

Chapter 24.40
Storm Sewer System Discharge

24.40.010 Definitions. The following words and phrases used in this chapter shall have the meanings hereinafter set forth in this section:

“Act” means the Clean Water Act as set forth in 33 USC §§1251 et seq., as amended.

“Best Management Practices (“BMPs”)” means the schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

“CFR” means the Code of Federal Regulations.

“Clark County MS4 Permit” means the National Pollutant Discharge Elimination System (“NPDES”) Permit No. NV0021911 for discharges from the municipal separate storm sewer systems issued to the City of Henderson, City of Las Vegas, City of North Las Vegas, Clark County, and the Clark County Regional Flood Control District (“Permittees”).

“Construction activity” means activities or projects that include but are not limited to clearing and grubbing, grading, excavating, and demolition on sites or parcels where one acre or greater is disturbed.

“Designee of the board” means the hearing officer appointed by the Board of County Commissioners.

“Director” means the Director of the Clark County Department of Air Quality and Environmental Management or his designee.

“Hazardous materials or waste” means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

“Illicit connection” means any connection to a publicly maintained storm sewer system composed of non-stormwater which has not been permitted by the public entity responsible for the operation and maintenance of the system.

“Illicit discharge” means any discharge of non-stormwater to the storm sewer system except discharges specifically exempted by this chapter.

“Industrial activity or facility” means:

- (a) Municipal landfills;
- (b) Hazardous waste treatment, disposal and recovery facilities;
- (c) Industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA); or
- (d) Industrial facilities that the county determines are contributing a substantial pollutant loading to the storm sewer system of unincorporated Clark County within the Las Vegas Valley.

“Las Vegas Valley Storm Water Management Plan for Municipal Separate Storm Sewer System (“SWMP”)” means the plan dated September 2003 that describes the programs, practices and responsibilities of the Clark County MS4 permittees to implement the NPDES permit No. NV0021911 including annual updates.

“Municipal separate storm sewer systems (“MS4” or “storm sewer system”)” means any publicly owned facility by which stormwater is collected or conveyed, including but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage channels, reservoirs, and other drainage structures. The portion of the storm sewer system of unincorporated Clark County subject to the provisions of this chapter is the portion located within the Las Vegas Valley as delineated in the SWMP.

“NDEP” means the Nevada Division of Environmental Protection.

“Non-stormwater” means any discharge to the storm sewer system that is not composed entirely of stormwater.

“NPDES permit” means a National Pollutant Discharge Elimination System permit issued by NDEP pursuant to the Nevada Revised Statutes and the Act which certain persons must obtain to discharge non-stormwater into the waters of the United States.

“Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner, or as the owner’s agent, or the operator, or as the operator’s agent, but does not include the permittees or any of their employees or agents.

“Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, and accumulations; floatables; pesticides; herbicides; and fertilizers; hazardous materials and waste; sewage; fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

“Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

“Secondary containment” means a level of containment that is external to and separate from the primary containment (e.g. concrete dike, wall, barrier, berm, bin, drum, or tank).

“Stormwater” means any surface runoff and drainage associated with rainstorm events and snow melt.

24.40.020 General Provisions

(a) Purpose and Scope. The purpose of this chapter is to control discharges into the storm sewer system of unincorporated Clark County within the Las Vegas Valley as delineated in the SWMP.

(b) Enabling Statutes. This chapter is adopted pursuant to Nevada Revised Statutes Sections 244.157, 244.195, and Chapter 244A.

(c) Applicability. The provisions of this chapter shall apply to any discharge into the storm sewer system of unincorporated Clark County as described in subsection (a) above unless explicitly exempted by this chapter. Any discharge includes those discharges that originate outside of unincorporated Clark County within the Las Vegas Valley that subsequently enter into the storm sewer system of unincorporated Clark County within the Las Vegas Valley.

(d) Administration. The director shall administer, implement and enforce the provisions of this chapter with the assistance of the directors of public works, development services, and other departments as deemed necessary to ensure compliance with the county’s NPDES permit. Any powers granted or duties imposed upon the director may be delegated by the director, unless otherwise noted, to persons acting in the beneficial interest or in the employ of the county.

(e) Minimum Requirements and Standards. The provisions of this chapter are minimum requirements and standards adopted to ensure compliance with the Clark County MS4 permit. Nothing in this chapter:

(1) shall be deemed to imply that compliance with this chapter by any person will insulate that person from liability under other laws, regulations, ordinances or theories of liability relating to discharges into the county’s storm sewer system or

(2) shall create liability on the part of the county or its officers, employees or agents for any damages that may result from a person’s reliance on this chapter or any administrative decision lawfully made thereunder.

24.40.030 Storm Sewer System Regulations and Requirements.

24.40.031 Prohibitions.

(a) It shall be unlawful for any person to discharge or cause to be discharged into the storm sewer system any non-stormwater, unless the discharge has been authorized by NDEP and

approved by the director. The following discharges are exempt from this prohibition and do not require authorization or approval:

- (a) water line flushing;
- (b) diverted stream flows;
- (c) rising ground water;
- (d) uncontaminated ground water infiltration;
- (e) discharges from potable water sources;
- (f) foundation and footing drains;
- (g) air conditioning and swamp cooler condensate;
- (h) landscape irrigation or lawn watering;
- (i) springs;
- (j) water from crawl space pumps;
- (k) individual residential car washing;
- (l) flows from riparian habitats and wetlands;
- (m) dechlorinated swimming pool discharges;
- (n) street wash water; and
- (o) discharges or flows from fire fighting activities.

(b) It shall be unlawful for any person to dispose or cause to be disposed any trash, construction debris, industrial waste materials, sewage or other pollutant into the storm sewer system.

(c) It shall be unlawful for any person to construct, use, maintain, or allow the continued existence of any illicit connection to the storm sewer system.

(d) Any discharge that would cause a violation of the Clark County MS4 permit and any amendments, revisions, or reissuance thereof, either separately considered or when combined with other discharges, is prohibited. Liability for any such discharge shall be the responsibility of the person or persons causing or responsible for the discharge, and the county shall seek to have such person or persons defend, indemnify and hold harmless the county in any administrative or judicial enforcement action against the county as a permit holder relating to such discharge as provided by applicable rules of law. Any fines or penalties imposed upon the county resulting from such discharges are the responsibility of the person or persons causing the violation and may be collected by any appropriate civil process.

24.40.032 Requirements

(a) NPDES permit. Upon request by the director, any person who engages in construction activities or owns or operates an industrial facility which may require a NPDES permit issued by NDEP shall provide proof of a valid permit or documentation from NDEP that a NPDES permit is not required.

(b) Inspection. Any person who discharges or has the potential to discharge into the storm sewer system, including any owner or operator of an industrial facility which has not yet been determined to contribute a substantial pollutant loading to the storm sewer system, shall

permit the director to enter and inspect the premises at any reasonable time to determine compliance with the provisions of this chapter. This right of entry shall include access to all parts of the premises as necessary to make this determination. If any person refuses to allow the director to enter and inspect the subject premises and the director can demonstrate probable cause to believe that there may be a violation of this chapter, the director may obtain a search warrant from any court of competent jurisdiction.

(c) **Monitoring.** As necessary to determine compliance with this chapter at construction sites and industrial facilities, the director shall have the right to:

(1) set up such devices at the site or facility to monitor or sample discharges to the storm sewer system and

(2) require installation and maintenance of monitoring equipment at the site or facility at the sole expense of the owner or operator. The owner or operator shall maintain the equipment at all times in a safe and proper operating condition to ensure accuracy.

(d) **Best Management Practices (BMPs).** As necessary, the county may require temporary or permanent BMPs on any premise for any activity, operation or facility that may cause or contribute or have the potential to cause or contribute to the discharge of any pollutant into the storm sewer system. If BMPs are required, they shall be installed and maintained at the sole expense of the owner or operator.

(e) **Additional BMP requirements for construction sites and industrial facilities.**

(1) The owner or operator of a construction site or industrial facility shall submit a written plan, in a form provided by the county, for BMPs before commencement of any construction activity or operation of any industrial facility, or at any time thereafter. The plan shall be subject to the director's approval. The owner or operator shall keep a copy of the plan at the subject site or facility and provide a copy of the plan to the director upon request.

(2) If the director determines that the existing BMPs do not adequately control discharge from construction sites and industrial facilities of any hazardous materials into the storm sewer system, secondary containment shall be installed and maintained at the sole expense of the owner or operator.

(3) If the director determines that the existing BMPs do not adequately control any discharge into the storm sewer system, additional BMPs shall be installed and maintained at the sole expense of the owner or operator.

(f) **Spill Response and Notification.** All persons in charge of a facility or operation or responsible for emergency response for a facility or operation are responsible to train personnel, maintain records of such training and maintain notification procedures to assure that immediate notification is provided to the director upon becoming aware of any suspected or confirmed release of hazardous material, pollutants or waste creating a risk of discharge into the storm sewer system. As soon as such person has such knowledge, he shall take all necessary steps to ensure the director is immediately notified of the occurrence and that containment and clean up of such release is performed. The response and notification requirements of this

subsection are in addition to any other response and notification requirements set forth in federal, state or other local law and regulations.

24.40.040 Enforcement. Failure to comply with the provisions of this chapter are violations subject to civil and/or criminal penalties.

24.40.041 Civil liability.

(a) Notice of Violation. Upon the discovery of an alleged violation of this chapter, the director shall send to the owner or operator of the industrial facility, construction site, or premises, at the mailing address provided by the owner or operator in the appropriate county or state records, written notice of the conditions constituting the alleged violation. The noticed shall be sent by certified mail, return receipt requested.

(1) The notice shall contain:

(A) The street address, parcel number, legal description and/or the name of the industrial facility or construction site sufficient to identify the premises upon which the conditions are located;

(B) A description of the conditions to be corrected and the date by which compliance must occur;

(C) A statement informing the owner or operator of an opportunity to request a hearing before a designee of the board and an appeal of that decision to the board; and

(D) If the director seeks civil penalties, a statement informing the owner or operator that he will be subject to civil penalties for each day that he does not correct the conditions after the date specified in the notice;

(E) If the notice includes a cease and desist order, a statement that failure to obey the cease and desist order will result in further civil action.

(2) Hearing.

(A) If the owner or operator disagrees with the notice served pursuant to section 24.40.041(a), the owner or operator may request a hearing before the designee of the board. The hearing must be requested within ten business days of service of the notice.

(B) The date specified in the notice by which the owner or operator must correct the conditions is tolled for the period during which the owner or operator requests a hearing and receives a decision from the designee of the board and for the period during which the owner appeals that decision to the board.

(C) When the owner or operator requests a hearing, the director shall, within ten business days of such request, set a hearing before the designee of the board. At the hearing, the director and the owner or operator shall present to the designee of the board the evidence to establish or controvert the facts set forth in the notice, and the designee of the board shall determine whether the conditions are such that they violate provisions of this chapter and shall be corrected. Upon determining that a violation exists that must be corrected, the designee of the board shall issue an order that the owner or operator correct the conditions that constitute the violation within five business days, or other reasonable amount of time based on the type of violation, of the service of the order and authorize the director to correct the conditions if no appeal is filed within the time allowed.

(D) The director or the owner or operator who disagrees with the decision of the designee of the board may appeal the decision to the board. The director or the owner or operator must notify the director of administrative services in writing, within five business days of service of the order, that the director or the owner or operator is appealing the decision of the designee of the board. The director of administrative services shall schedule the appeal to be heard at the next available scheduled board meeting. At the appeal, the board shall review the evidence presented to and the decision of the designee of the board. If the board agrees with the decision of the designee of the board, it shall issue an order to that effect including, where applicable, a reasonable time period for the owner or operator to correct violation and an order for the director to correct the violation if the owner or operator fails to do so within the stated time period.

(3) Recoupment of county's cost to correct the violation. The director shall recover from the owner or operator the amount expended to correct the conditions that constitute the violation if:

(A) The owner or operator has not requested a hearing within ten business days after service of the notice of violation and has failed to correct the conditions on the premises within the time prescribed in the notice;

(B) After a hearing in which the owner or operator did not prevail, the owner or operator has not filed an appeal within five business days after service of the notice and had failed to correct the conditions within the period specified in the order of the designee of the board; or

(C) The board has denied the appeal of the owner or operator and the owner or operator has failed to correct the conditions within the period specified in the order of the board.

(4) Assessment.

(A) An owner or operator of a construction site or industrial facility shall be assessed a civil penalty for each day that the owner or operator fails to correct the conditions that constitute the violation of a federally mandated standard after the date specified on the notice by which the owner or operator was required to correct the conditions. The civil penalty shall be one thousand dollars (\$1,000.00) for each day the violation continues after the date specified on the notice.

(B) Correction under this chapter by the county shall be conducted after the director sends to the owner or operator of the construction site, industrial facility or premises, at the address provided by the owner or operator in the appropriate county or state records, written notice of the estimated costs to correct the conditions and the accrued civil penalties, unless such notice is waived in writing by the owner or operator. The notice shall be sent by certified mail, return receipt requested.

(b) Violations deemed a public nuisance. Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

(c) Injunctive relief. If, in the judgment of the director, any person is engaged in or is about to engage in any act or practice which constitutes or will constitute a violation of the provisions of this chapter, the director may request that the district attorney apply to the district court for a permanent or temporary injunction, restraining order or other appropriate order.

24.40.042 Criminal Liability

(a) Misdemeanor. Any person who violates or aids and abets in the violation of any provision of this chapter shall be guilty of a misdemeanor, and, upon conviction thereof, may be punished by a fine of not more than one thousand dollars (\$1,000.00) and/or imprisonment of not more than six months. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the provisions of this chapter is committed, continued, or permitted by any such person.

(b) Misdemeanor citation. The director or his designee who is an employee of the county are authorized to prepare, sign and serve misdemeanor citations, pursuant to NRS 171.17751, to enforce the provisions of this chapter against any person who violates or aids and abets in the violation of any provision of this chapter.

24.040.043 Remedies not exclusive. The enforcement actions and penalties listed in this chapter are not exclusive of any other actions available under any applicable federal, state or local law, code or regulation, and it is within the director's discretion to seek cumulative relief.

24.040.044 Voluntary compliance. Nothing in this chapter prevents the director from making efforts to obtain voluntary compliance through warning, conference or other appropriate means.