



**Environmental  
Protection Agency**

Ted Strickland, Governor  
Lee Fisher, Lt. Governor  
Chris Korleski, Director

October 22, 2010

Ms. Annie Sizemore  
Manager, Village of Germantown  
75 N. Walnut Street  
PO Box 138  
Germantown, OH 45327

**RE: Stormwater Program Evaluation, Notice of Violation**

Dear Ms Sizemore:

On Tuesday, September 14, 2010, I conducted a "screening evaluation" of the Village of Germantown's storm water management program. You represented the village during this review. The evaluation consisted of discussions about the six "Minimum Control Measures" (MCMs) that provide the framework for municipal storm water programs. The intent was to evaluate program activities over the first permit term, from 2003 to 2008.

Note that following the discussion of activities for each MCM, specific annual reporting requirements and performance standards (taken directly from the current permit, which, as of the date of this letter, Germantown has failed to obtain) are listed. Also note that future storm water program reviews will likely be true audits, and will look at each aspect of the village's program, should it ever develop one, in greater detail.

Based on my review of the village's current plan, annual reports (the last one received is for 2006), and our discussion, I offer the following observations and recommendations:

**MCMs 1 and 2 – Public Information, Participation, Education and Outreach**

Aside from information provided by the Miami Conservancy District (MCD) which spoke to its efforts to assist other regulated MS4 (Municipal Separate Storm Sewer System) communities with certain parts of MCMs 1 and 2, Germantown has not undertaken any storm water related outreach or educational activities on its own, as required by this part of its permit. **The village is therefore in violation of Ohio Administrative Code (OAC) Chapter 3745-39-03(C)(2)(a) and (b).**

**Recommendations**

Germantown must rewrite its storm water management plan (SWMP) to explain what it will do to comply with the requirements of MCMs 1 and 2. The plan will be evaluated against the performance standards listed below.

ACTIVITY REPORT

Thomas Schiff  
 Village of Germantown  
 Revised Orders  
 Civil Penalty Settlement Amount  
 Page 2 of 3

TIME : 08/24/2011 18:00  
 NAME : OHIO EPA SWDO DERR  
 FAX : 9372856404  
 TEL : 9372856357  
 SER.# : BROL8J889048

NO.	Regarding	The civil penalty, NAME	my letter of August 30, 2011, (list) several alternatives	DATE	TIME	STATUS	TX	ECM
#300	08/24	12:25	918006847510	21	01	OK	TX	ECM

- Accept the civil penalty as proposed;
- Refuse to pay the civil penalty, the result of which will be a referral for litigation to the Attorney General.
  - BUSY: BUSY/NO RESPONSE
  - CV: COVERPAGE
  - POL: POLLING
  - RET: RETRIEVAL
- Propose a counteroffer. The purpose of Ohio EPA's Compliance Assurance through Enforcement Program is to ensure that the public benefits of environmental protection established in Ohio EPA's rules, permits and licenses are properly achieved. The purpose of a civil penalty is to:
  - Deter violations and ensure that violations have consequences which may include penalties; and
  - Mitigate environmental and programmatic harm caused by violations.

If violators experience no disadvantage from their violations, but instead are allowed to benefit, there will be no incentive to comply. As the success of the storm water program is built on voluntary compliance and that Agency inspectors cannot be at all sites, at all times, the program is harmed if violators are not financially accountable for their violations.

In accordance with the above, the Village may present a counteroffer which serves as a deterrent to the Village from further violations, as well as a deterrent to those persons (both public and private) similarly situated; or

- Allege that it cannot pay a civil penalty and present a demonstration to that effect. I have attached a memorandum from Ohio EPA's Economic Analysis Unit setting forth the necessary documents which must be submitted.

In my letter I requested that by September 14, 2011, the Village inform me as to which alternative it will pursue and should the chosen alternative be the presentation of a counteroffer or the demonstration of ability to pay, the date upon which the necessary information or documentation will be submitted. I did not receive a reply.

As to the attached revised Findings and Orders, I request that the Village reviews the document and within forty (40) days of the date of this letter, provides comments, including those addressed to the proposed penalty.

Ms. Annie Sizemore  
October 22, 2010  
Page 2

**MCM 1 - Performance Standards**

Germantown's storm water public education and outreach program shall include more than one mechanism and target at least five different storm water themes or messages over the permit term. At a minimum, at least one theme or message shall be targeted to the development community. Storm water public education and outreach shall reach at least 50 percent of the village's population over the permit term.

**Annual Reporting**

Annual reports shall identify each mechanism used, including each storm water theme, audience targeted and estimate of how many people were reached by each mechanism.

**MCM 2- Performance Standards**

Germantown's storm water public involvement/participation program shall include, at a minimum, five public involvement activities over the permit term.

**Annual Reporting**

Annual reports shall identify each public involvement and/or participation activity conducted, including a brief description of each activity and an estimate of how many people participated.

**MCM 3 – Illicit Discharge Detection and Elimination (IDDE)**

**Mapping** – The Village of Germantown has yet to develop a map that shows locations of storm sewer outfalls to creeks or other waterways within its municipal boundaries. This was to have been done by March 2008. The village must prepare the required map as soon as practicable. (Note that by January 2014, when the current MS4 permit expires, Germantown's entire storm sewer system must be mapped.)

**Because of its failure to produce the required map, Germantown is in violation of OAC Chapter 3745-39-03(C)(2)(c)(ii)(a).**

**IDDE Ordinance** – A copy of Germantown's Illicit Discharge ordinance (Codified Ordinance Chapter 924) was submitted to Ohio EPA in November 2008. Apparently, it was enacted as an emergency ordinance in response to a violation notice received from the Ohio EPA earlier in 2008. The ordinance appears to be satisfactory, though under "purpose and scope" (924.01), wording in the first sentence states that illicit discharges into Germantown's MS4 will be regulated instead of prohibited. The village's revised SWMP should include as an appendix a corrected version of this ordinance, and explain in the narrative section of the plan how the ordinance intends to address the requirements of the small MS4 general permit.

ACTIVITY REPORT

TIME : 07/01/2011 12:00  
 NAME : OHIO EPA SWDD DERR  
 FAX : 9372856404  
 TEL : 9372856357  
 SER.# : BR0L8J889043

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
#282	07/01 07/01	08:29 10:40	303 707 3049 915712584052	25 12:23	01 29	NG OK	RX TX ECM ECM

BUSY: BUSY/NO RESPONSE  
 NG : POOR LINE CONDITION / OUT OF MEMORY  
 CV : COVERPAGE  
 POL : POLLING  
 RET : RETRIEVAL

### **Home Sewage Treatment Systems**

It is not known if residential septic systems are present within Germantown. 924.07(A)(3) of the village's illicit discharge ordinance suggests that discharging off-lot systems may be present in Germantown, and that efforts to either eliminate the discharges or permit them under OEPA's NPDES program will be made. Because annual reports have not been submitted since 2007, it is not known what became of this effort.

Keeping specific requirements of the current MS4 permit in mind, Germantown must revise its SWMP and explain how it will address the issue of septic systems, if such systems are found to exist within the village.

### **Dry Weather Screening**

Germantown does not appear to have done any storm sewer outfall screening as required by its permit. The current requirement is for all outfalls within the village to be screened at least once during the 5-year permit term. **Because of its failure to propose a schedule for dry weather screening outfalls within the Village limits, Germantown is in violation of OAC Chapter 3745-39-03(C)(2)(c)(ii)(c).**

The village's revised SWMP must discuss its approach to dry weather screening storm sewer outfalls, and provide a schedule that explains which outfalls will be screened over the 5-year permit term. The revised plan should also discuss the general approach that will be taken in the event a discharge is observed. The outcome of specific situations, either complaint-driven or from routine screening work, should be summarized and included in respective annual reports.

### **MCM 3 – Performance Standards**

Germantown's storm water illicit discharge detection and elimination program shall include or have included an initial dry-weather screening of all storm water outfalls over the permit term. The program shall establish priorities and specific goals for long-term system wide surveillance of the MS4, as well as for specific investigations of outfalls and their tributary area where previous surveillance demonstrates a high likelihood of illicit discharges. Data collected each year shall be evaluated and priorities and goals shall be revised annually based on this evaluation. Germantown's storm sewer system map shall be updated annually as needed.

### **Annual Reporting**

Annual reports shall document the following: (1) number of outfalls dry, weather, screened, (2) number of dry weather flows identified, (3) number of illicit discharges identified, (4) number of illicit discharges eliminated, (5) provide schedules for elimination of illicit connections that have been identified but have yet to be eliminated and (6) summary of any storm sewer system mapping updates.

disposing of all vegetation and debris within the site, and shall include the conditions resulting therefrom.

- [4]5. Construction: the erection, alteration, repair, renovation, demolition or removal of any building or structure; and the clearing, stripping, excavating, filling, grading, and regulation of sites with connection therewith.
- [5]6. Cut: an excavation. The difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.
- [6]7. Debris: loose refuse or earth material not suitable for use as presently situated or constituted as determined by the Approving Agent.
- [7]8. Developer: any individual, subdivider, firm, association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under this ordinance to effect the development of land for himself or for another.
- [8]9. Development: any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- [9]10. Development Area: any contiguous area owned by one person or developed as a single phase or multiple phases [unit] included within the scope of these regulations, upon which earth-disturbing activities are planned or underway.
- [10]11. Ditch: an open channel with intermittent flow, either dug or natural, for the purpose of drainage or irrigation. (See stream, drainageway, and grassed waterway).
- [11]12. Drainageway: an area of concentrated stormwater [water] flow, other than those defined as a river, stream, ditch or grassed waterway.
13. Dry Detention: The capture and subsequent slow release of stormwater runoff. Capture facilities drain completely between storms.
- [12]14. Dumping: the grading, pushing, piling, throwing, unloading, or placing of earth material.

**MCM 4 – Construction Site Storm Water Runoff Control**

There is little evidence in the village's original storm water management plan to suggest that a viable construction program has been created. A copy of various design criteria applied to new development was included in the plan, but this information covered only drainage and runoff volume calculations and did not address erosion and sediment control requirements. **Therefore, Germantown is in violation of OAC Chapter 3745-39-03(C)(2)(d).**

In concert with the performance standards listed below, the village must develop a program that addresses the following:

- (i) MS4s must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to their storm sewers from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of storm water discharges from construction activity disturbing less than one acre must be included in the program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more.
- (ii) MS4 programs must include the development and implementation of, at a minimum:
  - (a) An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under the law;
  - (b) Requirements for construction site operators to implement appropriate erosion and sediment control best management practices;
  - (c) Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste at the construction site that may cause adverse impacts to water quality;
  - (d) Procedures for site plan review which incorporate consideration of potential water quality impacts;
  - (e) Procedures for receipt and consideration of information submitted by the public; and
  - (f) Procedures for site inspection and enforcement of control measures.

<b>TX REPORT</b>
------------------

(WED) SEP 21 2011 13:26

DOCUMENT#	TX START DATE	DURATION	DESTINATION	MODE	PAGES	RESULT	User /Account	SIZE
7527431-091	SEP 19 15:52	1 <sup>''</sup>	SCAN	HDD	3	OK		
7527431-092	SEP 19 15:53	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-093	SEP 19 15:55	1 <sup>''</sup>	SCAN	HDD	3	OK		
7527431-094	SEP 19 15:55	39' 30 <sup>''</sup>	SCAN	HDD	4	EE09CE		
7527431-095	SEP 19 18:33	44' 27 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-096	SEP 19 18:53	45' 34 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-097	SEP 19 18:58	47' 13 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-098	SEP 19 19:04	48' 19 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-099	SEP 19 19:09	49' 58 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-100	SEP 19 19:15	51' 04 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-101	SEP 19 19:20	52' 43 <sup>''</sup>	SCAN	HDD	0	EF09D1		
7527431-102	SEP 20 8:22	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-103	SEP 20 12:02	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-104	SEP 20 16:39	1 <sup>''</sup>	SCAN	HDD	3	OK		
7527431-105	SEP 21 12:48	1 <sup>''</sup>	SCAN	HDD	3	OK		
7527431-106	SEP 21 12:47	1 <sup>''</sup>	SCAN	HDD	4	OK		
7527431-107	SEP 21 12:47	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-108	SEP 21 12:48	1 <sup>''</sup>	SCAN	HDD	14	OK		
7527431-109	SEP 21 12:50	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-110	SEP 21 12:50	1 <sup>''</sup>	SCAN	HDD	6	OK		
7527431-111	SEP 21 12:50	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-112	SEP 21 12:51	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-113	SEP 21 12:51	1 <sup>''</sup>	SCAN	HDD	13	OK		
7527431-114	SEP 21 12:54	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-115	SEP 21 12:54	1 <sup>''</sup>	SCAN	HDD	4	OK		
7527431-116	SEP 21 12:54	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-117	SEP 21 12:55	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-118	SEP 21 12:55	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-119	SEP 21 12:55	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-120	SEP 21 12:55	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-121	SEP 21 12:56	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-122	SEP 21 12:56	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-123	SEP 21 12:56	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-124	SEP 21 12:56	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-125	SEP 21 12:56	1 <sup>''</sup>	SCAN	HDD	10	OK		
7527431-126	SEP 21 13:01	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-127	SEP 21 13:01	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-128	SEP 21 13:02	1 <sup>''</sup>	SCAN	HDD	6	OK		
7527431-129	SEP 21 13:02	1 <sup>''</sup>	SCAN	HDD	3	OK		
7527431-130	SEP 21 13:02	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-131	SEP 21 13:02	1 <sup>''</sup>	SCAN	HDD	5	OK		
7527431-132	SEP 21 13:03	1 <sup>''</sup>	SCAN	HDD	2	OK		
7527431-133	SEP 21 13:03	1 <sup>''</sup>	SCAN	HDD	7	OK		
7527431-134	SEP 21 13:04	1 <sup>''</sup>	SCAN	HDD	4	OK		
7527431-135	SEP 21 13:05	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-136	SEP 21 13:05	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-137	SEP 21 13:05	1 <sup>''</sup>	SCAN	HDD	1	OK		
7527431-138	SEP 21 13:24	2 <sup>''</sup>	SCAN	HDD	25	OK		
7527431-139			SCAN		0	NG		
7527431-140	SEP 21 13:25	1 <sup>''</sup>	SCAN	HDD	19	OK		

TOTAL

6h19' 30<sup>''</sup>

171page

**MCM 4 – Performance Standards**

Germantown's construction site storm water control program shall include preconstruction storm water pollution prevention plan review of all projects from construction activities that result in a land disturbance of greater than or equal to one acre. To ensure compliance, these applicable sites shall be initially inspected. The frequency of follow-up inspections shall be on a monthly basis unless the village documents its procedures for prioritizing inspections such as location to a waterway, amount of disturbed area, compliance of site, etc. If the village initially had coverage under a previous version of this permit, it shall revise the program to satisfy these performance standards, if needed, within two years of when coverage under this general permit was granted.

**Annual Reporting**

Annual reports shall document the following: (1) number of applicable sites in your jurisdiction, (2) number of pre-construction storm water pollution prevention plan reviews performed, (3) number and frequency of site inspections, (4) number of violation letters issued, (5) number of enforcement actions taken and (6) number of complaints received and number followed up on.

**MCM 5 – Post Construction Storm Water Management in New Development**

Germantown does not appear to have addressed any of the requirements of this section, and is therefore in violation of OAC Chapter 3745-39-03(C)(2)(e). When the village re-writes its storm water management plan, it must consider the performance standards listed after these specific regulatory requirements:

- (i) MS4s must develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into the small MS4. Programs must ensure that controls are in place that would prevent or minimize water quality impacts.
- (ii) MS4s must:
  - (a) Develop and implement strategies that include a combination of structural, non-structural, or both types of best management practices as deemed appropriate for the community;
  - (b) Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under state or local law; and
  - (c) Ensure adequate long-term operation and maintenance of best management practices.

ACTIVITY REPORT

TIME : 06/23/2011 12:00  
NAME : OHIO EPA SWDD DERR  
FAX : 9372856404  
TEL : 9372856357  
SER.# : BR0L8J889043

NO.	DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
#281	06/23	09:26	918664367983	03:08	03	OK	TX

BUSY: BUSY/NO RESPONSE  
NG : POOR LINE CONDITION / OUT OF MEMORY  
CV : COVERAGE  
POL : POLLING  
RET : RETRIEVAL

**MCM 5 – Performance Standards**

Germantown's post-construction SWMP shall include pre-construction storm water pollution prevention plan review of all projects from construction activities that result in a land disturbance of greater than or equal to one acre to ensure that required controls are designed per requirements. These applicable sites shall be inspected to ensure that controls are installed per requirements. The program shall also ensure that long-term operation and maintenance (O&M) plans are developed and agreements in place for all applicable sites. If the village initially had coverage under a previous version of this permit, it shall revise its program to satisfy these performance standards, if needed, within two years of when coverage under this general permit was granted.

**Annual Reporting**

Annual reports shall document the following: (1) number of applicable sites in your jurisdiction requiring post-construction controls, (2) number of pre-construction storm water pollution prevention plan reviews performed, (3) number of inspections performed to ensure as built per requirements and (4) number of long-term operation and maintenance (O&M) plans developed and agreements in place.

**MCM 6 – Pollution Prevention/Good Housekeeping for Municipalities**

Germantown's original storm water management plan contains no specific information to address the requirements of this MCM. Subsequent annual reports mention catch basin cleaning, leaf collection and street sweeping activities, but nothing is said regarding the requirement to train village employees about materials management and undertaking good housekeeping practices at relevant village facilities. Therefore, Germantown is in violation of OAC Chapter 3745-39-03(C)(2)(f).

When the village rewrites its storm water management plan, it must consider the performance standards listed below.

**MCM 6 – Performance Standards**

Germantown's pollution prevention/good housekeeping program shall include, at a minimum, an annual employee training. Its operation and maintenance program shall include appropriate procedures, controls, maintenance schedules, and recordkeeping to address Part III.B.6.d.iii of the small MS4 permit.

**Annual Reporting**

Annual reports shall document the following: (1) summary of employee training program(s) implemented with number of employees that attended and (2) summary of activities and procedures implemented for Germantown's operation and maintenance program.

The following document has not been transmitted. Please try again.  
Try to retransmit the rest of pages.

(WED) SEP 21 2011 13:40

User /Account :  
DESTINATION : SCAN

DOCUMENT# : 7527431-153  
TIME STORED : SEP 21 13:40  
TX START :  
DURATION :  
COM. MODE :

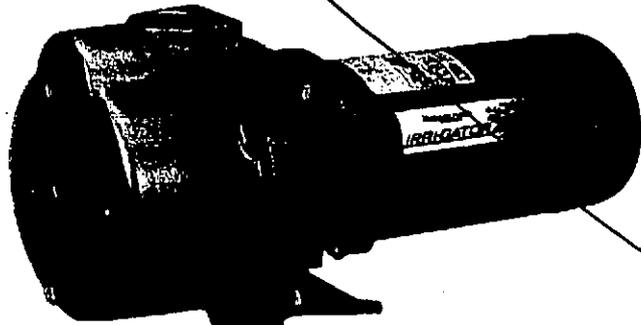
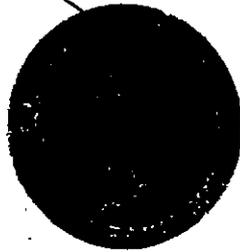
PAGES : 0page  
RESULT : NG

**GOULDS PUMP**  
**ITT Industries**

Water Technologies  
Seneca Falls, NY 13148

# Installation, Operation and Maintenance Instructions

# IRRI-GATOR™ Self Priming Model GT



### Safety Instructions

**TO AVOID SERIOUS OR FATAL PERSONAL INJURY OR MAJOR PROPERTY DAMAGE, READ AND FOLLOW ALL SAFETY INSTRUCTIONS IN MANUAL AND ON PUMP.**



This is a **SAFETY ALERT SYMBOL**. When you see this symbol on the pump or in the

Ms. Annie Sizemore  
October 22, 2010  
Page 7

**Conclusions**

With the exception of the illicit discharge ordinance portion of MCM 3, Germantown is out of compliance with virtually every other requirement of its small MS4 permit. The village will have to re-write its original storm water management plan to address the violations cited in this letter.

The village also remains out of compliance with the requirement to renew coverage under the small MS4 general permit. As discussed at the end of our meeting, a new

Notice of Intent (NOI) form and the appropriate fee was to have been submitted to Ohio EPA as soon as practicable to renew permit coverage. I assisted you in locating the NOI form from Ohio EPA's web site, and stressed the need to submit the completed form as quickly as possible. As of the date of this letter, it does not appear that Germantown has attempted to renew its permit coverage.

Please provide to this office within 2 weeks of receipt of this letter a written response that:

1. Explains when the village will rewrite its storm water management plan, and
2. When it will renew its coverage under the Small MS4 general storm water discharge permit.

Failure to respond will result in an enforcement action through issuance of Director's Final Findings and Orders (DFFOs).

If there are questions about anything in this letter, I can be reached at 937.285.6442 or via email at [chris.cotton@epa.state.oh.us](mailto:chris.cotton@epa.state.oh.us).

Sincerely,



Chris Cotton  
Division of Surface Water

CC/ka

cc: OEPA/SWDO/DSW Files  
Anthony Robinson, OEPA/CO/DSW  
Mark Mann, OEPA/CO/DSW

The following document has not been transmitted. Please try again.  
Try to retransmit the rest of pages.

---

(WED) SEP 21 2011 14:14

User /Account :  
DESTINATION : SCAN

DOCUMENT# : 7527431-149  
TIME STORED : SEP 21 13:38  
TX START : SEP 21 14:06  
DURATION : 9min.04sec  
COM. MODE : HDD

PAGES : 0page  
RESULT : EF09D1

ATTACHMENT C

MANUFACTURER'S MANUALS FOR:  
SOLENOID VALVE  
CHLORINE FEED PUMP