

## Chapter 13.26A WATER QUALITY

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### **13.26A.005 Purpose and applicability.**

- A. The purpose of this chapter is to protect the county's surface and groundwater quality by providing minimum requirements for reducing and controlling the discharge of contaminants and stormwater flows. The board of county commissioners recognizes that water quality degradation can result either directly from one (1) discharge or through the collective impact of many small discharges.
- B. This chapter applies to the discharge of contaminants to surface water, stormwater and groundwater as set forth in Section [13.26A.025](#) and requires certain sites and activities to utilize best management practices as set forth in Section [13.26A.035](#) and stormwater facility maintenance practices set forth in Section [13.26A.040](#).
- C. The board of county commissioners also recognizes that the implementation of successful pollution control practices is most likely through a pollution prevention (water resources) education effort for business owners and the general public. In implementing this chapter, the county will primarily rely on education and technical assistance to show individuals how to implement pollution control practices. Enforcement actions will normally be implemented when education and technical assistance measures are unsuccessful at protecting the public interest or when persons willfully contaminate the water resources of Clark County. Further it is not the intent of this chapter to have the county pursue enforcement actions against persons whose actions or activities result in the discharge of de minimis amounts of contaminants into the water resources of Clark County.
- D. The board of county commissioners finds this chapter is necessary to protect the health, safety and welfare of the residents of Clark County and the integrity of the county's resources for the benefit of all by: minimizing or eliminating water quality degradation; preserving and enhancing the suitability of waters for recreation, fishing, wildlife habitat, aquatic life and other beneficial uses; and preserving and enhancing the aesthetic quality and biotic integrity of the water. The board of

county commissioners recognizes that implementation of this chapter is required under the federal Clean Water Act, 33 U.S.C. 1251 et seq. In meeting the intent of the Clean Water Act the board of county commissioners also recognizes the importance of maintaining economic viability while providing necessary environmental protection and believes this chapter helps achieve both goals. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

### **13.26A.010 Education and technical assistance.**

The Clark County public works department will provide, upon reasonable request, available technical assistance materials and information, and information on outside financial assistance options to persons required to comply with this chapter. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

### **13.26A.015 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this chapter:

“AKART” is an acronym for “all known, available, and reasonable methods of prevention, control, and treatment.” AKART shall represent the most current methodology that can reasonably be required for preventing, controlling or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution.

“Best management practices” or “BMPs” means those physical, structural, and managerial practices, and prohibitions of practices, that, when used singly or in combination:

1. Prevent or reduce erosion;
2. Control stormwater runoff peak flow rates and volumes; and
3. Prevent or reduce pollution of surface water or groundwater.

“Chapter” means this chapter and any administrative rules and regulations adopted to implement this chapter.

“Clean Water Act” means 33 U.S.C. 1251 et seq., as amended.

“Contaminants” include, but are not limited to, the following:

1. Trash or debris;
2. Construction materials;
3. Petroleum products including but not limited to oil, gasoline, grease, fuel oil or heating oil;
4. Antifreeze and other automotive products;
5. Metals in either particulate or dissolved form;
6. Flammable or explosive materials;
7. Radioactive material;
8. Batteries;
9. Acids, alkalis, or bases;
10. Paints, stains, resins, lacquers or varnishes;

11. Degreasers and/or solvents;
12. Drain cleaners;
13. Pesticides, herbicides or fertilizers;
14. Steam cleaning wastes;
15. Soaps, detergents, or ammonia;
16. Swimming pool backwash;
17. Chlorine, bromine, and other disinfectants;
18. Heated water;
19. Domestic animal wastes;
20. Sewage;
21. Recreational vehicle waste;
22. Animal carcasses, excluding salmonids;
23. Food wastes;
24. Bark and other fibrous materials;
25. Collected lawn clippings, leaves or branches;
26. Silt, sediment, or gravel;
27. Dyes (except as stated in Section [13.26A.025\(C\)\(1\)](#));
28. Chemicals not normally found in uncontaminated water;
29. Swimming pool water;
30. Water discharged during water well disinfection;
31. Potable water;
32. Potable water line flushing; and
33. Any hazardous material or waste not listed above.

“County” means the municipality of Clark County.

“Director” means the director of the Clark County department of public works, other department directors specified in enforcement procedures established pursuant to this chapter, or any duly authorized representatives of such directors.

“Discharge” means to throw, drain, release, dump, spill, empty, emit or pour forth any matter or to cause or allow matter to flow, run or seep from land or be thrown, drained, released, dumped, spilled, emptied, emitted or poured into water.

“Forest practices” means any activity conducted on or directly pertaining to forest land and relating to growing, harvesting or processing timber, as defined in Chapter [222-16 WAC](#).

“Groundwater” means water in a saturated zone or stratum beneath the surface of land or below a surface water body.

“NPDES (National Pollutant Discharge Elimination System) permit” means an authorization, license, or equivalent control document issued by the Environmental Protection Agency or the Washington State Department of Ecology to implement the requirements of the NPDES program under the Clean Water Act.

“Person” means an individual, their agents or assigns; municipality; political subdivision; government agency; partnership; corporation; business; or any other entity.

“Source control BMP” means a BMP intended to prevent contaminants from entering

surface and stormwater and/or groundwater including the modification of processes to eliminate the production or use of contaminants. Source control BMPs can be either structural or nonstructural. Structural source control BMPs involve the construction of a physical structure on-site, or other type of physical modification to a site; for example, building a covered storage area. A nonstructural source control BMP involves the modification or addition of managerial or behavioral practices; for example, using less toxic alternatives to current products or sweeping parking lots.

“State waste discharge permit” means an authorization, license, or equivalent control document issued by the Washington State Department of Ecology in accordance with Washington Administrative Code.

“Stormwater Facility Maintenance Manual” means the January 2009 stormwater facility maintenance manual as maintained by Clark County public works.

“Stormwater Management Manual for Western Washington” (SMMWW) means the stormwater manual adopted by the Department of Ecology in February 2005.

“Stormwater Pollution Control Manual—Best Management Practices for Businesses and Government Agencies” or “BMP manual” means the January 2009 stormwater pollution control manual as maintained by Clark County public works.

“Surface water and stormwater” means water originating from rainfall and other precipitation that is found in drainage facilities, rivers, streams, springs, seeps, ponds, lakes and wetlands as well as shallow groundwater.

“Treatment BMP” means a BMP intended to remove contaminants once they are already contained in stormwater. Examples of treatment BMPs include: oil/water separators, biofiltration swales, and wet-settling basins. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

### **13.26A.025 Discharges into Clark County waters.**

#### **A. Prohibited Discharges.**

1. It is unlawful for any person to discharge any contaminants, as defined in Section [13.26A.015](#), into surface water, stormwater, or groundwater.
2. Illicit Connections. Any connection that could convey anything not composed entirely of surface and stormwater directly to surface and stormwater or groundwater is considered an illicit connection and is prohibited with the following exceptions:
  - a. Connections conveying allowable discharges;
  - b. Connections conveying discharges pursuant to an NPDES permit or a state waste discharge permit; and
  - c. Connections conveying effluent from on-site sewage disposal systems to subsurface soils.

- B. Allowable Discharges. The following types of discharges shall not be considered prohibited discharges for the purpose of this chapter unless the director determines that the type of discharge, whether singly or in combination with others, is causing significant contamination of surface and stormwater or

groundwater:

1. Uncontaminated water from crawl space pumps or footing drains;
  2. Lawn watering;
  3. Swimming pool water if dechlorinated to a concentration of 0.1 parts per million or less, pH adjusted and controlled to prevent erosion and sediment transport;
  4. Materials placed as part of an approved habitat restoration or bank stabilization project;
  5. Air conditioning condensate;
  6. Flows from riparian habitats and wetlands;
  7. Springs;
  8. Diverted stream flows;
  9. Rising ground waters;
  10. Uncontaminated ground water infiltration (as defined at CFR 35.2005(20));
  11. Uncontaminated pumped groundwater;
  12. Irrigation water from agricultural sources that is commingled with stormwater;
  13. The following discharges from boats: engine exhaust, cooling waters, effluent from sinks, showers and laundry facilities and treated sewage from Type I and Type II marine sanitation devices; and
  14. Common practices for water well disinfection if dechlorinated to a concentration of 0.1 parts per million or less, pH adjusted and controlled to prevent erosion and sediment transport.
- C. Exceptions.
1. Dye testing is allowable but requires verbal notification to the director at least one (1) day prior to the date of test. The Clark County public works department, Clark County public health, or a sewer service purveyor is exempt from this requirement.
  2. If a person has properly designed, constructed, implemented and is properly maintaining BMPs, and is carrying out AKART as required by this chapter or through another federal or state regulatory or resource management program, and contaminants continue to enter surface and stormwater or groundwater, then that person shall not be in violation of Section [13.26A.025\(A\)](#).
  3. If a person can demonstrate that there are no additional contaminants being discharged from the site above the background conditions of the water entering the site, then that person shall not be in violation of Section [13.26A.025\(A\)](#).
  4. Emergency response activities or other actions that must be undertaken immediately or within a time too short to allow full compliance with this chapter, to avoid an imminent threat to public health or safety, shall be exempt from this section. The director may specify actions that qualify for this exception in county procedures. The person responsible for emergency response activities should take steps to ensure that the discharges resulting from such activities are minimized to the greatest extent possible. In addition, this person shall evaluate BMPs and the site plan, where applicable, to restrict recurrence. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

### **13.26A.035 Best management practices requirements.**

- A. Best Management Practices.
1. Existing development, current activities, and new development activities not

- covered by the Clark County stormwater and erosion control ordinance ([Chapter 40.385](#)) that are not listed in the exemptions of this subsection are required to apply stormwater quality BMPs listed in the Stormwater Pollution Control Manual—Best Management Practices for Businesses and Government Agencies, or the SMMWW. A BMP not included in these manuals may be approved by the director if it is demonstrated to provide equivalent effectiveness for applying AKART.
2. In applying the BMP manual for existing development, the director shall first require the implementation of nonstructural source control BMPs. If these are not sufficient to prevent contaminants from entering surface and stormwater or groundwater, the director may require implementation of structural source control BMPs or treatment BMPs, using AKART.
  - B. Exemptions. The following persons or entities are exempt from the provisions of this section unless the director determines the alternative BMPs to be ineffective at reducing the discharge of contaminants or activities are causing a prohibited discharge:
    1. Persons implementing BMPs through another federal or state regulatory or resource management program, provided the director may perform inspections to ensure compliance with this chapter. If the other program requires the development of a best management practices plan, the person shall make their plan available to Clark County upon request;
    2. Persons engaged in the production of crops or livestock for commercial trade; provided, that such persons shall comply with the requirements of [Chapter 40.440](#);
    3. Persons engaged in forest practices regulated under WAC Title 222, except for Class IV general forest practices as defined under Chapter [222-16](#) WAC; and
    4. Persons conducting normal residential activities at property containing a single-family detached dwelling, duplex or triplex and modifications to it on a lot approved for such use, unless the director determines that these activities pose a hazard to public health, safety or welfare; endanger any property; or adversely affect the safety and operation of county right-of-way, utilities, and/or other property owned or maintained by the county. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

### **13.26A.040 Maintenance of stormwater facilities.**

- A. Maintenance and Inspection Required. All public and private drainage facilities shall be inspected and maintained by the owner in accordance with the Stormwater Facility Maintenance Manual. The intent is to ensure proper maintenance of pollution control and quantity control facilities to protect surface water and groundwater. The director may require the owner to conduct more frequent inspection and/or maintenance when necessary to assure that facilities function as designed for pollutant control and quantity control. The Stormwater Facility Maintenance Manual shall be filed with and available at the department of public works.
- B. Alternative Maintenance Practices. An alternative maintenance practice to those in the Stormwater Facility Maintenance Manual or maintenance practices for a

stormwater facility not included in the Stormwater Facility Maintenance Manual may be approved by the director if demonstrated to provide pollutant controls equivalent to maintenance standards of the Stormwater Management Manual for Western Washington. The director shall update the Stormwater Facility Maintenance Manual to include alternative maintenance practices or maintenance practices for facilities not included in the manual before such practices are allowed for general use.

- C. Disposal of Waste from Maintenance Activities. Disposal of waste from maintenance of drainage facilities shall be conducted in accordance with federal, state, and local regulations, including the Minimum Functional Standards for Solid Waste Handling, Chapter [173-304](#) WAC; guidelines for disposal of waste materials; and, where appropriate, Dangerous Waste Regulations, Chapter [173-303](#) WAC.
- D. Exceptions. The director may grant an exception for maintenance requirements that conflict with federal, state, or local environmental regulations such as a Washington Department of Fish and Wildlife Hydrologic Project Approval, a wetland permit, geologically hazardous area requirements, or habitat conservation requirements.
- E. County Maintenance Projects. The director shall prepare a list of stormwater facilities for major maintenance or repair. The list will be updated annually and prioritize projects based on the needs to protect water bodies, protect public safety, prevent catastrophic infrastructure failure, prevent flooding, and protect infrastructure.
- F. Private Maintenance Projects. Privately operated and maintained facilities with deferred maintenance may require construction projects to bring them into compliance with maintenance standards. The director may approve a work schedule to bring these facilities into compliance with the Stormwater Facility Maintenance Manual. This does not relieve the operator from performing routine maintenance and enforcement under provisions of this chapter. (Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

#### **13.26A.045 Administration.**

The director is authorized to implement the provisions of this chapter, and will coordinate the implementation and enforcement of this chapter with other Clark County departments. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

#### **13.26A.050 Enforcement.**

- A. The director is authorized to carry out enforcement actions pursuant to the enforcement and penalty provisions of Title 32.
- B. The director is authorized to make such inspections and take such actions as may be required to enforce the provisions of this chapter. Such inspections shall be made in accordance with Title 32.
  - 1. The director may observe best management practices and maintenance practices,

or examine or sample surface and stormwater or groundwater as often as may be necessary to determine compliance with this chapter. Whenever an inspection of a property is made, the findings shall be recorded and a copy of the inspection findings shall be furnished to the owner or the person in charge of the property after the conclusion of the investigation and completion of the inspection findings.

2. When the director has made a determination under subsection (B)(1) of this section that any person is violating this chapter, the director may require the violator to sample and analyze any discharge, surface and stormwater, groundwater and/or sediment, in accordance with sampling and analytical procedures or requirements determined by the director. If the violator is required to complete this sampling and analysis, a copy of the analysis shall be provided to the director.
- C. In addition to any other penalty or method of enforcement, the prosecuting attorney may bring actions for injunctive or other relief to enforce this chapter. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

#### **13.26A.060 Hazards.**

- A. Whenever the director determines that any violation of this chapter poses a hazard to public health, safety or welfare; endangers any property; or adversely affects the safety and operation of county right-of-way, utilities and/or other property owned or maintained by the county; the person holding title to the subject property, and/or other person or agent in control of such property, upon receipt of notice in writing from the director, shall within the period specified therein address the cause of the hazardous situation in conformance with the requirements of this chapter.
- B. Notwithstanding any other provisions of this chapter, whenever it appears to the director that conditions covered by this chapter exist requiring immediate action to protect the public health and/or safety, the director is authorized to enter such property, as provided by [Chapter 32.04](#), for the purpose of inspecting and investigating such emergency conditions. The director may without prior notice order the immediate discontinuance of any activity leading to the emergency condition. Failure to comply with such order shall constitute a misdemeanor as specified in Title 32. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

#### **13.26A.070 Criminal penalty.**

Any willful violation of an order issued pursuant to Section [13.26A.050](#) or [13.26A.060](#) for which a criminal penalty is not prescribed by state law is a misdemeanor. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

#### **13.26A.080 Construction—Intent.**

- A. This chapter is enacted as an exercise of the county's power to protect and preserve the public health, safety and welfare. Its provision shall be exempted from the rule of strict construction and shall be liberally construed to give full effect to the

objectives and purposes for which it was enacted. This chapter is not enacted to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter.

- B. The primary obligation of compliance with this chapter is placed upon the person holding title to the property. Nothing contained in this chapter is intended to be or shall be construed to create or form a basis for liability for the county, the department, its officers, employees or agents for any injury or damage resulting from the failure of the person holding title to the property to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter by the county, department, its officers, employees or agents. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

**13.26A.090 Effective date.**

(Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; repealed by Sec. 3 (Exh. 2) of Ord. 2009-01-01)

**13.26A.100 Severability.**

If any provision of this chapter or its application to any person or property is held invalid, the remainder of the chapter or the application of the provision to other persons or property shall not be affected. (Exh. A of Ord. 1998-11-17; amended by Sec. 3 (Exh. B) of Ord. 2000-07-34; amended by Sec. 3 (Exh. 2) of Ord. 2009-01-01)