

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Village of Lakemore
P.O. Box 455
1400 Main Street
Lakemore, Ohio 44250**

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**Director's Final Findings
and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are being issued to the Village of Lakemore, Ohio ("Respondent" or the "Village"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03, 6111.46, 3745.08 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, and successors in interest liable under Ohio law.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111, and the rules promulgated thereunder.

"Sewer System" means all parts of the sanitary sewerage system that Respondent owns or over which it has operational control.

"Sanitary Sewer Overflow" or "SSO" means an overflow, spill or release of wastewater from a sanitary sewer system that occurs on a street or the ground such that it has reasonable potential to reach waters of the state without treatment. SSOs do not include WIBs unless the WIB is discharged or otherwise released to a stream or street or where it can enter a storm sewer system.

"Water in Basement" or "WIB" means wastewater that backups into buildings and that are caused by blockages or flow conditions in a sanitary sewer other than a building lateral. WIBs do not include the backup of sewage caused by a blockage or other malfunction in a building's lateral sewer.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent owns and operates a sanitary sewer collection system which collects sanitary flow from the Village of Lakemore, Ohio, and transports it to the City of Akron sanitary sewerage system for treatment at the Akron Water Reclamation Facility, National Pollutant Discharge Elimination System permit No. 3PF00000, which is owned and operated by the City of Akron. Portions of the sanitary sewers within Respondent's jurisdictional boundaries are owned, operated, and maintained by Summit County, Ohio (the "County"). It is understood and agreed between the parties that Respondent has no authority or control over sewers owned by the County, and cannot maintain, repair, or improve those sewers. Respondent continues to work with the County to ascertain the degree to which those sewers are contributing to the issues identified in these Findings and Orders, and to determine who will assume operations, maintenance, and repairs of those sewers in the future.
2. On October 14, 2020, Ohio EPA received a verified complaint, No. 01-21-006VCW, alleging that surface water contamination of Springfield Lake, located in Springfield Township, Summit County, is resulting from sanitary exfiltration and inflow and/or infiltration (I&I) and stormwater contamination from the Village of Lakemore's sanitary and stormwater systems in violation of Ohio Revised Code (ORC) 6111.04 since these discharges are not permitted by an NPDES permit. The complainant also alleged that sampling of stormwater has confirmed the existence of a public health nuisance and documented violations of Ohio's water quality criteria as set forth in Ohio Administrative Code (OAC) Section 3745-1-04.
3. The Sewer System located within the Village is owned and/or operated by both the Village and the Summit County Department of Sanitary Sewer Services (Summit DSSS). The Village owns and operates the Sewer System within its incorporated limits that consists of approximately 31,680 feet (i.e., six miles) of sanitary sewer and a grinder pump station (Lake Road Pump Station) that is connected to a dual force main. Currently, one force main line is compromised and is out of service. Ohio EPA records indicate that sanitary sewer overflows (SSOs) have occurred at the Lake Road Pump Station on July 10, 2013, January 12, 2017, April 15, 2018, April 16, 2018, June 17, 2019, and June 18, 2019.
4. During periods of excessive or prolonged precipitation events, the Lake Road Pump Station floods. The Village mitigates the Lake Road Pump Station flooding events by using a manual pump to pump wastewater directly into Springfield Lake, which results in these unpermitted SSOs.
5. Based upon the limited information related to the condition of the majority of the Village's Sewer System and the failure to evaluate and/or upgrade the Lake Road Pump Station to prevent flooding, it is highly likely that the age and condition of the

Village's Sewer System will continue to deteriorate and allow additional I&I to enter the Sewer System resulting in additional SSOs, exfiltration of wastewater, and potential pollutants to be discharged into Springfield Lake. These findings are based upon an August 20, 2020 televising event, conducted by United Survey, Inc., which only televised 1,867.7 feet of sanitary sewer or 5.9% of the Village's Sewer System. While Summit DSSS has a proactive operation and maintenance (O&M) program for their sanitary sewers within the incorporated limits of the Village, the Village does not have a proactive O&M program. The Village currently conducts weekly inspections of its Sewer System to ensure that no blockages are present. Historical lack of maintenance has resulted in a deterioration of the Sewer System where televising was performed.

6. The Village has performed limited televising of its Sewer System that documented deposits, infiltration, obstacles, pipe deterioration, root intrusion, and submersion. Ohio EPA's DSW, NEDO received the Village's PTI application, No. 1386143, for a "6" Sanitary Force Main Replacement" to replace the sanitary sewer force main, located along the southeastern shore of Springfield Lake.
7. Based upon its investigation, the Ohio EPA has determined that the allegations detailed within the verified complaint with respect to the unauthorized discharge of pollutants into Springfield Lake are confirmed. The pumping of the Lake Road Lift Station and subsequent SSOs are an unauthorized discharge to waters of the state and are likely to occur in the future. The alleged of a public health nuisance violation of OAC Section 3745-1-04(F) was not able to be confirmed as the sampling information provided by the complainant did not meet the criteria for sampling under dry weather conditions.
8. Pursuant to ORC § 3745.08, if, upon completion of the investigation, the director determines that a violation, as alleged, has occurred, is occurring, or will occur, the director may enter such order as may be necessary, request the attorney general to commence appropriate legal proceedings, or, where the director determines that prior violations have been terminated and that future violations of the same kind are unlikely to occur, the director may dismiss the complaint.
9. Pursuant to ORC § 6111.07, no person shall violate or fail to perform any duty imposed by ORC Sections 6111.01 to 6111.08 or violate any order, rule, or term or condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.
10. Pursuant to ORC § 6111.03(H), the Director may issue, modify or revoke orders to prevent, control, or abate water pollution by prohibiting or abating discharges of sewage, industrial waste, or other wastes into the waters of the state.
11. Pursuant to ORC § 6111.46, the Ohio EPA is required to exercise general supervision of the construction, operation and maintenance of sewage collection, treatment and disposal systems, and may adopt and enforce orders governing

such systems and requiring submission of records of construction, operation and maintenance, including plans and descriptions of existing sewage treatment and disposal systems.

12. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the plan approval and permit to install requirements of ORC §§ 6111.44 and 6111.45 and Ohio Administrative Code (OAC) Chapter 3745-42.
13. Compliance with the ORC Chapter 6111 is not contingent upon the availability or receipt of financial assistance.
14. The Director has given consideration to, and based her determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

1. It is the goal of these Orders that Respondent properly manage, operate, and maintain all parts of its Sewer System at all times in accordance with these Orders and to:
 - a. Provide adequate capacity to convey base flows and peak flows for all parts of the Sewer System;
 - b. Take all feasible steps to stop SSOs and WIBs and to eliminate the impact of SSOs and WIBs from the Sewer System;
 - c. Minimize excessive I & I; and
 - d. Provide notification to parties with a reasonable potential for exposure to pollutants associated with any overflow event.
2. On or before April 1, 2022, Respondent shall initiate construction of the Lake Road 6" force main replacement in accordance with approved PTI #1410510 issued by Ohio EPA.
3. Within one hundred twenty (120) days from initiation of the force main replacement project, Respondent shall complete construction of the Lake Road 6" force main replacement.

4. On or before June 30, 2022, Respondent shall obtain the services of a certified professional wastewater collection system operator to oversee the operation and maintenance of its Sewer System.
5. **Schedule for Conducting a Sewer System Evaluation Study.** No later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a schedule for conducting a Sewer System Evaluation Study ("SSES") for the entire Sewer System, which will specify major tasks and the estimated time for completion of these tasks. The SSES shall be submitted to Ohio EPA for review and approval no later than two (2) years from the effective date of these Orders.
6. **SSES Contents and Implementation.** The SSES will identify (a) sources and quantities of clear water I&I entering the Sewer System, and (b) all feasible cost-effective actions needed to eliminate or minimize excessive I&I entering the Sewer System that causes or contributes to SSOs and WIBs ("Remediation") within the Sewer System. The SSES will be performed using sound engineering practices and consistent with procedures outlined in the 1991 US EPA Handbook, "Sewer System Infrastructure Analysis and Rehabilitation" and/or applicable manuals from the National Association of Sewer Service Companies ("NASSCO"). The SSES shall be developed in accordance with but not limited to Appendix 1. Upon Ohio EPA's approval of the SSES, Respondent shall implement projects in accordance with the approved priority scheduled contained in the SSES.
7. **Capacity, Management, Operation, and Maintenance Program.** Within two hundred ten (210) days of the effective date of these Orders, Respondent shall develop and submit for Ohio EPA's approval a Capacity, Management, Operation, and Maintenance ("CMOM") Program for all parts of the collection system in accordance with Appendix 2. The goals of Respondent's CMOM Program shall be to:
 - a. Properly manage, operate and maintain its collection and treatment systems at all times;
 - b. Provide adequate capacity to convey and treat base flows and peak flows;
 - c. Take all feasible steps to stop, and mitigate the impact of, sanitary sewer overflows as soon as possible; and
 - d. Provide notification that will be available to parties with a reasonable potential for exposure to pollutants associated with the overflow event.
8. **Record Keeping, Retention, and Annual Report.**
 - (a) Respondent shall maintain the following records for at least three years or until an SSO or WIB event has been satisfactorily resolved, whichever is longer.

For each SSO and WIB:

- i. The location of the SSO or WIB and the receiving water, if any;
- ii. The estimated volume of the SSO;
- iii. A description of the sewer component from which the release occurred;
- iv. The estimated date and time the SSO or WIB began and ended;
- v. The cause or suspected cause of the SSO or WIB;
- vi. Steps taken or planned to reduce, eliminate, and prevent recurrence of the overflow and a schedule of milestones for those steps;
- vii. Work orders that are associated with the investigation of system problems related to SSOs or WIBs;
- viii. A list and description of complaints from customers or others;
- ix. Documentation of performance and implementation measures.

(b) Respondent shall prepare an annual report of all SSOs and WIBs from its Sewer System on a form acceptable to Ohio EPA. For each SSO, the annual report will include the date, the location, any receiving water, and the estimated volume of the flow. The annual report will additionally include a summary section describing overflow events by severity, frequency, and location. The annual report will summarize the WIBs by setting forth the total number of WIBs and by listing the number of WIBs in each location. The report will also include a narrative analysis of patterns of the WIBs by location, frequency and cause, as well as any resultant changes in operations and maintenance procedures. The annual report will be submitted to Ohio EPA and the City of Akron by February 15 of the following year until such time as the SSOs are eliminated.

9. **Public Notification Program.** Not later than ninety (90) days after the effective date of these Orders, Respondent shall identify and implement a Public Notification Program to: (1) inform the public of the locations of any SSOs; (2) to inform the public of SSO occurrences; (3) inform the public of the possible health and environmental impacts associated with SSOs; and (4) advise the public against contact recreation when elevated bacterial levels may endanger public health. At a minimum, the public notification program will include signs at SSO locations, newspaper notices, internet postings, and billing inserts, as applicable. Not later than ninety (90) days after the effective date of these Orders, Respondent shall provide a summary of the Public Notification Program to Ohio EPA.

10. **Emergency Response Plan.** Not later than one hundred eighty (180) days after the effective date of these Orders, Respondent shall prepare, and submit to Ohio EPA for review and approval an SSO Emergency Response Plan ("ERP") that identifies measures to protect public health and the environment in the event of an SSO. If Ohio EPA believes that the proposed SSO ERP is deficient, Ohio EPA will so notify Respondent. The SSO ERP will include, but not be limited to:
 - a. A mechanism to ensure that Respondent is made aware of all SSOs and WIBs from the Sewer System;
 - b. Procedures to ensure appropriate responses to SSOs, including ensuring that reports of overflows are promptly dispatched to appropriate personnel for investigation and appropriate response;
 - c. Procedures to ensure that appropriate personnel are aware of and follow the SSO ERP and are appropriately trained;
 - d. Emergency operations; and
 - e. Procedures to ensure prompt appropriate notification of the public, the appropriate board of health, and the Ohio EPA. These procedures should be developed in consultation with potentially affected entities.

11. **Civil Penalty.** Within thirty (30) days of the effective date of these Orders, Respondent shall pay the amount of \$25,000.00 in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111 by an official check made payable to "Treasurer, State of Ohio". The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of the check shall be sent to the Ohio EPA, Division of Surface Water, Central Office, in accordance with Section X of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent

shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of the Respondent. For purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to activities occurring at the Site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

Unless otherwise specified herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Central Office
P.O. Box 1049
Columbus, OH 43216-1049
(ATTN: Enforcement Manager) and

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 East Aurora Rd.
Twinsburg, OH 44087

(ATTM: Enforcement Supervisor)

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of any allegation of fact, law, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Laurie A. Stevenson
Director

Date

IT IS SO AGREED:

Village of Lakemore



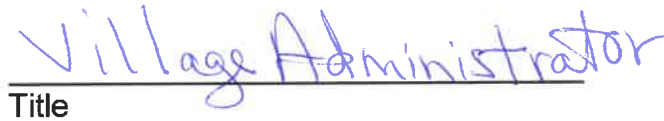
By



Date



Print Name



Title

Appendix 1

Guidelines for Developing a Sewer System Evaluation Study (SSES)

- A. Sewer System Evaluation – Respondent shall develop a sewer system evaluation study to comply with Order 4 in accordance with the following:
- a. An evaluation of the Sewer System, including:
 - i. A physical survey of the Sewer System and confirmation of location, size, and capacity of all sewers, manholes, pump stations, overflow points (if they exist), cross-connections with storm sewers (if they exist), and any other appurtenances specific to the Sewer System;
 - ii. Flow monitoring to adequately characterize the Sewer System during wet and dry weather. Flow monitoring should be considered at all points of connection into downstream sewers owned by a different entity, at all overflow pipes, immediately upstream of all pump stations, and at any other points deemed necessary to complete the rest of the evaluation detailed below. Meters may be rotated to different locations to provide the necessary information.
 - iii. Estimates of peak flows (including flows that escape from the Sewer System) associated with wet weather conditions;
 - iv. Identification of the locations of any hydraulic deficiencies within the Sewer System (including components of the System with limiting capacity) that are causing or contributing to SSOs or WIBs;
 - v. Identification of the locations of I&I entry into the Sewer System; and an estimate of the benefit (in terms of flow removed) of eliminating I&I entry;
 - vi. Flow meters at connection points to the downstream sewers that are owned by a different entity;
 - vii. Identification of the locations of structural deficiencies within the Sewer System that are causing or contributing to SSOs or WIBs.
 - b. The identification of short and long term actions to eliminate each structural and hydraulic deficiency within Satellite Community's Sewer System ("Actions"). For each such deficiency, the SSES will identify alternatives to eliminate the deficiency, the costs for each alternative, and the recommended alternative for eliminating the deficiency. The SSES will

group the alternatives in projects as appropriate, prioritize the projects and provide a schedule for implementation of all recommended projects.

- c. The identification of Remediation to minimize each source of excessive I&I into the Sewer System. The SSES will identify alternatives to minimize each such source, the costs associated therewith, and the recommended alternative for minimizing them. The SSES will group the alternatives in projects as appropriate, prioritize the projects and provide a schedule for implementation of all recommended projects.
- d. The SSES will be reviewed and updated as needed to reflect current information.

Appendix 2

Guidelines for Developing a Capacity, Management, Operation, and Maintenance (CMOM) Program

- A. Management Program - as part of its CMOM Program, Respondent shall develop a management program to implement activities for its CMOM program to comply with paragraph 6.a-d. The management program may incorporate other documents by reference and will include, at a minimum the following:
- i. Organization Description
 - (1) Administrative and maintenance positions responsible for implementing measures in Respondent's CMOM program, including lines of authority by an organization chart or similar document; and
 - (2) The chain of communication for reporting SSOs, from the receipt of a complaint or other information to the person responsible for reporting under these Orders.
 - ii. Legal Authorities - Respondent's CMOM Program shall include the implementation and enforcement of sewer use ordinances, service agreements or other legally binding documents that:
 - (1) Control infiltration and connections from inflow sources;
 - (2) Require that all sewers and connections be properly designed and constructed; and
 - (3) Ensure proper installation, testing, and inspection of new and rehabilitated sewers (such as new or rehabilitated collector sewers and new or rehabilitated service laterals).
 - iii. Implementation Measures and Activities - Respondent shall identify activities and measures to implement its CMOM program for the collection system and treatment facility. Respondent shall address the elements listed in A.iii.(1)-(5), below, and identify the person or position in Respondent's organization responsible for each element. Respondent shall include a description of how Respondent will monitor implementation of each applicable element and, where possible, measure performance.
 - (1) Maintenance Facilities, Equipment, and Replacement Parts:
 - (a) Providing adequate maintenance facilities and equipment;
 - (b) Identification of critical parts needed for system operation and maintenance; and

- (c) Maintaining an adequate inventory of replacement parts.
- (2) Routine Preventive Maintenance
 - (a) Providing adequate preventive and routine maintenance using predictive approach; and
 - (b) Continually reviewing and updating maintenance procedures using information management systems that use predictive processes.
- (3) Information Management
 - (a) Development and maintenance of an accurate and up-to-date map of the collection system;
 - (b) Managing information and using timely, relevant information for establishing and prioritizing appropriate CMOM activities, and identifying and illustrating trends in overflow occurrences;
 - (c) Responding to overflows, providing emergency operations, and preventive operations;
 - (d) Tracking collection system problems, failures and/or violations, including customer complaints; and
 - (e) Maintaining records for work orders associated with investigations, inspections, new installations, preventive and routine maintenance, and corrective actions.
- (4) Operations and Capacity Management
 - (a) Ensuring proper installation, testing and inspection of new sewers and new connections (including new service laterals) to Respondent's collection system;
 - (b) Continually assessing the current structural integrity and capacity of the collection system which Respondent owns or over which Respondent has operational control;
 - (c) Assessing, evaluating, and addressing as appropriate, the impact of industrial discharges to the collection system tributary to the overflow or bypass;
 - (d) Providing ongoing identification and prioritization of structural and hydraulic deficiencies and rehabilitation actions to address each deficiency.
- (5) Training and Review

- (a) Providing appropriate training on a regular basis, including refresher training, on safe procedures for implementation of the provisions of the CMOM program for employees and other appropriate parties; and
 - (b) Providing annual reviews by representatives of all levels of management and staff to assess the overall effectiveness of Respondent's CMOM program and make recommendations for adjustments.
- iv. Design and Performance Provisions - Respondent shall identify:
- (1) Requirements and/or standards that Respondent imposes for the installation of new sewers, pumps and other appurtenances and rehabilitation and repair projects; and
 - (2) Procedures and specifications for inspecting and/or testing the installation of new sewers, pumps and other appurtenances and for rehabilitation and repair projects.
- v. Modifications - The measures and activities taken to implement Respondent's CMOM program should be monitored on an ongoing basis and be updated as appropriate. Respondent shall modify its management programs as appropriate to keep them updated and accurate.

B. Overflow Response Plans

- i. Respondent shall develop and implement an overflow response plan that identifies measures to protect public health and the environment by ensuring that: every report of an overflow event is immediately dispatched to the appropriate personnel for investigation and appropriate response; response activities are coordinated with the appropriate State and/or local health agencies; and appropriate notification and reporting are made.
- ii. Respondent's overflow response plan must address the following elements:
 - (1) Overflow response procedure - an overflow response procedure that describes steps to be taken to address any potential system failures. The procedure must address receiving and dispatching information during investigation and response; mobilizing labor and equipment to investigate reported incidents and take appropriate responses; and documenting the findings and response.
 - (2) Public Notification - The overflow response plan must describe actions that will be taken, in cooperation with State and/or local health agencies and clarify the entity responsible for each of the following actions:
 - (a) Limiting public access to areas potentially impacted by an overflow;

- (b) Posting warning signs at emergency overflow outfall locations where affected water bodies are accessible to the public; and
- (c) Provide public notification to radio, television, Internet and newspaper as appropriate.
- (3) Immediate Notification of Health Officials and Ohio EPA - The plan shall incorporate notification procedures developed in accordance with Order 7.
- (4) An annual report of SSOs in accordance with Order 5.
- (5) Distribution and Maintenance - The overflow response plan will describe: how the plan will be made available to personnel responsible for implementing the plan, as well as other interested parties; training procedures for appropriate personnel, including the frequency of the training activities; and the process for reviewing and updating the plan.