



## Ohio Administrative Code

### Rule 1501:3-12-06 Forestry pollution complaint process.

Effective: April 4, 2019

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(A) Pollution complaints. Any person who wishes to make a complaint regarding nuisances involving forestry pollution may do so orally or by submitting a written complaint to the chief or the chief's designee. By written agreement with the chief, the district may receive complaints or investigate them to determine whether forestry pollution has occurred or is imminent. The chief reserves the right to assume responsibility to investigate and resolve any complaint. The district shall provide the chief a copy of any complaint received. The district also shall inform the division of the complaint and provide relevant information concerning the silvicultural operation. The district chief or his designee shall gather information pertinent to the alleged violation. This information includes but is not limited to:

- (1) The location and description of property and/or waters of the state allegedly being damaged;
- (2) The nature and extent of damage;
- (3) The alleged sources of forestry pollution;
- (4) Any efforts made to obtain voluntary cooperation to eliminate the problem.

(B) Action initiated by the division.

(1) When the division finds an apparent problem of forestry pollution through its own observation, through notification by another agency, or through a complaint from a person, the division may investigate the complaint and shall inform the appropriate district of:

- (a) The location and nature of the problem;
- (b) The location and description of the silvicultural operation alleged to be causing the pollution problem;



(c) The nature and extent of damage;

(d) Any assistance needed from the district.

(2) When the division investigates a complaint involving a silvicultural operation that is allegedly not in compliance with the state rules for forestry pollution abatement, a representative from the division will contact the owner or operator and inform them of the complaint and explain the forestry pollution abatement rules and standards. The division may perform an investigation to determine whether or not there is compliance with this chapter.

(3) In order to investigate if there is a violation of the rules for forestry pollution, such investigation by the division shall include but not need to be limited to the following:

(a) Identification of property boundaries, streams, water courses, wetlands, ponds, lakes, water wells, the general topography, and the general storm water runoff patterns if applicable, including roof water;

(b) Observation and documentation of the nature and extent of existing or potential forestry pollution damage; documentation may include photographs, video recording and physical measurements; and/or

(c) Records of contact with the operator, complainant, cooperating agencies. The dates and times of all investigations shall be recorded and kept on file along with a copy of the complaint. Copies of all information shall be made available to the district.

(4) Investigation indicating no forestry pollution problem. If the investigation report indicates that the operation is in compliance with the rules for forestry pollution abatement, the division may offer to assist the owner or operator in preparing a timber harvest plan for the operation as it exists and have the district board or division chief approve it to provide assistance that the operation is considered in compliance with the applicable rules.

(a) Offer information and technical assistance for developing and evaluating alternative solutions;



(b) Provide information on financial assistance available;

(c) Offer to develop a timber harvest plan which complies with the rules of forestry pollution abatement; and

(d) Secure district or chief approval of the timber harvest plan to provide assurance that the operation is considered in compliance with the rules for forestry pollution abatement.

(5) Owner, operator, or person responsible for failure to cooperate in a voluntary solution.

(a) The division representative shall inform the district board of supervisors and the chief of the facts established by the investigative report, the succeeding action followed to seek compliance with the rules, and the action or inaction taken by the owner or operator. If the chief decides that a violation does exist and corrective action is needed, the chief will develop a compliance schedule and inform the person in violation by certified mail that they have a period of time to proceed voluntarily to correct the violation.

(b) If the owner or operator has failed to implement the corrective actions in the time specified, the chief shall then decide if an order shall be issued.

(C) Action by a district.

(1) When a district, which has entered into an agreement with the chief for the purpose of implementing the forestry pollution abatement program, finds through a complaint that a silvicultural operation is allegedly not in compliance with state rules for forestry pollution abatement, a representative from the district will contact the owner or operator and explain the district role in the forestry pollution abatement program. Upon receipt of the complaint, the district shall give priority to conducting an investigation. If the district determines it is unable to initiate an investigation within three business days, the division shall be notified immediately. The chief or the chief's designee shall initiate an investigation of the complaint within three business days of notification by the district.

(2) In order to determine if there is violation of the rules for forestry pollution, such investigation



shall include but need not be limited to following:

(a) Identification of property boundaries, streams, water courses, wetlands, ponds, lakes, water wells, the general topography, and the general storm water runoff patterns if applicable, including roof water;

(b) Observation and documentation of the nature and extent of existing or potential forestry pollution damage; documentation may include photographs, video recording and physical measurements; and/or

(c) Records of contacts with the owner, operator, person responsible, complainant, and cooperating agencies. The dates and times of all investigations shall be recorded and on file along with a copy of the complaint. Copies of all information related to the complaint shall be maintained in accordance with the guidelines provided by the chief or designee.

(3) Investigation indicating no forestry pollution problem. If the investigation report indicates that the operation is in compliance with the rules for forestry pollution abatement, the district representative may offer to assist the owner or operator in preparing a timber harvest plan for the operation as it exists and have the district board approve it to provide assurance that the operation is considered in compliance with applicable rules.

(4) Owner, operator, or person responsible interested in voluntary, cooperative solution. If the investigation report indicates that a violation of the rules for forestry pollution abatement exists and the landowner or operator is interested and willing to seek a corrective solution, the district representative shall:

(a) Offer information and technical assistance for developing and evaluating alternative solutions;

(b) Provide information on financial assistance available;

(c) Offer to develop a timber harvest plan which complies with the rules of forestry pollution abatement; and



(d) Secure district or chief approval of the timber harvest plan to provide assurance that the operation is considered in compliance with the rules for forestry pollution abatement.

(e) Inform the owner, operator, or person responsible that if a corrective action is not implemented within six months of the investigation, the district will review the complaint and determine if adequate progress has been made towards a solution. If adequate progress has not been made, then the division will request that the district refer the complaint to the division for resolution or possible further enforcement action.

(5) Owner, operator, or person responsible for failure to cooperate in a voluntary solution. If the investigative report indicates that a violation of the rules of forestry pollution exists, but the owner, operator, or person responsible is unwilling to cooperate in correcting the problem:

(a) The district representative shall inform the district board of supervisors and the division of the facts established by the investigative report, the succeeding action followed to seek compliance with the rules, and the action or inaction taken by the owner or operator. If the district board decides that a violation does exist and corrective action is needed, the board will inform the person in violation by certified mail of the period of time available, as determined and specified by the district, for the person to proceed voluntarily to correct the violation.

(b) If the owner, operator, or person responsible has failed to implement the corrective actions in the time specified, the board may choose to invite the owner, operator, or person responsible by certified mail to the next regularly scheduled board meeting or file a copy of their findings with the division and a copy to the alleged violator and to the complainant if appropriate, and request the chief to issue an order. These findings include:

(i) The investigative report by the district representative;

(ii) Any pertinent testimony by the person in violation;

(iii) A copy of the district's decision as recorded;

(iv) Alternative methods for correcting the violation;



- (v) Practices needed and cost-share eligibility;
- (vi) A timely sequence for application of corrective measures; and
- (vii) A time period (specified by the district) for completion of all corrective and control measures.