

1501:3-12-01            **General provisions.**

(A) Purpose.

Rules 1501:3-12-01 to ~~1501:3-12-06~~[1501:3-12-07](#) of the Administrative Code to apply ~~to~~ the control of pollutants from areas within the state used for silvicultural operations, including land being used as private, industrial, commercial, and public woodlands.

Rules 1501:3-12-01 to ~~1501:3-12-06~~[1501:3-12-07](#) of the Administrative Code establish state standards for a level of management and conservation practices for silvicultural operations in order to abate excessive soil erosion ~~of~~[for](#) the pollution of waters of the state by soil sediment including pollutants attached to the sediment. These rules further define Ohio's forestry pollution abatement fund for landowners or operators to voluntarily install best management practices.

These rules are intended for ~~the~~ use in ~~determining~~[determining](#) the acceptability of best management practices used by landowners and operators of ~~silvicultural~~[silvicultural](#) operations. Technical determinations by a district, chief, or chief's designee ~~shall~~[will](#) be considered prima facie evidence of forestry pollution.

(B) Definitions. As used in rules 1501:3-12-01 to 1501:3-12-~~06~~[07](#) of the Administrative Code:

- (1) "Best ~~managment~~[management](#) practice" or "BMP" means a practice or combination of practices that is determined to be the most effective practicable (including technological, economic, and institutional considerations) means of preventing or reducing forestry pollution sources to a level compatible with water quality goals. BMPs may include structural and nonstructural practices, conservation practices, and operation and maintenance procedures.
- (2) "BMPs for Erosion Control for Logging [and Forestry Practices](#) ~~Procedures~~ in Ohio" means the current edition of [the publication](#) "BMPs for Erosion Control for Logging [and Forestry](#) Practices in Ohio" prepared by the division of forestry, Ohio department of natural resources. Copies of this publication are available at local soil and water conservation district offices.
- (3) "Chief" means chief of the division of forestry, department of natural resources.
- (4) "Chief's designee" means any division of forestry employee, soil and water conservation district employee, or soil and water conservation district supervisor who the chief has given the responsibility to implement the forestry pollution abatement program.

- (5) "Conservation" means the wise use and management of natural resources.
- (6) "Cost-share monies" means state of Ohio public funds used for the purpose of sharing the cost of establishing needed pollution abatement practices.
- (7) "District" means a soil and water conservation district and has the same meaning as section 940.01 of the Revised Code.
- (8) "Division" means the division of forestry, department of natural resources.
- (9) "Forestry pollution" means failure to use management or conservation practices in silvicultural operations to abate wind or water erosion of the soil or to abate the degradation of the waters of the state by soil sediment, including attached substances, from silvicultural operations.
- (10) "Forestry Pollution Prevention Plan" has the same meaning as a "timber harvest plan" as used in sections 1503.50 to 1503.55 of the ORC and means a written record, developed or approved by the chief of the division of forestry, the chief's designee, or the soil and water conservation district that contains implementation schedules and operational procedures for a level of land and water management that will abate wind or water erosion of the soil or abate the degradation of the waters of the state by soil sediment from silvicultural operations. The procedures in this plan should be consistent with "BMPs for Erosion Control for Logging and Forestry Practices in Ohio".
- ~~(10)~~(11) "Person" means an individual, partnership, corporation, business trust, estate, trust association or other legal entity, or any political subdivision, instrumentality or agency of the state or the United States.
- ~~(11)~~(12) "Prime~~Prima~~ facie evidence" means ~~law~~ evidence adequate to establish a fact or raise a presumption of fact unless refuted.
- ~~(12)~~(13) "Primary contact recreation resource water" means water that, during the recreation season of May first to October fifteenth, are suitable for full-body contact recreation such as, but not limited to, swimming, canoeing, and scuba diving with minimal threat to public health as a result of water quality.
- ~~(13)~~(14) "Silvicultural" means activity that is associated with the art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to meet the diverse needs and values of landowners and society such as timber, water resources, restoration, wildlife habitat and recreation on a sustainable basis.~~the theory and practice of planning, planting,~~

~~thinning, pruning, growing, and harvesting of trees.~~

- (14)(15) "Silvicultural operation" means forest management activities including but not limited to harvesting of timber, including the felling, skidding, on-site processing, and loading of trees or logs onto trucks; construction, maintenance and closure of forest roads and trails; thinning of trees; management and manipulation of forest conditions or species composition using mechanical methods, herbicides or prescribed fire, and planting of trees, including site preparation and maintenance.
- ~~(15) "Timber harvest plan" means a written record, developed or approved by the chief of the division of forestry, the chief's designee, or the soil and water conservation district that contains implemenatation schedules and operational procedures for a level of land and water management that will abate wind or water erosion of the soil or abate the degredation of the waters of the state by soil sediment from silvicultural operations and descriptions of timber harvest methods. The procedures in this plan should be consistent with "BMPs for erosion control for logging practices in Ohio".~~
- (16) "Waters of the state" means all streams, lakes, ponds, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural surface or underground waters.

1501:3-12-02

**Erosion from silvicultural operations.**

Each owner, operator, or person responsible for a silvicultural operation ~~shall~~will prevent pollution caused by wind or water erosion. ~~Silvicultural operations shall and~~ apply conservation practices in accordance with ~~"BMPs for Erosion Control For Logging Practices in Ohio,"~~the book "BMPs for Erosion Control for Logging and Forestry Practices in Ohio" which ~~are~~is available ~~to~~free of charge at all Ohio county soil and water conservation districts. ~~The chief or chief's designee may approve~~or other appropriate methods or management practices. ~~approved by the chief or the chief's designee.~~ Owners, operators, or persons responsible for silvicultural operations may file ~~timber harvest plans~~forestry pollution prevention plans with the division ~~of~~for the soil and water conservation district in the county where such operations are performed.

1501:3-12-03

**Forestry pollution abatement fund and cost sharing.**

Cost share monies from the state may be available through the forestry pollution abatement fund to assist landowners and operators in installing needed best management practices which [abate](#) forestry pollution. Best management practices specified as eligible for cost sharing must require expenditures that are likely to exceed the economic returns to the owner or operator.

(A) The state, through the division, may offer to share the cost of establishing eligible best management practices. If other public funds are involved in cost sharing to establish an eligible best management practice or practices, state funds can be used only to the extent that the combined public funds amount to no more than seventy-five per cent of the cost of establishing the best management practice or practices.

(1) Eligible practices include those described in the book "BMPs for Erosion Control for Logging [and Forestry](#) Practices in Ohio" or other practices as approved by the chief.

(2) Restrictions on use of cost share funds include:

(a) ~~Eligible practices which, through natural causes, have lost their effectiveness, shall qualify for further financial assistance. However, cost share monies will not be awarded to reestablish previously installed practices which have deteriorated due to operator negligence or mismanagement.~~ Cost share monies will not be awarded to reestablish previously installed practices which are ineffective due to operator negligence or mismanagement; however, previously installed practices which, through natural causes, have lost their effectiveness, may qualify for financial assistance.

(b) Surface mined lands and oil and gas well drilling areas ~~must have been~~ need to be reclaimed and be in active silvicultural uses as determined by the chief or the chief's designee ~~in order~~ to be eligible for cost sharing on needed best management practices.

(c) The chief or the chief's designee may only use cost share funds for those practices necessary to control forestry pollution or to fund periodic monitoring of best management practices conducted in accordance with standards established in rules 1501:3-12-01 to 1501:3-12-07 of the Administrative Code, in accordance with paragraph (E) of this rule.

(d) Cost share funds will be available only to owners and operators with an approved forestry pollution prevention ~~current timber harvest~~ plan, if

applicable.

- (3) The chief ~~shall~~will determine best management practices eligible for cost sharing, percentage rates of cost sharing for each best management practice and the maximum amount of cost sharing for each best management practice. Information about eligible practices will be maintained by the division.
- (B) All practices ~~must~~need to meet the standards and specifications listed in the book "BMPs for Erosion Control for Logging and Forestry Practices in Ohio" or other methods approved by the chief or the chief's designee.
- (C) If approved by the chief or the chief's designee, a person may use a more elaborate or expensive practice; however, cost-share grants ~~shall~~will be based upon the estimated cost of the least expensive acceptable practice.
- (D) Operating procedures.
  - (1) Practice installation.
    - (a) A forestry pollution prevention plan as well as any necessary design~~Design~~, construction ~~and, or~~ operation and maintenance plans ~~shall~~need to be submitted to the chief or the chief's designee for approval prior to implementation.
    - (b) The chief or the chief's designee ~~shall~~will inspect practice installation.
  - (2) Cost- share payment. Once a project has an approved cost-share application, the practice has been implemented, and installation is inspected and approved by the chief or the chief's designee, cost-share payment ~~shall~~will be granted.
  - (3) Maintenance and management of cost-shared best management practices.
    - (a) Best management practices installed with cost-share monies are to be maintained in good operating condition to assure continued effective control of forestry pollution. Applicants for cost sharing must agree to care for, manage, and maintain such practices for their useful life as noted in the cost-share agreement. Failure to care for, manage, and maintain the practices shall obligate the owner or operator to full repayment to the division.
    - (b) If the land on which best management practices have been established

with cost-share monies is sold, the new owner shall be responsible for maintaining the practices in good operating condition for their remaining useful life. The chief or the chief's designee shall inform the new owner of the responsibility to maintain and operate cost-shared practices.

- (c) If the land on which best management practices were established with cost-share monies is ~~sold for or~~ converted to ~~other~~ uses other than a silvicultural operation, the state may recover the cost- share monies paid for such practices from the cost- share recipient on a prorated basis, considering the useful life of the practice.
  - (d) The chief or the chief's designee shall monitor the management and maintenance of best management practices established with cost- share monies. Any failure to manage or maintain such practices, or conversion of such land to other uses than a silvicultural operation, shall immediately be reported to the division thereby subjecting ~~a person~~ the cost share recipient to recovery of cost- share monies in accordance with paragraphs (D)(3)(a), (D)(3)(b) and (D)(3)(c) of this rule.
  - (e) Upon discovery by the chief or the chief's designee, pursuant to paragraph (D)(3)(d) of this rule, the chief, after any necessary investigation determines that recovery of state cost-share funds is warranted, ~~shall~~will proceed to recover the cost-share monies pursuant to section 131.02 of the Revised Code, or other appropriate means.
- (E) The forestry pollution abatement fund may also be used to periodically monitor the use and effectiveness of best management practices conducted in accordance with standards establishes in rules 1501:3-12-01 to 1501:3-12-~~0807~~ of the Administrative Code.

1501:3-12-04

**Administrative procedures.**

The chief will:

- (A) Inform districts, their assisting agencies and other appropriate agencies of the state standards, criteria, and division policies for forestry pollution abatement and cost-share programs for assisting owners and operators to install best management practices.
- (B) Enter into cooperative agreements with the boards of supervisors of districts to implement the forestry pollution abatement program. Such agreements shall spell out the responsibilities of both parties with respect to program implementation, administration and accounting, evaluation, recording accomplishments, quality control, and maintenance in obtaining compliance with rules and orders of the chief pertaining to forestry pollution abatement.
- (C) Utilize the staff assistance of the districts and their assisting agencies to implement the state and other cost-share programs for installing eligible best management practices.
- (D) Provide guidance to districts in planning, staffing, and administering the forestry pollution abatement program and [for](#) the training of district supervisors and personnel in their duties, responsibilities and authorities.
- (E) Implement the forestry pollution abatement program in a district in which the board of supervisors fails to negotiate an agreement with the Ohio department of natural resources to carry out the program.
- (F) Reserve the right to implement the forestry pollution abatement program to resolve complaints.

1501:3-12-05

~~Timber harvest plans~~ Forestry pollution prevention plans.

- (A) Any person who owns, operates, or is responsible for a silvicultural operation may develop and operate under a ~~timber harvest plan~~ forestry pollution prevention plan developed or approved by the chief, the chief's designee, or the board of supervisors of the applicable district. The district ~~shall~~ will approve or disapprove ~~timber harvest plans~~ forestry pollution prevention plans and ~~shall~~ maintain a record of their actions. Plans may also be submitted by the owner or operator to the chief for approval. All plans ~~shall~~ will be developed using a ~~timber harvest plan~~ forestry pollution prevention plan form approved by the chief and meet the standards for forestry pollution abatement contained in rules 1501:3-12-02 to 1501:3-12-~~0807~~ of the Administrative Code. Any portion of a ~~timber harvest plan~~ forestry pollution prevention plan specifying control of forestry pollution ~~shall~~ will allow the owner or operator to phase in installation of best management practices under a schedule approved by the chief or the chief's designee until compliance with rules 1501:3-12-02 to 1501:3-12-~~0807~~ of the Administrative Code is accomplished.
- (1) If the chief or the chief's designee determines that any person owning or responsible for a silvicultural operation is managing such operation in accordance with a ~~timber harvest plan~~ forestry pollution prevention plan currently approved by the chief or the chief's designee, the person ~~shall~~ will be considered in compliance with the state rules for forestry pollution abatement. In a private civil action for nuisances involving forestry pollution, it is an affirmative defense if the person owning, operating, or otherwise responsible for silvicultural operations is operating under and in substantial compliance with an approved ~~timber harvest plan~~ forestry pollution prevention plan.
- (2) In the event that the district finds that a ~~timber harvest plan~~ forestry pollution prevention plan does not meet forestry pollution abatement standards as contained in these rules, the district ~~shall~~ will provide a written explanation, by certified mail, listing all the deficiencies to be corrected, to the person who submitted the plan. Any person may appeal the district's decision to the chief. Upon such appeal, the chief ~~shall~~ will review the plan for compliance with those standards, and uphold the district's action or reverse it. If the chief reverses all or part of the district's action, the plan items pertinent to the reversed actions ~~shall~~ will be deemed approved. In either case, the chief ~~shall~~ will make such determination within thirty days of receiving the appeal and ~~shall~~ will inform the owner or operator and the district of his decision in writing. Such notification ~~shall~~ will include the reasons for the chief's decision.
- (3) In the event that any person operating or owning a silvicultural operation in accordance with an approved ~~timber harvest plan~~ forestry pollution prevention plan who, in good faith, is following that plan, causes forestry pollution, the plan ~~shall~~ will be revised in a manner necessary to mitigate the forestry

pollution, as determined and approved by the district board or chief.

- (4) In the event that the district board determines that it lacks staff or expertise to adequately review a ~~timber harvest plan~~ [forestry pollution prevention plan](#), the district board of supervisors may submit such a plan to the chief for review and approval or disapproval.

1501:3-12-06

**Forestry pollution complaint process.**

(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~~will provide the chief a copy of any complaint received. The district also ~~shall~~will inform the division of the complaint and provide relevant information concerning the silvicultural operation. The district chief or ~~his~~chief's designee ~~shall~~will gather information pertinent to the alleged violation. This information includes but is not limited to:

- (1) The location and description of property and ~~for~~ waters of the state allegedly being damaged, if applicable;
- (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~~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~~will 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~~will include but ~~not~~ need not 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~~Documentation may include photographs, video recording and physical measurements; and/or
  - (c) ~~Records of contact~~Interviews with the owner, operator, complainant, cooperating agencies, and other witnesses, as needed. The dates and times of all investigations and interviews shallwill be recorded and kept on file along with a copy of the complaint. Copies of all ~~information~~investigation documentation shallwill be made available to the district.
- (4) Investigation indicating no forestry pollution ~~problem~~nonconformance. 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~~forestry pollution prevention plan for the operation as it exists for submission to the ~~and have~~ the district board or division chief ~~approve it~~ to provide ~~assistance~~assurance 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~~assist in developing a ~~timber harvest plan~~forestry pollution prevention plan which complies with the rules of forestry pollution abatement; and

- (d) Secure district or chief approval of the ~~timber harvest plan~~forestry pollution prevention plan to provide assurance that the operation, as it exists, 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 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~~Documentation may include photographs, video recording and physical measurements; and/or

- (c) ~~Records of contacts~~Interviews with the owner, operator, ~~person responsible~~, complainant, ~~and~~ cooperating agencies, ~~and other witnesses, as needed~~. The dates and times of all investigations ~~and interviews~~shall will be recorded and ~~kept~~ on file along with a copy of the complaint. Copies of all ~~information~~investigation documentation related to the complaint ~~shall will~~ be maintained in accordance with the guidelines provided by the chief or designee and be made available to the chief or chief's designee upon request.
- (3) Investigation indicating no forestry pollution ~~problem~~nonconformance. 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~~forestry pollution prevention plan for the operation as it exists ~~and have~~for submission to 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 will~~:
  - (a) Offer information and technical assistance for developing and evaluating alternative solutions;
  - (b) Provide information on financial assistance available;
  - (c) Offer to assist in the development of a ~~timber harvest plan~~forestry pollution prevention plan which complies with the rules of forestry pollution abatement; and
  - (d) Secure district or chief approval of the ~~timber harvest plan~~forestry pollution prevention plan to provide assurance that the operation, ~~as it exists~~, 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 based on the implementation schedule

developed in (c) or (d) above~~within six months of the investigation~~, the district will review the complaint and determine if adequate progress has been made ~~towards~~toward 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. The board may also choose to ~~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.

1501:3-12-07

**Chief's orders.**

(A) Issuing orders. When the chief or the chief's designee investigates a complaint and the owner, operator, or person responsible fails to implement a corrective action in accordance with paragraph (B)(C5) or (C)(5) of rule 1501:3-12-0506 of the Administrative Code, the chief or the chief's designee shall decide if an order will be issued. The chief, or the chief's designee, may, upon obtaining agreement with the owner, operator, or person responsible for any land, public or private, enter thereon to make inspections to determine whether or not there is compliance with these rules. If agreement is not obtained, and there is reason to believe a violation exists, the chief or the chief's designee may apply for and a judge of the court of common pleas for the county where the land is located may issue an appropriate inspection warrant as necessary to achieve the purposes of this chapter.

(1) When the chief decides that an order shall be issued, the chief shall issue an order and afford each person allegedly liable an adjudication hearing pursuant to Chapter 119. of the Revised Code. The chief shall sustain the order if deemed appropriate after each person allegedly liable has had a hearing or has waived his right to a hearing. Each order shall be issued in writing and contain a finding by the chief of the facts upon which the order is based and the rule that is being violated. The order shall also specify the time period for correcting the problem, indicate what, if any, technical and financial assistance is available, and indicate what action will follow if the violation is not corrected.

(2) Penalties. Any person who fails to comply with an order of the chief is guilty of a misdemeanor of the first degree. Each day of violation is a separate offense. In addition, the sentencing court may assess damages in an amount equal to the costs of reclaiming, restoring, or otherwise repairing any damage to public or private property caused by a violation of the chief's order. All fines and monies assessed as damages under this section shall be credited to the forestry pollution abatement fund created in section 1503.55 of the Revised Code.

(3) Appeals. Any person claiming to be deprived of a right or protection afforded him by law by an order of the chief, except an order which adopts a rule, may appeal to the court of common pleas of franklin county. The attorney general of the state of Ohio, upon the written request of the chief, shall bring appropriate legal action in franklin county against any person who fails to comply with an order of the chief issued pursuant to paragraph (A)(1) of this rule.

(B) Danger to public health.

(1) In addition to the above action, the chief may apply to the court of common

pleas in the county where a violation of a standard occurs which is a danger to public health for an order to cease the violation and to remove the forestry pollution. The chief may consult with the county or state health department, soil and water conservation district, ~~and~~ engineer's office, ~~the~~ Ohio environmental protection ~~agency~~agencies or other appropriate agency. A danger to public health may include, but not necessarily be limited to the following situations:

- (a) When forestry pollution threatens public or private drinking water supplies;
  - (b) When forestry pollution threatens a primary contact recreation resource water;
  - (c) When ~~the~~ forestry pollution directly causes flooding of residential housing, commercial or industrial property, such that direct use of the property would be hazardous to public health;
  - (d) When forestry pollution threatens safety on public roadways; or
  - (e) Other situations as determined by the chief upon consultation with state and/or local environmental protection and public safety and health agencies.
- (2) When there is a danger to public health because of forestry pollution, the chief may, without notice or hearing, issue an emergency order to correct the problem. The order shall be effective immediately.
- (a) Prior to issuing an emergency order, the chief shall:
    - (i) Determine the extent of danger to public health and safety which may include consultation with local health and public safety authorities;
    - (ii) Determine that paragraphs (A) and (B) of this rule will not adequately protect public health, public safety, or natural resources; and
    - (iii) Encourage the owner or operator causing the forestry pollution to correct the problem voluntarily.

- (b) Following receipt of the emergency order, the owner and operator shall comply with the order by stopping the pollution and removing the pollutants endangering public health or safety.
  - (c) The owner or operator may apply to the chief for a hearing. Such hearing shall be conducted as soon as possible, but not later than twenty days following application. The application shall be in writing and include the following information:
    - (i) The probable cause of the suspected public health or safety threat;
    - (ii) The date when the suspected pollution started;
    - (iii) Business or home address and phone number where the owner, operator, or person responsible can be reached during business hours to schedule a hearing; and
    - (iv) Be signed by the owner or operator of the silvicultural operation or business and dated.
  - (d) On the basis of the hearing, the chief or [chief's](#) designee shall continue, revoke, or modify the order. If no hearing is requested and/or the order is not complied with as determined by the chief, the chief or the chief's designee may enter upon private or public lands and take action to mitigate, minimize, remove, or abate the forestry pollution.
  - (e) Any owner, operator, or person responsible for causing or allowing forestry pollution is liable to the chief for any costs incurred by the division in investigating, mitigating, minimizing, removing or abating the forestry pollution problem. Reimbursed costs shall be deposited into the forestry pollution abatement fund and used as specified in rule 1501:3-12-07 of the Administrative Code. The chief shall keep accurate records of all costs to abate the forestry pollution including personnel, equipment, and disposal.
  - (f) No emergency order shall remain in effect for more than sixty days after its issuance.
- (C) Forestry pollution abatement fund. Funds deposited in the forestry pollution abatement fund authorized under section 1503.55 of the Revised Code shall be used for paying the costs for emergency forestry pollution abatement actions. In addition

to paying the costs incurred by the division under division (A)(3) of section 1503.54 of the Revised Code, the chief may make disbursements from the fund for any costs incurred by the division in investigating, mitigating, minimizing, removing or abating the release, spill or discharge. Money collected by the division of forestry for forestry pollution investigations, hearings, damage, repair, cleanup, mitigation and inspection are to be deposited into the forestry pollution abatement fund. Payments by persons so ordered by the chief or court are to be made within thirty days of the order to the division of forestry. If no attempt is made to repay the division for costs incurred or damages assessed within thirty days, the chief may request the attorney general to bring a civil suit against the person responsible to recover costs of the division and any assessed damages.

1501:3-12-08

**Confidentiality.**

~~(A) Except as provided in paragraph (B) of this rule, the chief of the division of forestry, an employee of the division of forestry, the supervisors of the soil and water conservation district, an employee of the district, and a contractor of the division or district shall not disclose either of the following:~~

~~(1) Information, including data from geographical information systems and global positioning systems, provided by a person who owns or operates a silvicultural operation that is operated under a timber harvest plan;~~

~~(2) Information gathered as a result of an inspection to determine whether the person who owns or operates the operation is in compliance with a timber harvest plan;~~

~~(B) The chief or the supervisors of a district may release or disclose information specified in paragraph (A)(1) or (A)(2) of this rule to a person of a federal, state, or local agency working in cooperation with the chief or the supervisors in the development of a timber harvest plan or an inspection to determine compliance with such a plan. If the chief or supervisors determine compliance with such a plan, the person of a federal, state, or local agency will not subsequently disclose the information to another person.~~