

Date: March 31, 2023
To: Snohomish County Council Via:
Debbie Eco, Clerk of the Council
Elena Lao, Assistant Clerk of the Council
From: Tom Teigen, Director, Conservation and Natural Resources
Subject: NOTICE TO COUNCIL OF FINAL ACTION
ADOPTION OF CNR DEPARTMENTAL RULE 2023-01 RELATED TO
COMPLIANCE WITH DRAINAGE AND LDA CODES FOR SWM
PROJECTS

In accordance with Snohomish County Code Chapter 30.82 – Rulemaking, section 30.82.040, and as authorized by Chapter 30.63 SCC – Drainage, section 30.63A.040 and Chapter 30.63B SCC – Land Disturbing Activity, section 30.63B.100, the Director of the Department of Conservation and Natural Resources (CNR) hereby notifies the Snohomish County Council that he is adopting related to compliance with LDA and Drainage codes for CNR Surface Water Management Division (SWM) projects.

Summary of rule

SCC 30.63B.100 authorizes the CNR Director to adopt a rule, applicable to SWM projects that require a land disturbing activity (LDA) permit, that establishes administrative procedures and tools for SWM to ensure these projects:

- achieve and document compliance with the substantive requirements of Chapters 30.63A SCC, 30.63B SCC, and other applicable provisions of SCC Title 30 during project stormwater site planning, design, environmental review and throughout construction administration and acceptance;
- require identical or functional equivalents of plans and reports required by the chapters of SCC referenced above; and
- implement the modifications and waivers provisions of SCC 30.63A.830 through 30.63A.842 without amendment.

The adopted proposed rule meets these requirements and contains the following sections.

1. *Rule Name.* Procedures for Ensuring Compliance with Chapters 30.63A (Drainage), and 30.63B (Land Disturbing Activity) SCC and other applicable chapters of Title 30 SCC for Projects Performed By the Surface Water Management Division of the Department of Conservation and Natural Resources Pursuant to SCC 30.63A.040 and SCC 30.63B.100. These projects are hereinafter referred to as “SWM Projects”.

2. *Authority.* The rule is proposed pursuant to SCC 30.63A.040, SCC 30.63B.100, and SCC 30.82.010.

3. *Purpose.* The rule establishes administrative procedures and tools for SWM Projects that require an LDA Permit to achieve and document compliance with substantive requirements of Chapters 30.63A and 30.63B SCC, critical area regulations set forth in Chapters 30.62A, 30.62B, and 30.62C SCC, and other applicable provisions of Title 30 SCC.

4. *Applicability.* The rule applies to SWM projects that the SWM Director elects to self-administer and ensure compliance with the substantive requirements of the Drainage and LDA chapters and other applicable provisions of Title 30 SCC, pursuant to SCC 30.63B.100. SWM Projects include but are not limited to projects designed and/or constructed by SWM staff as well as other County staff, consultants, contractors, or people under the control of the SWM Director via contract, interlocal agreement, or similar means. The rule also applies to SWM projects for which SWM determines an LDA permit is not required, thus the rule includes documentation of that decision.

5. *Assignment of Authority.* The rule assigns concurrent authority to the SWM Director and the SWM Engineering Manager to implement the rule. The SWM Director may also assign responsibilities to appropriately trained or licensed SWM staff.

6. *Procedures.* The rule contains procedures for all phases of a SWM project, including preparation of a Design Report or Memorandum, determination of compliance with or exemption from LDA permit, compliance with other regulations such as SEPA, project design including preparation of all required reports, permitting and public notice, construction inspection and administration, and consultation with PDS if needed.

7. *Use of Existing Documents and Construction Practices.* Pursuant to SCC 30.63B.100(1)(b), the rule allows identical or functional equivalents of required plans and reports including, but not limited to design reports and memoranda, stormwater site plans, special topic reports, site plans, construction drawings, specifications, contracts, inspection reports, as-built surveys, final approved drawings, policies, procedures, and project management handbooks.

8. *Planning and Development Services (PDS) Consultation.* Pursuant to SCC 30.63B.100(3), the rule allows the SWM Director or other SWM staff to consult with PDS staff by following the preapplication process in SCC 30.70.020 to discuss project compliance issues.

Summary of CNR Director decision

Per SCC 30.82.030, the CNR Director issued a notice of proposed rule adoption to the Council on Wednesday February 15, 2023. A public comment period was held from Friday February 17 to Friday March 17, 2023. One written comment was received during the period, requesting a mandatory examination by an independent party of SWM projects .

Per the authority in SCC 30.82.040(1), based on the comments received, the CNR Director adopted CNR Departmental Rule 2023-01 without amendment.

Notice of rule adoption

Per SCC 30.82.040(2), in addition to notifying the Council of this rule adoption, the CNR Director will provide notice of rule adoption by placing a public notice in the Everett Herald and sending a copy of the adopted rule to the person who submitted a written comment on the proposed rule.

Effective date

In accordance with SCC 30.82.060, CNR Departmental Rule 2023-01 is effective on March 31, 2023.

Availability

CNR Departmental Rule 2023-01 will be available on the [Surface Water Management website](#).

Request for Council review

Per 30.82.065 SCC, an interested person may request Council review of the CNR Director's decision to adopt the rule by submitting a written request to the CNR Director or the contact person listed below by July 29, 2023 (120 days from effective date). Council review will determine whether the adopted rule is consistent with the scope of the CNR Director's rulemaking authority as set forth in 30.82.010(1) SCC.

For further information, please contact Jim Blankenbeckler, SWM Engineering Manager, at 425-262-2606, or Jim.Blankenbeckler@snoco.org.