified of the cost of such abatement, including administrative costs. The property owner may file a written protest to the Authorized Enforcement Agency objecting to the invoiced amount of the abatement cost within twenty (20) calendar days of the date of such notice. Within fourteen (14) calendar days of receiving the written protest, the Authorized Enforcement Agency shall issue a written decision either granting or denying the objection in whole or in part. If the amount due is not paid within a timely manner as determined by the decision of the Authorized Enforcement Agency or by the expiration of the time in which to file an appeal pursuant to Paragraph 15A of these Rules and Regulations, the charges shall become a special assessment against the Premises and shall constitute a lien on the Premises for the amount of the abatement.

Any Person violating any of the provisions of this Section shall become liable to the Butler County Storm Water District by reason of such violation. The liability shall be paid in not more than 12 equal payments. Interest at the highest rate of statutory interest permitted under Ohio Revised Code, Sections 1343 and 5703.04 and 6117.01.2, shall be assessed on the balance due and owing beginning on the first (1st) day following the requested date of payment.

SECTION 17 - INJUNCTIVE RELIEF.

It shall be unlawful for any Person to violate any provision or fail to comply with any of the requirements of these Rules and Regulations. In addition to seeking civil and/or criminal penalties and/or, damages, if a Person has violated or continues to violate the provisions of these Rules and Regulations, the Authorized Enforcement Agency may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining or enjoining the Person from activities which would create continued or additional violations and/or compelling the Person to perform abatement or remediation of the violation, in addition to any other relief or awards the court determines to be just.

SECTION 18 - AMELIORATIVE ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by these Rules and Regulations, the Authorized Enforcement Agency may impose upon a violator alternative ameliorative action(s), such as storm drain stenciling, attendance at compliance workshops, creek cleanup, or similar measures.

SECTION 19 - VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of these Rules and Regulations is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, and may be abated or restored by the Authorized Enforcement Agency, other appropriate agency or authority or the violator, at the violator's sole cost and expense pursuant to provisions hereof. In addition, a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be prosecuted to the extent available under applicable law, rule or regulation.

SECTION 20 - CRIMINAL PROSECUTION.

Any Person that has violated or continues to violate these Rules and Regulations may be liable to criminal prosecution to the fullest extent of the law, and may be subject to a criminal penalty for a minor misdemeanor as established herein and pursuant to Ohio Revised Code, Section 6117.99.

SECTION 21 - ADDITIONAL REMEDIES.

The Authorized Enforcement Agency may recover all attorney fees, court costs, filing fees, consultant fees and all other expenses associated with enforcement of these Rules and Regulations including, without limitation sampling, testing and monitoring expenses.

SECTION 22 - REMEDIES NOT EXCLUSIVE.

The remedies listed in these Rules and Regulations are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

SECTION 23 - COMPLIANCE DOES NOT AFFECT COMPLIANCE WITH OTHER LAWS

Compliance with these Regulations does not affect compliance with other laws. The standards, duties, and obligations set forth in these Rules and Regulations constitute minimum standards. Neither compliance or noncompliance with these Rules and Regulations nor any action or inaction by the Authorized Enforcement Agency shall be construed as any of the following:

- A. Authorizing the discharge of Pollutants or contaminants otherwise prohibited under other applicable laws, rules, and regulations
- B. Relieving any Person from complying with any other applicable state and/or federal laws, rules, or regulations that may address illicit discharges, hazardous spills and/or discharges or releases of any Pollutant or contaminant
- C. Relieving any Person from responsibility for injury or damage to any person or property.


Furthermore, the same shall not impose any liability on the County, any Local Jurisdiction in the BCSWD, or their respective officers, agents and employees for such injury or damage.

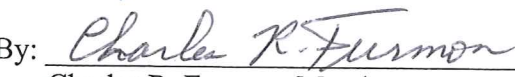
SECTION 24 - ADOPTION OF RULES AND REGULATIONS.

These Rules and Regulations shall be in full force and effect upon final passage and adoption and at the earliest time permitted by law.

PASSED AND ADOPTED this 12th day of November, 2009, by the following vote:

By: _____
Donald L. Dixon, President

By:  _____
Gregory W. Jolivet, Vice-President

By:  _____
Charles R. Furmon, Member