

A RESOLUTION APPROVING AND ADOPTING WASHTENAW COUNTY'S REGULATION ADDRESSING  
CLEAN-UP OF ENVIRONMENTAL ACCIDENTS

WASHTENAW COUNTY BOARD OF COMMISSIONERS

September 16, 1992

WHEREAS, Washtenaw County, pursuant to the Michigan Public Health Code MCLA 333.1101 et seq, has drafted the Regulation "Washtenaw County Regulation for Cleanup of Environmental Accidents" that addresses the issue of clean-up of environmental accidents; and

WHEREAS, the Regulation ensures that those persons responsible for the leaking, spilling or otherwise releasing of certain hazardous substances which may pollute or impair the environment or the public health are responsible for clean-up and restoration of the affected area; and

WHEREAS, this Regulation permits the Public Health Officer to charge back the costs associated with the clean up of an environmental accident if the responsible party is deemed unable to safely and effectively clean up and/or abate the affected area; and

WHEREAS, this Regulation does not preempt the authority of townships, villages, or cities to initiate their own activities and allows but does not require the County to respond to environmental accidents; and

WHEREAS, the Regulation has been distributed to clerks, township and city officials, fire chiefs, business associations, and local community groups for review; and

WHEREAS, a joint public hearing was held on August 5, 1992 between the Washtenaw County Board of Commissioners and the Environmental Appeals Board pursuant to Act 368 Section 2442 of the Public Health Code of 1978; and

WHEREAS, Act 368, Section 2442 of the Public Health Code of 1978 requires that notice be given not less than 10 days before a public hearing and not less than 20 days before regulation adoption

WHEREAS, the County Health Officer has adopted the regulation on behalf of the County Health Department

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners approves the Regulation for Cleanup of Environmental Accidents attached to this resolution effective October 17, 1992.

BE IT FURTHER RESOLVED that the Board of Commissioners directs that the County Clerk publish the attached notice not later than September 28, 1992, announcing the adoption of the Regulation for Cleanup of Environmental Accidents, (to be approved herein), and the Regulation for Roadside Dumping and Littering Control (approved on September 2, 1992, by Resolution No. 92-0237).

Commissioner	Y	N	A	Commissioner	Y	N	A	Commissioner	Y	N	A
CRAIGER	✓			MONTAGUE	✓			SHOULTZ			✓
DURUSSEL		✓		MURRAY	✓			SMITH		✓	
EGNOR	✓			SHACKMAN	✓			STRAUB		✓	

CLERK/REGISTER'S CERTIFICATE — CERTIFIED COPY

ROLL CALL VOTE: TOTALS **531**

STATE OF MICHIGAN )  
COUNTY OF WASHTENAW) ss.

I, Peggy M. Haines, Clerk/Register of said County of Washtenaw and Clerk of the Circuit Court for said County, the same being a Court of Record:

Do hereby certify that the annexed is a true and compared copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on September 16, 1992, as appears of record in my office. That I have compared the same with the original and that it is a true transcript thereof and of the whole thereof.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at

Ann Arbor, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.  
PEGGY M. HAINES, Clerk/Register

By \_\_\_\_\_  
Deputy Clerk/Register

Act. No. 92-0253

LL-15-90



PUBLIC NOTICE

Pursuant to Act 267, Public Acts of Michigan, of 1976, Notice is hereby given that two regulations under the Michigan Public Health Code (Act 368 of 1978, as amended) have been adopted by the Washtenaw County Board of Commissioners.

The Washtenaw County Regulation for Roadside Dumping and Littering Control, adopted September 2, 1992, provides for the control and prohibition of littering of or on property or waters anywhere in Washtenaw County, and for penalties for violation thereof.

The Washtenaw County Regulation for Cleanup of Environmental Accidents, adopted September 16, 1992, ensures that those persons responsible for the leaking, spilling or otherwise releasing of certain hazardous substances which may pollute or impair the environment or the public health are responsible for cleanup and restoration of the affected area.

These regulations do not pre-empt the authority of townships, villages, or cities to initiate their own activities and permit but do not require the County to respond to incidents of littering or to cleanup after an environmental accident.

These regulations will be effective 45 days after their adoption.

For additional information, contact Washtenaw County Environmental Coordination Office 994-6361.

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Peggy M. Haines  
Washtenaw County Clerk/Register

WASHTENAW COUNTY REGULATION FOR  
CLEANUP OF ENVIRONMENTAL ACCIDENTS

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Section 1: Purpose and Preamble

Purpose

The purpose of this Regulation is to ensure that those persons responsible for an emergency situation resulting from the leaking, spilling or otherwise allowing certain hazardous substances which may pollute or impair the environment or health to escape containment, are responsible for clean-up and restoration of the affected area. In the event the responsible person(s) cannot complete such clean-up and restoration, thereby requiring clean-up and disposal by the Public Health Officer, the responsible parties shall be financially responsible for any and all costs of such clean-up, disposal, containment or abatement.

Preamble

Recognizing that the sanitary and safe disposal of hazardous substances is fundamental to individual, public and community health, further recognizing that hazardous substances can pollute and impair the environment, further still recognizing that accidental releases of hazardous substances should be cleaned up by the party responsible for the release, and insofar as possible to prevent the creation of nuisances and conditions menacing the public health, this Regulation for the clean-up of the release of hazardous substances is hereby established pursuant to the Michigan Public Health Code (MCLA 333.1101 et seq), Sections 2433, 2435, 2441, 2442, 2444, 2446, 2451, 2455, 2461, 2462, and 2465.

Section 2: Definitions

"Emergency situation": Refers to an incident of release of hazardous substances into the environment which is deemed, by the sole determination of the Public Health Officer or his designee, to require an immediate response by County representatives.

"Environment": Refers to any land, surface waters, ground water, subsurface, strata, air, fish, wildlife, plant life or biota, within Washtenaw County.

"Hazardous Substance" is defined as follows:

- A. A chemical or other material which is or may become injurious to the public health, safety or welfare or to the environment.

- B. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law 96-510, 94 Stat, 2767.
- C. "Hazardous waste" as defined in the Hazardous Waste Management Act, Act No. 64 of the Public Acts of 1979, being sections 299.501-299.551 of the Michigan Compiled Laws.
- D. "Petroleum" as defined in the Leaking Underground Storage Tank Act, Act No. 478 of the Public Acts of 1988, being sections 299.831-299.850 of the Michigan Compiled Laws.

"Person": Means an individual, sole proprietorship, association, corporation, or other legal entity.

"Public Health Officer": Refers to the County of Washtenaw Public Health Officer in charge of the Public Health Officer or his/her duly authorized agent in writing.

"Release": Means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any hazardous or polluting substances into the environment.

### Section 3: Fixed Facilities in Washtenaw County

It shall be the responsibility of any person which causes or controls a release of hazardous substances in Washtenaw County not resulting from transportation accidents to immediately remove such hazardous substances and to clean up and restore the area of the spillage to its pre-accident condition. Upon learning of an incident, the Public Health Officer shall have the right to immediately inspect the area to determine the extent of the damage, whether the responsible party or parties possess the necessary equipment and personnel to clean up the affected area and whether the incident poses threat of immediate harm to nearby residents, plant or animal life or the environment. If, in the sole discretion of the Public Health Officer, the responsible party or parties are unable to safely and effectively clean up and/or abate the affected area, the Public Health Officer may undertake the clean-up and/or abatement of such spill or contract such a clean-up and/or abatement through a private company, and the actual cost of such action shall be the sole responsibility of such party or parties. Moreover, if the Public Health Officer determines that the materials pose an emergency, appropriate local, state, county or federal emergency personnel may be called upon to assist in the removal of the hazardous substances to protect the health, safety and welfare of the public. All costs, fees and expenses incurred by the County in connection with such

action shall be assessed as damages against the responsible party or parties.

Section 4: Transportation Accidents

Transporters of hazardous substances which may pollute or impair the environment or health through the County of Washtenaw shall be liable for the full amount and cost of any harm or damages which may result from the release of such hazardous substances. The person(s) responsible for such release of hazardous substances shall be required to remove the hazardous substance and return the affected area to its pre-accident condition if at all possible. Upon learning of an accident involving the release of hazardous substances, the Public Health Officer in his or her sole discretion may determine the owner(s) or operator(s) of the vehicle involved in the accident are unable to safely and effectively clean up and/or abate the affected area, or that the spill constitutes a health hazard to nearby residents, plant life or animal life. In that event, the Public Health Officer, or his or her agents, may undertake the clean-up and/or abatement of such spill or contract such a clean-up and/or abatement through a private company, and the actual cost of such action shall be the sole responsibility of the responsible party or parties. In the case of an emergency, appropriate local, state, county or federal emergency personnel may be called upon to assist in the removal of the hazardous materials to protect the health, safety and welfare of the public. All costs, fees and expenses incurred by the County in connection with such action shall be assessed as damages against the responsible party or parties.

Section 5: Remedies and Penalties

- A. The Public Health Officer shall have the authority to issue citations for any violation of this Regulation. Any person who fails to comply with any provision of this Regulation shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine not exceeding the sum of Two Hundred Dollars (\$200.00) or by imprisonment in the Washtenaw County jail for not more than ninety (90) days, or both.
- B. In addition, any person who shall fail to comply with any provision of this Regulation shall be liable for monetary civil penalties of not more than One thousand (\$1,000.00) Dollars for each violation or day that the violation continues.
- C. Notwithstanding the existence or pursuit of any other remedy, the Public Health Officer may maintain an action in the name of Washtenaw County in a court of competent jurisdiction for any injunction or other

appropriate process against any party to restrain or prevent violations of this Regulation.

- D. Notwithstanding the existence of any other remedy listed in this section, the party responsible for an incident requiring clean-up under this Regulation shall remain fully liable for the actual costs undertaken by the Public Health Officer in cleaning up the incident. Costs incurred by the Public Health Officer shall include, but are not limited to, actual labor costs of personnel, including workers compensation benefits, fringe benefits, administrative overhead, cost of equipment operation, cost of material obtained directly by the Public Health Officer and cost of any contract labor and materials. If the responsible party or parties fails to reimburse the Public Health Officer as above provided, the Public Health Officer shall have the right to enforce the payment of such clean-up costs, as well as any other remedies listed in this Regulation, in any court of competent jurisdiction. The Public Health Officer shall also have the right and power to petition the Local Governmental Units' Assessor's Office to add any and all costs of clean-up and restoration to the tax roll of such property, and to levy and collect such costs in the same manner as provided for the levy and collection of real property taxes against said property if it is determined by the Public Health Officer that the property owner was responsible for the incident requiring cleanup on the property.

#### Section 6: Severability

Should any section or provision of this Regulation be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of the Regulation as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

#### Section 7: State of Michigan Environmental Response Act and Other Applicable State and/or Federal Law

Whenever possible, this Regulation shall be read in harmony with the Michigan Environmental Response Act, MCLA 299.601 and any other state and/or federal law which may apply. If in the event any part of this Regulation conflicts with the Michigan Environmental Response Act, or any other applicable state and/or federal law, the provisions of the applicable state and/or federal law shall be followed.

Section 8: Repeal all Previous County Regulations or Parts of Regulations in Conflict Herewith

All previous County regulations or parts of regulations in conflict herewith are hereby repealed only to the extent necessary to give this Regulation full force and effect.

Section 9: Procedure for Approval of Regulation and Effective Date

This Regulation shall be published in the manner required by law, a public hearing shall be held and the Regulation shall become effective forty-five (45) days after its approval by the Washtenaw County Board of Commissioners.

CNH1/POLLUTER

COUNTY OF WASHTENAW

OPERATIONS BUREAU  
PERSONAL HEALTH BUREAU

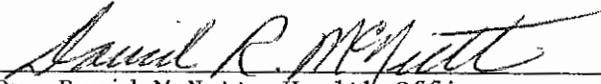


COMMUNITY HEALTH BUREAU  
ENVIRONMENTAL HEALTH BUREAU

**HUMAN SERVICES DEPARTMENT**  
**PUBLIC HEALTH DIVISION**

555 Towner St. P.O. Box 915 Ypsilanti, Michigan 48197  
(313) 484-6640  
FAX: 313 484-6634

I, David McNutt, Health Officer for Washtenaw County, acting on behalf of the Washtenaw County Health Division of the Human Services Department, hereby adopt the attached "Washtenaw County Regulation for Cleanup of Environmental Accidents" and recommend that the Washtenaw County Board of Commissioners approve such Regulation.

  
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Dr. David McNutt, Health Officer