

Belmont County Erosion & Sediment Control Regulations

1. Purpose and Scope

The Belmont County Board of Commissioners adopts these erosion and sediment control regulations pursuant to Ohio Revised Code Sec. 307.79 to establish technically feasible and economically reasonable standards to achieve a level of management and conservation practices in order to abate soil erosion and degradation of the waters of the state by soil sediment on land used or being developed for non-farm commercial, industrial, residential or other non-farm purposes, to establish criteria for determination of the acceptability of such management and conservation practices and to promote the health, safety and well-being of the residents of Belmont County. Specifically, the regulations are designed to protect:

- 1.1 Adjacent landowners from property loss due to sedimentation, erosion and flooding.
- 1.2 County and municipal ditches, culverts and storm sewers from loss of capacity due to siltation.
- 1.3 Water and habitat quality in streams and wetlands.

These regulations apply to soil disturbing activities on land within the census urbanized areas of Belmont County shown in attachment (A) used or being developed for non-farm commercial, industrial, residential or other non-farm purposes, including, but not limited to, individual or multiple lots, subdivisions, multi-family developments, commercial and industrial developments, recreational projects, general clearing and grading projects, underground utilities, highways, building activities on farms, redevelopment of urban areas and all other uses unless expressly excluded as follows:

- 1.4 Activities related to producing agricultural crops or silviculture operations or areas regulated by the Ohio Agriculture Pollution Abatement Rules (H.B. 88).
- 1.5 Strip mining and surface mining operations regulated under Ohio Revised Code.
- 1.6 Normal landscape maintenance activities and gardening/horticulture.
- 1.7 Clearing, excavating, filling or otherwise wholly or partially disturbing less than 1.0 (one) contiguous acre of land; however, areas of less than one contiguous acre are not exempt from compliance with all other provisions of these regulations.
- 1.8 A public highway, transportation, or drainage improvement or maintenance thereof **undertaken by a government agency** or political subdivision in accordance with a statement of its standard sediment control policies that is approved by the Belmont County Board of Commissioners or the Chief of the ODNR Division of Soil and Water Conservation.

2. **Terms Defined**

2.1 Interpretation of terms and words

- A. Words used in present tense include the future tense and the singular include the plural, unless the text clearly indicates the contrary.
- B. The term “shall” is always mandatory and not discretionary. The word “may” is permissive. The term “should” is permissive but indicates strong suggestion.

2.2 Words and Terms Defined

Accelerated Soil Erosion: The increased loss of the land surface that occurs as a result of human activities.

Acre: A unit of measure equaling 43,560 square feet.

Buffer Area: A designated transitional area around a stream or wetland left in a natural, usually vegetated, state so as to protect a stream or wetland from runoff pollution. Construction activities in this area shall be restricted or prohibited based on the sensitivity of the stream or wetland and the recommendation of the Belmont soil and Water Conservation District.

Channel: A natural bed that conveys water or a ditch excavated for the flow of water.

Critical Area: Any portion of an area subject to this rule; disturbances of which would cause soil erosion and sediment run-off and damage to private properties, water courses, storm sewers or public lands due to topography, soil type, hydrology or proximity of water courses. These areas include, but are not limited to, riparian areas, wetlands and highly erodible soils.

Critical Storm: A storm which is calculated by means of percentage increase in volume of runoff by a proposed development area. The critical storm is used to calculate the maximum allowable storm water discharge rate from a development site.

Cut: An excavation that reduces an existing elevation, as in road or foundation construction.

Detention Structure: A permanent storm water management structure whose primary purpose is to temporarily store storm water runoff and release the stored runoff at controlled rates.

Development Areas: A contiguous area owned by one person or persons, or operated as one development unit, and used or being developed for non-farm commercial, industrial, residential or other institutional construction or alteration which changes the runoff characteristics of a parcel of land.

Disturbed Area: An area of land subject to erosion due to the removal of vegetative cover and/or soil moving activities, including filling.

Ditch: An open channel, either dug or natural, for the purpose of drainage or irrigation with intermittent flow.

Drainage: The removal of excess surface water or groundwater from land by surface or subsurface drains.

Drainage Surface Area: An area, measured in horizontal plane, enclosed by a topographic divide for which surface runoff from precipitation normally drains by gravity into a stream above the specified point of measurement.

Drainage Improvement: An improvement as defined in O.R.C. 6131.01, and/or conservation works of improvement as defined in O.R.C. 1511 and 1515.

Drainage Way: A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity. See also water course, channel, and stream.

Earth Material: The soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.

Engineer: A professional engineer registered in the state of Ohio.

Erosion: The process by which the land surface is worn away by the action of wind, water, ice, gravity or any combination of those forces.

Erosion and Sediment Control: The control of soil material, both mineral and organic, during soil-disturbing activity to prevent its transport out of the disturbed area by means of wind, water, ice and gravity.

Farm: Land or water devoted to growing crops including nursery stock, and the raising, shearing, feeding, caring for, training and management of livestock and poultry.

Grading: The excavating, filling or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.

Grassed Waterway: A broad or shallow natural watercourse or constructed channel, covered with erosion resistant grasses or similar vegetative cover, used to convey surface water.

Impervious: That which does not allow infiltration.

Landslide: A rapid mass movement of soil and rock moving downhill under the influence of gravity.

Multi-family Development: Apartments, condominiums, duplexes or other similar buildings housing more than one family.

Natural Waterway: A waterway that is part of the natural topography which usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross section with a meandering course.

One Hundred Year Frequency Storm: A storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 100 years. It may also be expressed as an exceeded probability with a 1 percent change of being equaled or exceeded in any given year.

Person: An individual, corporation, firm, trust, commission, board, public to private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, federal government or any combination thereof.

Post-Development: The conditions which exist following the completion of the soil-disturbing activity in terms of topography, vegetation, land use and rate, volume or direction of storm water runoff.

Retention Structure: A permanent structure whose primary purpose is to permanently store a given volume of storm water runoff for release by infiltration and/or evaporation.

Sediment: The soils or other surface materials that can be transported or deposited from its site of origin by the action of wind, water, ice or gravity as a product of erosion.

Sedimentation: The deposit of sediment in water bodies.

Sediment Basin: A temporary barrier or other suitable retention structure built across an area of water flow to intercept runoff and allow transported sediment to settle and be retained prior to discharge into waters of the state.

Sediment Pollution: The degradation of waters of the State by sediment as a result of failure to apply management or conservation practices to abate wind or water soil erosion, specifically in conjunction with soil-disturbing activities of land used or being developed for commercial, industrial, residential or other non-farm purposes.

Sloughing/Slumping: A slip or downward movement of an extended layer of soil resulting from the undermining action of water or the soil disturbing activity of man.

Soil Conservation: The use of the soil within the limits of its physical characteristics and protecting it from unalterable limitations of climate and topography.

Soil-Disturbing Activity: A clearing, grading, excavating, filling or other alteration of the earth's surface where natural or man-made ground cover is destroyed, which may result in, or contribute to, erosion and sediment pollution.

Soil and Water Conservation District: An entity organized under Chapter 1515 of the Ohio Revised Code referring either to the Soil and Water Conservation District Board or its designated employee(s), hereinafter referred to as the Belmont SWCD.

Soil loss: The soil moved from a given site by the forces of erosion.

Stabilization: The installation of vegetative and/or structural measures to establish a soil cover in order to reduce soil erosion by storm water runoff, wind, ice, and gravity.

Storm Drain: A conduit, pipe or human-made structure, which serves to transport storm water runoff.

Storm Water Management: Runoff water safely being conveyed or temporarily stored and released at an allowable rate to minimize erosion and flooding.

Storm Water Runoff: The direct response of a watershed to precipitation, which includes the surface, and subsurface runoff that enters a stream, ditch, storm sewer, or other concentrated flow during and following the precipitation.

Stream: A body of water running or flowing on the earth's surface in which flow may be perennial and/or seasonally intermittent.

Subsoil: That portion of the soil below the topsoil or plow layer, beginning 6-12" below the surface down to the bed rock parent material.

Temporary Soil Erosion and Sediment Control Measures: Interim control measures, which are installed or constructed to control soil erosion or sedimentation until permanent soil erosion control measures are established.

Top Soil: The upper layer of soil that is usually darker in color and richer in organic matter and nutrients than the subsoil.

Unstable Soils: A portion of land surface or area which is prone to slipping, sloughing, landslides or is identified by Natural Resource Conservation Service, USDA methodology as having low soil strength.

Watercourse: A definite channel with bed and banks within which concentrated water flows, either continuously or intermittently.

Watershed: The total drainage area contributing runoff to a single point.

3. Regulated Activities

No person shall cause or allow soil disturbing activities, land clearing, grading, excavating or filling within the scope of these regulations without full compliance with the requirements set fourth in these regulations.

- 3.1 When a proposed soil disturbing activity on land used or being developed, either wholly or partially, for non-farm residential, commercial, industrial, or other non-farm purposes consisting of one (1) or more contiguous acres of land used for the construction of non-farm buildings, structures, utilities, recreational areas or other limited non-farm uses, the owner of said land shall prepare and file with the Belmont County Engineer's office, or authorized agent, an Erosion and Sediment Control (ESC) plan. Areas of less than one (1) contiguous acre need not have an ESC plan filed but shall not be exempt from compliance from any other provisions of these regulations and shall be subject to any inspection deemed necessary by the Belmont Soil and Water Conservation District.
- 3.2 The ESC plan shall be submitted to the Belmont County Engineer's office for review no less than thirty (30) working days prior to any soil-disturbing activity at the proposed site.
- 3.3 The ESC plan shall contain a narrative and drawings that explain practices to be used to prevent soil erosion and off-site disposal of soil sediment during and after land development. (See Section 5 for plan requirements and review schedules.)
- 3.4 Erosion and sediment control practices used to satisfy the performance criteria of these regulations shall meet the specifications provided in the current edition of Rainwater & Land Development Manual, Ohio's Standards for Storm Water Management and Land Development, and Urban Stream Protection, published by the Ohio Department of Natural Resources. (See section 4 for performance standards and requirements.)
- 3.5 The ESC plan shall include all items in Section 5 of these rules and shall be accompanied by other natural resource permits and documentation relevant to the project, which may include one or more of the following determined necessary by the Belmont Soil and Water Conservation District Urban Technician:
 - Proof of compliance with the Ohio Environmental Protection Agency (OEPA) General Storm Water National Pollution Discharge Elimination System (NPDES) Permit. Proof of compliance shall be, but is not limited to, a copy of NPDES General Storm Water Permit Notice of Intent and/or a copy of NPDES General Storm Water Permit Number, and/or a copy of OEPA Director's Acceptance Letter for NPDES Permit.

- Proof of compliance with section 404 of the Clean Water Act administered by the U.S. Army Corps of Engineers relating to waters of the United States under its jurisdiction. Proof of compliance shall be, but is not limited to, a copy of the U.S. Army Corps of Engineers permit number and/or project approval letter from a U.S. Army Corps of Engineers agent.
 - Proof of compliance with the Ohio Dam Safety Law administered by ODNR Division of Water. Proof of compliance shall be, but is not limited to, a copy of the ODNR Division of Water permit number and/or project approval letter from the ODNR Division of Water.
 - Wetland Delineation verified by the U.S. Army Corps of Engineers if requested by the Belmont SWCD.
- 3.6 The ESC Plan shall be certified by a professional engineer, or certified erosion and sediment control specialist or landscape architect registered in the state of Ohio.
- 3.7 The submitted ESC plan must be approved by the Belmont SWCD prior to the start of any soil disturbing activity. The owner of said land shall notify the Belmont SWCD no less than two (2) working days before the start of the soil-disturbing activity. The Belmont SWCD shall also be notified after the completion of the project.
- 3.8 If site is, or planned, to remain active through winter months, a plan shall be submitted for stabilization as defined in the most current edition of Rainwater and Land Development Manual Ohio's Standards for Storm Water Management and Land Development and Urban Stream Protection published by the Ohio Department of Natural Resources.
- 3.9 Upon completion of all construction and final stabilization of the entire construction site, the owner or developer of said land shall contact the Belmont SWCD through written notification that construction is complete and final stabilization has been achieved.

4. Performance Standards

All properties adjacent to the site of soil-disturbing activity shall be protected from soil erosion and sediment runoff and damage, including, but not limited to, private properties, natural and artificial waterways, wetlands, storm sewers and public lands.

Construction site erosion and sediment control practices used to satisfy this requirement shall conform, as a minimum, to State of Ohio standards as set forth in the most current edition of Rainwater and Land Development Manual and as defined by the Ohio Department of Natural Resources Division of Soil and Water Conservation and Natural Resource Conservation Service and shall conform to the most current Ohio Environmental Protection Agency, Ohio Revised Code Chapter 6111 requirements.

Erosion and sediment control plan approvals issued in accordance with these rules do not relieve the owner or developer of responsibility for obtaining all other necessary permits and/or approvals from federal, state and/or county agencies. If requirements vary, the most stringent requirements shall be followed.

Erosion and sediment control practices at the site, and as identified in the ESC plan, shall comply with the following:

4.1 An approved erosion and sediment control plan or approval letter from the Belmont SWCD shall be on location of the site during all times of construction.

4.2 Limits to clearing and grading shall be shown on the ESC plans. Limits to clearing and grading shall be clearly marked on site with signage, flagging and/or fencing.

4.3 Installation of erosion and sediment perimeter controls as a first action of construction as specified by construction sequence, including but not limited to, protective structures for stream corridors and crossing, wetlands, site entrance, sediment traps and basins, barriers, and diversion dikes.

4.4 Concentrated storm water runoff shall pass through a sediment control device before exiting the site boundaries. Concentrated runoff from bare soil areas shall be diverted into a settling pond or sediment control structure, or other approved sediment barrier before leaving the site.

4.5 Earthen structures such as dams, basins, stream modifications and water diversions shall be seeded and mulched within seven (7) days of completion of installation.

4.6 Stabilization of critical areas within (50) feet of any stream or wetland shall be temporarily stabilized within two (2) days of disturbance if area will remain inactive for fourteen (14) days or longer. Construction vehicles shall avoid streams and their buffer areas. If an active drainage way must be crossed by construction vehicles repeatedly during construction, an approved temporary stream crossing shall be constructed. Construction of bridges, culverts or sediment control structures requires special attention and shall be reviewed with the Belmont Soil and Water Conservation District.

4.7 Storm sewer inlets shall be protected so that sediment-laden runoff will not enter the storm sewer system without first being filtered and/or treated.

4.8 Temporary soil stabilization shall occur within seven (7) days after disturbance of an area if the area will remain idle for longer than thirty (30) days. Permanent soils stabilization shall be installed within seven (7) days after final grade is reached on any portion of the site. Permanent vegetation shall be a ground cover dense enough to cover 80% of the soil surface and mature enough to survive winter weather conditions.

4.9 Soil stockpiles shall be stabilized or protected to prevent soil loss. Stabilization shall be required if stockpiles are located within critical areas near streams or wetlands, or if determined by the Belmont SWCD that sediment from stockpiles will leave the site.

4.10 Unstable soils prone to slipping or sloughing shall not be cleared, graded, excavated, filled or have loads imposed upon them unless the work is planned by a qualified professional engineer and installed in accordance with the ESC plan. Cut and fill slopes shall be designed to minimize erosion problems.

Adequate slope design includes use of rough soil surface along the face of the slope, water diversion along the top of the slope away from the face, terraces to reduce slope length, delivery of concentrated storm water flows to the base of the slope via adequate channel or pipe, and drainage for water seeps in the slope that endanger slope stability.

4.11 Soil shall be removed from parcel surfaces and/or public roads at the end of each day in such a manner that does not create off-site sedimentation in order to ensure safety and abate off-site soil loss. Collected sediments shall be placed in a stable location on-site or taken off-site to a stable location.

4.12 Stabilization of drainage ways, outfalls and drainage ways that have been constructed to withstand expected flow velocities and volumes from a post development 5-year return-frequency storm event without eroding.

4.13 Reduction of erosive effects of storm water by utilizing and/or maintaining grass swales, infiltration structures and water diversions.

4.14 Sediment and erosion controls shall be inspected by the owner or his/her agent every seven 7 days and within 24 hours of a 0.5 inches or greater rainfall event during times of construction pre-final stabilization.

4.15 Trenches for underground utility lines and pipes shall be temporarily stabilized within seven (7) days if they are to remain inactive for thirty (30) days. Trench de-watering devices shall discharge in a manner that filters soil-laden water before discharging it to a receiving drainage. If seeding, mulching or other erosion and sediment control measures were previously in use they shall be reinstated.

5. Application Procedures for ESC Plan

The ESC Plan shall be submitted to the Belmont County Engineer's office thirty (30) days prior to any soil disturbing activity for general clearing projects.

The Belmont SWCD shall review the ESC plan and approve, or return for revision with comments and recommendations for revision, within twenty-one (21) working days after receipt of said plan. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedure for filing a revised plan. At the time of receipt of a revised plan, another 21-day review period shall be commenced.

Approved plans shall remain valid for two years from the date of approval. A copy of the approved plan and its review report shall be forwarded by the Belmont SWCD to any other county department as necessary.

A plan is considered complete when it contains two sets of the following: (Some requirements will be self evident on inspections of site plan.)

5.1 Site construction plans intended for contractor's bid.

5.2 Contact Information for the owner of the land, the developer and project engineer; project engineer's certification; project name; and project vicinity map.

5.3 Permit verification (when applicable)

5.3.1 Jurisdictional wetlands: In areas where jurisdictional wetlands as defined by an on-site delineation verified by the United States Army Corps of Engineers will be effected, a copy of the wetland delineation report shall be submitted with the ESC plan. If an individual permit is required, a copy of that permit, showing project approval and any restrictions that apply to site activities, shall also be submitted. If an individual permit is not required for the proposed project, the owner shall submit proof of compliance with a nationwide permit program as detailed under sec. 3.6 of these regulations.

5.3.2 An Ohio Environmental Protection Agency (OEPA) National Pollutant Discharge Elimination System permit with permit verification number or Notice of Intent shall be submitted with the ESC plan.

5.4 Project Description: A brief description of the project and types of soil disturbing activities. Note specifically items that are not self-evident from the plan drawings. The project description shall list total project acreage, north arrow and adjacent property boundaries.

5.5 Existing site conditions shall be shown in maximum of 1" =200' scale ,with contour lines; locations and names of soil type boundaries, vegetation, ditches, springs, streams, lakes, wetlands, woods, agricultural fields; locations of downstream lakes and wetlands within 200' of project; and, existing drainage patterns including direction of flow and watershed acreage.

5.6 Grading plan shall show types of soils and boundaries, limits of disturbance, areas of excavation and fill final contours, and proposed drainage pattern including storm sewer inlets and permanent storm water basins. Basin detail shall be drawn to scale and show volumes and size of contributing drainage area.

5.7 Erosion and Sediment Control Plan shall show location, type and construction detail for perimeter controls; sediment settling devices; limits of disturbance; buffers for

streams, wetlands, ponds and drainages; seeding mixtures and rates; type and quantity of mulching; and application of water or fertilizer. Erosion and Sediment control plans shall also provide a detailed construction sequence. Updates and/or corrections to schedules and/or sequencing shall be clearly marked or listed on approved plans which shall be located at the site.

5.8 Storm water control methods adequate to prevent pollution of public waters by soil sediment from accelerated storm water runoff from development areas.

5.9 Contractor's construction sequence that estimates the time frame on elements related to soil disturbing activities.

5.9.1 Initial clearing and grubbing to gain access and installation of perimeter controls within seven (7) days of clearing and grubbing.

5.9.2 Clearing and grubbing followed by excavation of sediment traps and basins and temporary soil stabilization for these sediment settling devices within fourteen (14) days of excavation.

5.9.3 Maintenance inspection schedule and party responsible for inspection and repair of erosion and sediment control devices.

5.9.4 Winter stabilization completion if project is to be through winter.

5.9.5 Final grading and permanent soil stabilization within 30 days of finishing final grade.

5.9.6 Removal of temporary erosion and sediment control devices.

6. Monitoring for compliance

All projects following the approval of the ESC plan and beginning of construction shall be subject to inspection by the Belmont SWCD for compliance to these regulations. If it appears that a violation of any of these regulations has occurred, the owner and/or developer will be notified of deficiencies or noncompliance in writing by certified mail, return receipt requested. If within 14 days after receipt of the letter, the owner or developer has not rectified the deficiency or received approval of plans for its correction, the deficiency or non-compliance shall be reported to the Belmont County Storm Water Management Committee for consideration of referral to the Prosecuting Attorney.

If the Belmont County Storm Water Management Committee determines that a violation exists and requests in writing the input of the Prosecuting Attorney of Belmont County, the Prosecuting Attorney shall seek an injunction or other appropriate relief to abate excessive erosion or sedimentation and secure compliance with these regulations. In granting relief, a court may order the construction of sediment control improvements or implementation of other control measures.

The Belmont SWCD shall have the authority to make immediate on-site adjustments to the ESC plan in order to achieve compliance with these rules.

A final inspection will be made to determine if the criteria of these regulations have been satisfied and a report will be presented to the Belmont Storm Water Management Committee on the site's compliance status.

The Belmont SWCD will monitor soil-disturbing activities for non-farm residential, commercial, industrial, or other non-farm purposes on land less than (1) one contiguous acre to ensure compliance required by these regulations.

7. Variance and Appeals to Regulations

The Belmont County Commissioners shall appoint an Appeals Board consisting of three members. The members shall serve (2) two year terms after which they shall be reappointed or replaced by the committee. Each member shall serve until his or her successor is appointed.

A chairperson shall be elected by the members of the Appeals Board. Meetings of the Appeals Board shall be held as needed and shall be held at the call of the chairperson, or in his absence, the acting chairperson. All meetings of the Appeals Board shall be open to the public except that the Board may deliberate in executive sessions as part of quasi-judicial hearings in accordance with the law. The Appeals board shall keep minutes of its proceedings showing the vote of each member upon each question and shall keep records of all official actions. Records of the appeals shall be kept at the Belmont Soil and Water Conservation District office.

The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Urban Technician or the Storm Water Management committee in the administration or enforcement of these regulations. The Appeals Board shall authorize variances in accordance of these regulations.

The Storm Water Management Appeals Board may grant a variance to these regulations if all of the following exist:

- a. There are exceptional or extraordinary circumstances or conditions applying to the land.
- b. Literal enforcement of the regulations would cause undue hardships or practical difficulties.
- c. The exceptional or extraordinary circumstances or conditions and the undue hardship or practical difficulties were not the result of any prior actions of the owner of the land.
- d. The variance is necessary for the preservation and enjoyment of substantial property rights of the owner of the land.

- e. The variance will not be a substantial detriment to adjacent land and will not materially impair the purpose of these regulations.

Adverse economic conditions shall not be a valid reason to grant a variance.

A request for a variance shall be in writing and shall state specifically the reasons for the request and shall include all data and information in support of request. The request shall be reviewed and approved, disapproved or approved with modifications within (30) working days.

Contact Information

Belmont Soil and Water Conservation District
1119 East Main Street
Barnesville, OH 43713
(740) 425-1100

Ohio Environmental Protection Agency
122 S. Front St.
Columbus, OH 43215
(614) 644-3020

U.S. Army Corps. Of Engineers
Pittsburgh Division
2032 William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, PA 15222-4186
(412) 359-7482

Huntington Division
CELRH, Huntington
502 Eighth Street
Huntington, WV 25701
(304) 399-5353

Belmont County Engineer's Office
Courthouse
101 West Main Street
St. Clairsville, OH 43950
(740) 699-2160