

**Regulations Prohibiting Illicit Discharges To
The Separate Storm Sewer System In The
Unincorporated Areas Of Allen County**

**Adopted March 23, 2023
Effective April 21, 2023**



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Regulations Prohibiting Illicit Discharges to the Separate Storm Sewer System in the Unincorporated Areas of Allen County.

1.0 PURPOSE AND INTENT.

The purpose of these Regulations are to provide for the health, safety, and general welfare of the residents of the unincorporated areas of Allen County, Ohio 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 Regulations establish methods for controlling the introduction of pollutants into the separate storm sewer system and waters of State in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of these Regulations are to:

- 1.1 Regulate the contribution of pollutants to the separate storm sewer system by storm water discharges by any user; and,
- 1.2 Prohibit illicit connections and discharges to the separate storm sewer system; and,
- 1.3 Establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with these Regulations.

2.0 DEFINITIONS.

For the purposes of these Regulations, unless the context clearly indicates otherwise, the following terms shall have the meanings designated thereby:

- 2.1 **Best Management Practices (BMP).** Activities, practices, and procedures to prevent or reduce the discharge of pollutants directly or indirectly to the separate storm sewer system and waters of the State. Best Management Practices include but are not limited to: treatment facilities to remove pollutants from storm water; operating and maintenance procedures; facility management practices to control runoff, spillage or leaks of non-storm water, waste disposal, and drainage from materials storage; erosion and sediment control practices; and the prohibition of specific activities, practices, and procedures and such other provisions as the County determines appropriate for the control of pollutants.
- 2.2 **County.** Allen County, Ohio or any duly authorized officials of Allen County.
- 2.3 **Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- 2.4 **Construction Activity.** Activities subject to NPDES Construction Permits. These include 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.
- 2.5 **Environmental Protection Agency.** The United States Environmental Protection Agency (USEPA), the Ohio Environmental Protection Agency (OEPA) or any duly authorized officials of said agency.
- 2.6 **Floatable Material.** In general this term means any foreign matter that may float or remain suspended in the water column, and includes but is not limited to, plastic, aluminum cans, wood products, bottles and paper products.

- 2.7 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.
- 2.8 Household Sewage Treatment System (HSTS).** Any sewage treatment system, or part of such a system, for a single-family, two-family, or three-family dwelling that receives sewage (OAC 3745-11-01).
- 2.9 Illicit.** Not permitted, unlawful.
- 2.10 Illicit Connections.** An illicit connection is defined as either of the following:
- 2.10.1** Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the separate storm sewer 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 separate storm sewer and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or,
- 2.10.2** Any drain or conveyance connected from a commercial or industrial land use to the separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by the County.
- 2.11 Illicit Discharge.** As defined in 40 CFR, Section 122.26 (b)(2) means any discharge to the separate storm sewer system that is not composed entirely of storm water, except as exempted in Sections 7.1 thru 7.3 inclusive.
- 2.12 Industrial Activity.** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- 2.13 National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permits.** General, group and individual storm water discharge permits which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act.
- 2.14 Non-Storm Water Discharge.** Any discharge to the separate storm sewer system that is not composed entirely of storm water.
- 2.15 Owner/Operator.** Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or on the owner's behalf.
- 2.16 Person.** Any individual, group of individuals acting in concert, or any entity or business organization of any form.
- 2.17 Pollutant.** 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, articles, 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 (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

- 2.18 Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- 2.19 Regulations.** Regulations Prohibiting Illicit Discharges to the Separate Storm Sewer System in the Unincorporated Areas of Allen County.
- 2.20 Separate Storm Sewer System.** Publicly-owned facilities operated by the County or Township or a Municipality by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other structures which are within the unincorporated area of Allen County and are not part of a publicly owned treatment works, as defined at 40 CFR, Section 122.26 (b)(8).
- 2.21 State.** State of Ohio.
- 2.22 Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- 2.23 Township.** One or some combination of the 12 Townships within the unincorporated area of Allen County, Ohio.
- 2.24 Waters of the State.** Surface watercourses and water bodies including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry storm water at and during all times and seasons.
- 2.25 Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

3.0 APPLICABILITY.

These Regulations shall apply to all water entering the separate storm sewer system generated on any developed or undeveloped lands lying within the unincorporated areas of Allen County.

4.0 RESPONSIBILITY OF ADMINISTRATION.

The Board of Allen County Commissioners shall administer, implement, and enforce the provisions of these Regulations. The Board of Allen County Commissioners may delegate any powers or duties derived from these Regulations to any person or entity(ies) acting in the beneficial interest of or in the employ of Allen County. For purposes of administering these Regulations, the Board of Allen County Commissioners delegates daily responsibilities to the Allen Soil and Water Conservation District (ASWCD). The ASWCD will be the administrative authority responsible for the operational management and implementation of these Regulations, in cooperation with the agencies listed in Section 16.2. By resolution, the Allen County Commissioners can delegate the administrative authority to another appointed agency.

5.0 SEVERABILITY.

The provisions 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 shall be held invalid, such invalidity shall not affect the other provisions or application of these Regulations.

6.0 ULTIMATE RESPONSIBILITY OF DISCHARGER.

The standards set forth herein and promulgated pursuant to these Regulations are minimum standards; therefore these Regulations do not intend nor imply that compliance by any person or owner/operator of a premises will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the State, caused by said person. These Regulations shall not create liability on the part of Allen County or the Townships, or any agent or employee thereof for any damages that result from any discharger's reliance on these Regulations or any decision lawfully made.

7.0 PROHIBITION OF ILLICIT DISCHARGES.

No person or owner/operator of a premises shall discharge or cause to be discharged into the separate storm sewer 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 illicit discharge to the separate storm sewer system is prohibited except as described as follows:

7.1 Discharges from the following activities will not be considered a source of pollutants to the separate storm sewer system and to waters of the State when properly managed to ensure that no potential pollutants are present, and therefore they shall not be considered illicit discharges; potable water line flushing; uncontaminated pumped groundwater and other discharges from potable water sources; landscape irrigation and lawn watering; diverted stream flows; rising groundwater; groundwater infiltration to the separate storm sewer system; uncontaminated foundation and footing drains; uncontaminated water from crawl space pumps; air conditioning condensation; uncontaminated non- industrial roof drains; springs; individual residential and occasional non- commercial car washing; flows from riparian habitats and wetlands; dechlorinated/dibrominated/desalinated swimming pool discharges; street wash waters; and flows from non-planned fire fighting.

7.2 The discharge from a household sewage treatment system is prohibited except where permitted by the Allen County Combined Health District as per ORC 3718. The discharge from an improperly functioning household sewage treatment system is prohibited under any circumstance.

7.3 The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered by the 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.

8.0 PROHIBITION OF ILLICIT CONNECTIONS.

The construction, use, maintenance or continued existence of illicit connection to the separate storm sewer system is prohibited. This prohibition expressly includes, without limitation, 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.

9.0 WASTE DISPOSAL PROHIBITIONS.

No person or owner/operator of a premises shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of separate storm sewer system, or water of the State, any refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in proper waste receptacles for purposes of collection are exempted from this prohibition.

10.0 DISCHARGES IN VIOLATION OF INDUSTRIAL OR CONSTRUCTION ACTIVITY NPDES STORM WATER DISCHARGE PERMIT.

Any person or owner/operator of a premises 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 County prior to, or as a condition of, an approved subdivision plat, site plan, building permit or zoning permit; upon inspection of the facility; during any enforcement proceeding or action; or, for any other reasonable cause.

11.0 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS.

11.1 Authorization to Adopt and Impose Best Management Practices. The County may 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 separate storm sewer system, or waters of the State. Where BMP requirements are promulgated by the County or any federal, State, or regional agency for any activity, operation, facility, or premises which would otherwise cause the discharge of pollutants to the separate storm sewer system or waters of the State, every person undertaking such activity or operation, or owning or operating such facility shall comply with such requirements.

11.2 New Development and Redevelopment. The County may adopt requirements identifying appropriate Best Management Practices to control the volume, rate, and potential pollutant load of storm water runoff from new development and redevelopment projects as may be appropriate to minimize generation; transport and discharge of pollutants. The County shall incorporate such requirements in any land use entitlement and construction or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such land use entitlements and building permits as required in these Regulations, the Storm Water and Sediment Control Regulations of Allen County and any applicable Storm Water Management Plans adopted by Allen County and by any local political subdivisions.

11.3 Responsibility to Implement Best Management Practices. Notwithstanding the presence or absence of requirements promulgated pursuant to Sections 11.1 and 11.2 any person or owner/operator of a premises engaged in activities or operations, or owning facilities or property which will or may result in pollutants entering storm water, the separate storm sewer system, or waters of the State shall implement Best Management Practices to the extent they are technologically achievable to prevent and reduce such pollutants. The owner/operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the separate storm sewer system or watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner's or operator's expense.

12.0 REQUIREMENT TO ELIMINATE ILLICIT DISCHARGES.

Notwithstanding the requirements of Section 17.0, the County may require by written notice that a person responsible for an illicit discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of discharge to prevent the occurrence of future illicit discharges.

13.0 REQUIREMENT TO ELIMINATE OR SECURE APPROVAL FOR ILLICIT CONNECTIONS.

13.1 The County may require by written notice that a person or owner/operator of a premises, responsible for an illicit connection to the storm drain system, comply with the requirements of these Regulations, to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection that discharges to it had been established or approved prior to the effective date of these Regulations.

13.2 If, subsequent to eliminating a connection found to be in violation of these Regulations, the responsible person can demonstrate that an illicit discharge will no longer occur, said person may request County approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

14.0 REQUIREMENT TO REMEDIATE.

Whenever the County finds that an illicit discharge of pollutants is taking place or has occurred which will result in or has resulted in pollution of water, the separate storm sewer system, or waters of the State, the County may require by written notice to the owner/operator of the property or premises and/or the responsible person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of Sections 19.0 and 20.0 inclusive.

15.0 REQUIREMENT TO MONITOR AND ANALYZE.

The County shall establish a program to detect and eliminate illicit discharges and connections. This program will be carried out by the administrative agency described in Section 4.0. This program may include the mapping of storm water outfalls and home sewage treatment systems; the routine inspection of storm water outfalls and home sewage treatment systems; and, the systematic investigation of potential residential, commercial, industrial and institutional facilities for the sources of any dry weather flows found as the result of these inspections.

The County may require, by written notice, that any person or owner/operator of a premises engaged in any activity and/or owning or operating any facility or premises which may cause or contribute to storm water pollution, illicit discharges, and/or non- storm water discharges to the separate storm sewer system or waters of the State, to undertake at said person's expense such monitoring and analyses and furnish such reports to the County as deemed necessary to determine compliance with these Regulations.

16.0 NOTIFICATION OF SPILLS.

In the event of a spill and notwithstanding other requirements of law, as soon as any person or owner/operator of a premises, 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 discharges or pollutants discharging into storm water, the separate storm sewer system, or waters of the State, from said facility, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release.

16.1 In the event of such a release of pollutants, persons shall immediately notify emergency response officials at the Pollution Hotline or via emergency dispatch services (911). In the event of a release of non-hazardous materials, said person shall notify the Allen County Emergency Management Agency in person or by phone no later than 5:00 p.m. of the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Allen County Emergency Management Agency within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner/operator of such 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 years.

16.2 The ASWCD shall coordinate and utilize the services of other local governmental agencies with related responsibilities as necessary and required. Agencies including the Allen County Combined Health District, Allen County Homeland Security & Emergency Management, Allen County Engineer's Office, Allen County Sanitary Engineering Department, Allen County Sheriff's Office, and the Local Emergency Planning Committee as well as local townships and municipalities will be expected to aid and support the ASWCD during spill events. The ASWCD shall develop and maintain an Illicit Discharge Response and Communication Network to manage events in accordance with accepted BMPs. (See Appendices.)

17.0 AUTHORITY TO INSPECT.

Representatives of the County, bearing proper credentials and identification, shall be permitted at all reasonable times to enter upon all properties to inspect, survey, test, photograph or videotape a connection or discharge to the separate storm sewer system in determining compliance with these Regulations or whether a connection or discharge exists. The County shall be granted access without unreasonable delay. Any obstruction preventing safe and easy access to the connection or discharge to the separate storm sewer system (or suspected connection or discharge) shall be promptly removed or cleared upon request of the County, and in the case of a confirmed connection or discharge to the separate storm sewer system, shall not be replaced or allowed to reoccur. The County shall be entitled to examine and copy any records required to be prepared and maintained under these Regulations or applicable permit.

If the County is refused access to any part of the facility or premises from which storm water is discharged, and the County demonstrates probable cause to believe that there may be a violation of these Regulations, or that there is a need to inspect and/or sample as part of an inspection and sampling program designed to verify compliance with these Regulations or any order issued hereunder, or to protect the public health, safety, and welfare, the County may seek issuance of a search warrant, civil remedies including but not limited to injunctive relief, and/or criminal remedies from any court of appropriate jurisdiction.

Any costs associated with these inspections and removing or clearing of obstructions shall be the responsibility of the owner/operator of the property and shall be assessed according to Section 22.0.

18.0 AUTHORITY TO SAMPLE, ESTABLISH SAMPLING DEVICES AND TEST.

During any inspection as provided herein, the County may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.

19.0 NOTICE OF VIOLATION AND ENFORCEMENT.

It shall be unlawful for any Person to fail to comply with any of the requirements of these Illicit Discharge Regulations or any lawful order as issued by the County pursuant thereto, including the failure to pay any authorized civil penalty lawfully issued hereunder. The County shall have all such rights and powers in interpreting and enforcing these Regulations as may be accorded to such officials by law, rule or regulation.

Whenever the County finds that a person has violated a prohibition or failed to meet a requirement of these Regulations, the County may order compliance by mailing or delivering a written notice of violation to the responsible person and/or owner/operator through any party designated pursuant to Section 4.0. Such notice may require without limitation:

- 19.1** The performance of monitoring, analyses, and reporting;
- 19.2** The elimination of illicit connection or discharges;
- 19.3** That violating discharges, practices, or operations shall cease and desist;
- 19.4** The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
- 19.5** Payment of a fine to cover administrative and remediation costs including but not limited to direct labor of County employees, photography, analytical testing and the County's contractual costs; and/or,
- 19.6** The implementation of source control or treatment BMPs.

A requirement to implement control measures may be in addition to any prosecution or enforcement for fines, costs, or other remedies as may be available to the County under applicable law.

The Notice of Violation may include civil penalty to be paid within a time prescribed by the County where authorized by law.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline or fails to pay any authorized civil penalty within the time prescribed, the County may seek enforcement and recovery of penalties and costs in a court of competent jurisdiction, in addition to pursuing any available civil and/or criminal penalties or damages as may be recoverable under applicable laws, rules or regulations.

20.0 APPEAL.

Any person receiving a Notice of Violation under Section 19.0 inclusive may appeal the determination of the County to the Illicit Discharge Appeals Board, c/o Board of Allen County Commissioners, comprised of five individuals that reside within the County, and are appointed by the Allen County Commissioners. The notice of appeal must be mailed to the Appeals Board, located at 301 N. Main Street, Lima, OH 45801, and be postmarked within 10 days from the date of the Notice of Violation. The hearing of an appeal before the Appeals Board shall take place within 30 days from the date of County's receipt of the notice of appeal, or as soon thereafter, as practicable. The decision of the Appeals Board shall be final. Appellants may pursue further legal recourse through the Allen County Court of Common Pleas.

21.0 VIOLATION OF THESE REGULATIONS.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of these Regulations. A violation of or failure to comply with any of the requirements of these Regulations shall be prosecuted to the full extent of the law.

22.0 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties hereinbefore provided, any condition caused or permitted to exist in violation of any of the provisions of these Regulations is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the County at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the County.

23.0 ACTS POTENTIALLY RESULTING IN A VIOLATION OF THE FEDERAL CLEAN WATER ACT.

Any person who violates any provision of these Regulations or any provision of any requirement pursuant to this these Regulations, may be in violation of the Clean Water Act and may be subject to the sanctions of those acts including civil and criminal penalties. Any enforcement action authorized under these Regulations shall also include written notice to the violator of such potential liability.

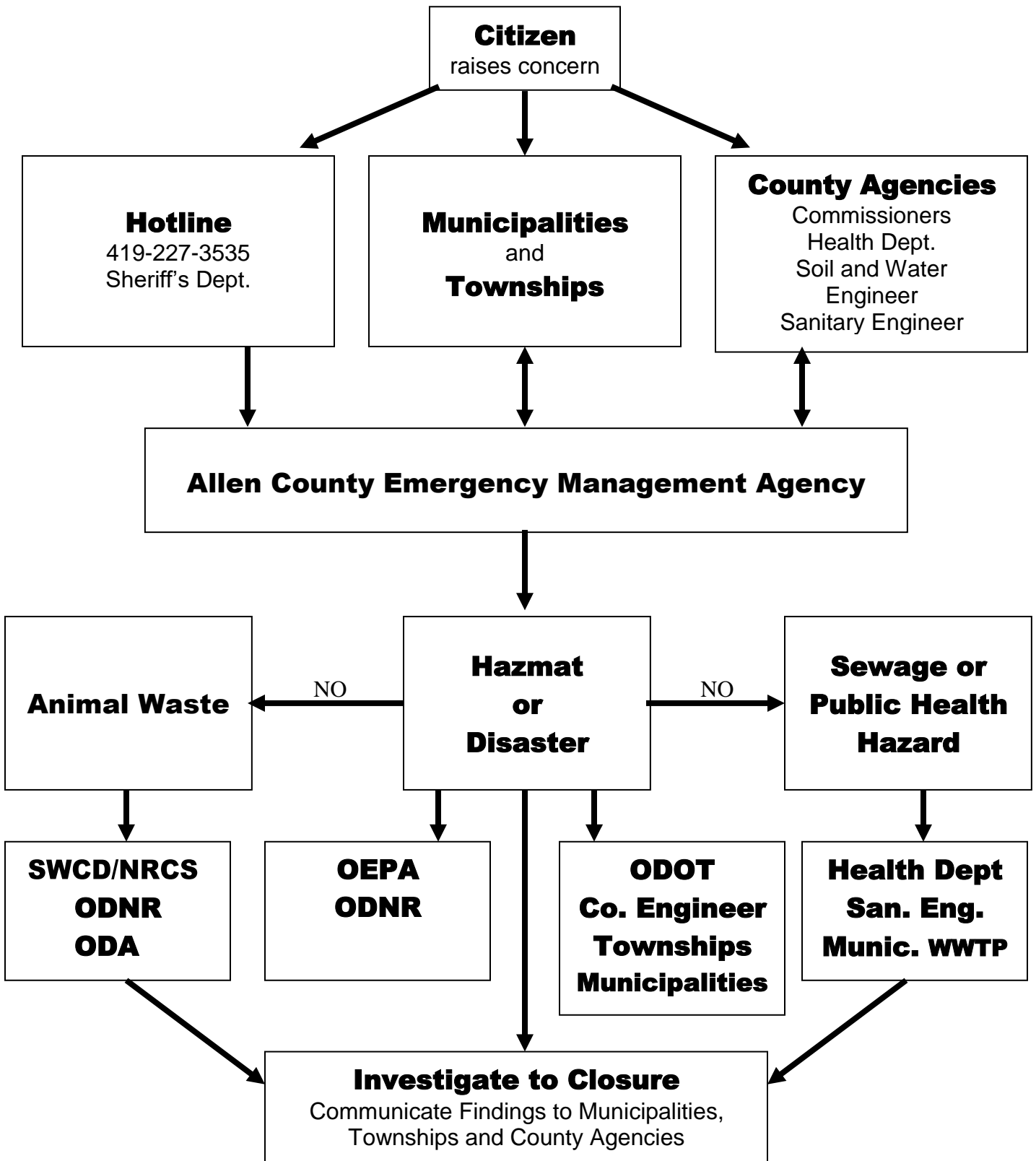
24.0 INJUNCTIVE RELIEF AND OTHER REMEDIES.

In addition to seeking civil and/or criminal penalties and/damages for any violation, the County may petition a court of competent jurisdiction for injunctive relief, which may include, but is not limited to, enforcement of these Illicit Discharge Regulations or any Notice of Violation, order or penalty issued by the County, restraining any continuing or threatened future violations of these Illicit Discharge Regulations, ordering the abatement or any violation or threatened violation, compelling remediation of contamination hazards and restoration of any affected property, or any other relief, penalty or costs that justice may require.

25.0 REMEDIES NOT EXCLUSIVE.

The remedies listed in this regulation are not exclusive of any other remedies available under any applicable federal, state or local law and it is in the discretion of the County to seek cumulative remedies.

**Illicit Discharge Response and Communication Network
Allen County, Ohio**



Allen County Ohio Stormwater Partnership Illicit Discharge Reporting Form

Please complete the following information and email or mail it to:

Allen Soil and Water Conservation District Attn: Stormwater Manager

1870 Slabtown Road, Lima, OH 45801

Phone: 419-222-0846

Email: Lydia@allenswcd.com

Date of Occurrence/Incident Report

Time of Occurrence/Incident Report

Reporting Community/Agency

Call-Back (Phone) Number

Reporting Individual

Call-Back (Phone) Number

Location Address of Illicit Discharge

Location Owner/Operator Name (if known)

Description of Illicit Discharge

Details of Investigation

Action(s) Taken

Action(s) Recommended

Copy of Report Submitted To

Allen County Ohio Stormwater Partnership Directory

Allen County Board of Commissioners

204 N. Main Street, Suite 301, Lima, OH 45801
419-228-3700 x8725

Allen County Combined Health District

219 E. Market Street, Lima, OH 45801
419-228-4457

Allen County Emergency Management Agency

2000 N. West Street, Lima, OH 45801
419-227-3535
Fax: 419-222-3757

Allen County Engineer's Office

1501 N. Sugar Street, Lima, OH 45801
419-228-3196

**Allen County Illicit Discharge Appeals Board
c/o Board of Allen County Commissioners**

Mail appeals to:
301 N. Main Street, Lima, OH 45801

Allen County Sanitary Engineering Department

3230 N. Cole Street, Lima, OH 45801
419-996-4670

Allen County Sheriff's Office

333 N. Main Street, Lima, OH 45801
419-227-3535

Allen Soil and Water Conservation District

1870 Slabtown Road, Lima, OH 45801
419-222-0846

