

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 3. Erosion and Sediment Control**

This side-by-side comparison has been prepared to aid in review of the proposed rule changes. The existing and proposed rules can be found on the MCWD website, along with the Guidance on Proposed Revised Rules which provides a detailed explanation of all substantive changes: <https://minnehahacreek.org/permits/permitting-rule-revisions/>

<p>Key: Blue & bold font - Key language that represents a substantive change from current language Grey shading - Revised rule language is a relocation, consolidation, clarification, and/or simplification of the current language (i.e. housekeeping) <i>Italics</i> - removed text</p>

Revised Section	Revised Language	Current Section	Current Language
1a	<p>POLICY. The District will implement this rule to limit erosion of soils from disturbed sites due to wind and water; reduce volume and velocity of stormwater moving off site; limit sedimentation into water bodies; and protect soil stability during and after disturbance. a. The District will apply this rule so that disturbed sites are managed according to the following principles: 1. Limit area and duration of exposed or unstable soils. 2. Limit disturbance of soil cover and vegetation, and work near waterbodies. 3. Limit disturbance on steep slopes and high cuts and fills. 4. Keep sediments on site, and out of roadways, stormsewers and waterbodies. 5. Avoid damage to trunks and root systems of trees and vegetation being preserved. 6. Avoid, limit and repair soil compaction.</p>	1	<p>POLICY. It is the policy of the Board of Managers to require preparation and implementation of erosion control plans for land-disturbing activities, in order to limit erosion from wind and water; reduce flow volumes and velocities of stormwater moving off site; reduce sedimentation into water bodies; and protect soil stability during and after site disturbance. These measures should reflect the following principles: (a) Minimize, in area and duration, exposed soil and unstable soil conditions. (b) Minimize disturbance of natural soil cover and vegetation. (c) Protect receiving water bodies, wetlands and storm sewer inlets. (d) Retain sediments from disturbed properties on site. (e) Minimize unintentional off-site sediment transport on trucks and equipment. (f) Minimize work in and adjacent to water bodies and wetlands. (g) Maintain stable slopes. (h) Avoid steep slopes and the need for high cuts and fills. (i) Minimize disturbance to the surrounding soils, root systems and trunks of trees and vegetation adjacent to site activity that are intended to be left standing. (j) Prevent and/or mitigate the compaction of site soils.</p>
1b	<p>As an owner or operator of a municipal separate storm sewer system (MS4), the District is subject to the terms of the Small Municipal Separate Storm Sewer Systems General Permit (MNR040000) issued by the Minnesota Pollution Control Agency (MPCA) on November 16, 2020. Specifically, the District's standards for erosion and sediment controls must be "at least as stringent" as those set forth in the MPCA Construction Stormwater General Permit (MNR100001, issued August 1, 2023) (MCSGP). For simplicity and consistency, this rule, at paragraph 4 below, adopts the applicable standards of the Construction Stormwater General Permit by reference.</p>	N/A	N/A
2	<p>PERMIT REQUIRED. a. Land-disturbing activity requires a permit under this rule, except for: 1. A land disturbance of less than 5,000 square feet in area. 2. Agricultural activity. b. A land disturbance less than one acre that is not part of a larger common plan of development or sale one acre or more, and that does not require a permit under any other District rule, may proceed under a General Permit in accordance with section 5, below. The activity is subject to section 5, but not otherwise subject to this rule. c. Excavation, filling or stockpiling 50 cubic yards or more of soil or earth material, if the disturbance</p>	2	<p>PERMIT REQUIREMENT. Unless specifically exempted by section 3, Exemptions, of this rule, land disturbing activity shall require a permit incorporating an erosion control plan approved by the District and shall be conducted in accordance with that plan. Applicants must provide a financial assurance pursuant to the District's Financial Assurance Rule. A Fast-Track permit may be issued for routine erosion control projects on a finding that the application: (a) Complies with the submission requirements of section 4, Permit Application, of this rule; (b) Includes an erosion control plan that: (1) Complies with section 5, Erosion Control Plan, of this rule; and (2) Provides for maintenance and inspection in accordance with sections 9, Maintenance,</p>

	<p>or stockpile is not isolated from precipitation and stormwater runoff by a structural enclosure, is subject to a General Permit in accordance with section 5, below.</p>		<p>and 10, Notification and Inspection, of this rule. Any request for a variance from a requirement of this rule must be decided by the Board of Managers.</p>
3		3	<p>EXEMPTIONS. The following land-disturbing activity shall not be subject to the requirements of this rule: (a) Activity that: (1) disturbs an area of less than 5,000 square feet; and (2) involves the grading, excavating, filling or storing on site of less than 50 cubic yards of soil or earth material. (b) Agricultural activity. (c) Emergency activity immediately necessary to protect life or prevent substantial physical harm to person or property, provided that erosion control measures, including any necessary remedial action, are implemented as soon as possible. (d) Activity otherwise subject to this rule, where the District has entered into a written agreement with the municipality where the activity takes place providing that the District will not exercise erosion control permitting authority with the city under the circumstances in question.</p>
3	<p>APPLICATION. a. The applicant must complete the District's Erosion and Sediment Control application through the Online Permitting Portal and submit an application fee or fee deposit, also through the portal, in accordance with the applicable fee schedule. b. The application must include an erosion and sediment control plan ("ESC Plan"). On District approval, the ESC Plan is a part of the permit and must be implemented according to its terms. The ESC Plan must be drawn to appropriate scale and benchmark, and must include the following. Required information is limited to the area within site boundaries, except where indicated. 1. Site parcel boundaries and off-site surrounding roads. 2. Water features and facilities, including lakes, streams and wetlands; established legal vegetated buffer on any such feature; natural and artificial water diversions and detention areas; surface and subsurface drainage facilities and stormwater conveyances; and storm sewer catch basins. 3. Identification of off-site receiving waterbodies and stormwater conveyance systems to which the site discharges. 4. Notation as to impaired or special management waters status of a receiving waterbody. If the site discharges within one mile of, and to, a water designated by the Minnesota Pollution Control Agency as impaired, the applicant must identify any Total Maximum Daily Load (TMDL) that has been approved and is still in effect. 5. Identification of areas adjacent to, and that drain to, public waters for which the Minnesota Department of Natural Resources has promulgated "work in water restrictions" during specified fish spawning times. 6. Existing and final site grades, steep slopes, and the direction of flow under pre- and post-disturbance conditions. 7. Existing and proposed buildings, impervious surface and other significant structures. 8. Existing and planned underground utilities. 9. Trees and vegetation, indicating what is intended to be retained. 10. Delineation of proposed area of disturbance and areas of soil or earth material storage; description of proposed grading, grubbing, clearing, tree removal, excavation, fill and other disturbance. 11. A statement of the following quantities: area of disturbance, volume of excavation, volume of imported fill materials, volumes of soil or earth materials temporarily placed on site. 12. Phasing plan to minimize the duration of exposed soil areas.</p>	4	<p>PERMIT APPLICATION. A written application for an erosion control permit shall be submitted by the owner of a site or an authorized representative. The application shall contain the following: (a) Site address. (b) Property owner's name, address and telephone number. (c) Names, addresses, telephone numbers and responsibilities of all contractors, subcontractors and other persons who will engage in the land-disturbing activities. (d) Name, address and telephone number of a single individual responsible for overseeing implementation of the erosion control plan on site. (e) Documentation of all applicable federal, state, county, municipal or township applications for the proposed action or a statement that such approval is not required. (f) Application date. (g) Signature of each property owner with a certification that he or she understands that the proposed activity must be conducted in compliance with this rule and the approved erosion control plan, and that the application is complete and accurate to the best of his or her belief. When a property owner is not a natural person, the application shall bear a signature of one authorized to act on the owner's behalf and documentation of the signatory's authority. (h) An erosion control plan as described at section 5, Erosion Control Plan, of this rule. (i) A soils engineering report as described at section 6, Soils Engineering and Geology Reports, of this rule, if requested by the District. (j) A geological report as described at section 6, Soils Engineering and Geology Reports, of this rule, if requested by the District. (k) A copy of the NPDES permit number for projects that require an NPDES permit from the Minnesota Pollution Control Agency. (l) An erosion control inspection plan in accordance with section 10, Notification and Inspection, of this rule for all projects disturbing ¼ acre or greater.</p>
		5	<p>5. EROSION CONTROL PLAN. The erosion control plan is a stand-alone document that shall include the following: (a) Site plans for existing and final proposed conditions drawn to appropriate scale. The plans shall contain: (1) The site location in relation to surrounding roads, steep slopes, other significant geographic features, buildings and other significant structures. (2) Existing and final grades, and the direction of flow for all pre- and post-construction runoff from the site.</p>

<p>13. Location and identification of proposed runoff control, erosion prevention, sediment control and temporary and permanent soil stabilization measures.</p> <p>14. Location of protective fencing around vegetation to be retained, to exclude all fill and equipment from the drip line or critical root zone, whichever greater.</p> <p>15. Areas where soil compaction is to be prevented, or minimized and repaired, including but not limited to filtration and infiltration stormwater facilities and areas to be retained as greenspace.</p> <p>16. Location and identification of existing and proposed permanent stormwater management facilities.</p> <p>c. If an applicant has determined that compliance with the temporary sediment basin or temporary buffer requirement of this rule is infeasible, the application must include the applicant's justification.</p> <p>d. The District may require other information that it reasonably finds necessary to evaluate and approve an application under this rule.</p>	<p>(3) Site property lines.</p> <p>(4) Identification and location of all existing and planned underground utilities, to be concentrated in corridors where safe, practical and feasible.</p> <p>(5) Identification of all receiving waterbodies and/or stormwater conveyance systems to which the site discharges. Specification of the Impaired or Special Management waters status of each receiving waterbody or conveyance system.</p> <p>(6) Identification and location of all onsite water features and facilities, including any lake, stream or wetland; any natural or artificial water diversion or detention area; any surface or subsurface drainage facility or stormwater conveyance; and any storm sewer catch basin.</p> <p>(7) Location of all trees and vegetation on site, with identification of that which is intended to be retained. Installation of protective fencing so as to exclude all fill and equipment from the drip line or critical root zone, whichever is greater, of all vegetation to be retained.</p> <p>(8) Location of buildings and structures on site.</p> <p>(9) Proposed grading or other land-disturbing activity including areas of grubbing, clearing, tree removal, grading, excavation, fill and other disturbance; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on site; and delineated limits of disturbance.</p> <p>(10) Locations of proposed runoff control, erosion prevention, sediment control and temporary and permanent soil stabilization measures, including, but not limited to: inlet protection, perimeter control, temporary and permanent soil stabilization, concrete wash areas, slope breaks, energy dissipation, rock construction entrance, silt curtains.</p> <p>(11) Detail showing the location of all areas where compaction is to be prevented and/or mitigated. These areas shall be protected from construction vehicle traffic where practical and feasible. These areas include but are not limited to: filtration and infiltration stormwater facilities and areas that are proposed to be permanently landscaped as greenspace.</p> <p>(12) The location of all onsite, existing and proposed stormwater management facilities, including, but not limited to: infiltration basins, bio-filtration basins, stormwater ponds, porous pavers, underground storage and swales.</p> <p>(13) Location of any MCWD-regulated buffers on site (existing or to be established).</p> <p>(b) Plans and specifications must be provided showing all proposed runoff control, erosion prevention, sediment control and temporary and permanent soil stabilization measures, in accordance with the following criteria:</p> <p>(1) Plans and specifications shall conform to the provisions of "Stormwater Compliance Assistance Toolkit for Small Construction Operators" and/or the "2005 MN Stormwater Manual." (Minnesota Pollution Control Agency, 2004)</p> <p>(2) All erosion and sedimentation controls proposed for compliance with this rule shall be in place before any land-disturbing activity commences.</p> <p>(3) Plans shall provide that stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the downgradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on site and the manner of its proposed use.</p> <p>(4) Silt fence shall conform to Sections 3886.1 and 3886.2, Standard Specifications for Construction, Minnesota Department of Transportation (2000 ed.), as it may be amended.</p> <p>(5) Plans shall provide that all fabric fences used for erosion and sedimentation control and all other temporary controls shall not be removed until the District has determined that the site has been permanently re-stabilized and shall be removed within 30 days thereafter.</p> <p>(6) Plans shall provide for permanent stabilization of all areas subject to land disturbance, retention of native topsoil on site wherever practical and feasible, <i>and specify at least six inches of topsoil or organic</i></p>
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		7	<p>ADDITIONAL INFORMATION.</p> <p>The District may require any additional information or data, as it finds relevant and necessary to evaluate and act on an application.</p>
N/A	N/A	6	<p>SOILS ENGINEERING AND GEOLOGY REPORTS.</p> <p><i>On a determination that the condition of the soils is unknown or unclear and that additional information is required to find that an applicant's proposed activity will meet the standards and purposes of this rule, the District may require soil borings or other site investigation to be conducted and may require submission of a soils engineering or geology report. The report shall include the following as requested by the District:</i></p> <p>(a) <i>Data and information obtained from the requested site investigation.</i></p> <p>(b) <i>A description of the types, composition, permeability, stability, erodibility and distribution of existing soils on site.</i></p> <p>(c) <i>A description of site geology.</i></p> <p>(d) <i>Conclusions and revisions, if any, to the proposed land-disturbing activity at the site or the erosion control plan, including revisions of plans and specifications.</i></p>
4	<p>SITE MAINTENANCE AND INSPECTION.</p> <p>In engaging in the approved activity, the permittee and those performing the work on the permittee's behalf must implement the ESC Plan in accordance with MCSGP sections 7, 8, 9, 10, 11, 12, 13 and 14; and with MCSGP paragraphs 16.4, 17.3, and 23.7 through 23.11, as they may be amended from time to time. These provisions are incorporated into this rule and attached as an addendum.</p>	9	<p>MAINTENANCE.</p> <p>The permittee shall be responsible at all times for the maintenance and proper operation of all erosion and sediment control management practices. On any property on which land disturbing activity has occurred pursuant to a permit issued under this rule, the permittee shall, at a minimum, maintain and repair all disturbed surfaces and all erosion and sediment control management practices and soil stabilization measures every day work is performed on the site. Specific maintenance requirements are as follows:</p> <p>(a) All exposed soil areas must be stabilized as soon as possible to limit soil erosion but in no case later than 14 days after the construction activity in that portion of the site has temporarily or permanently ceased.</p> <p>(b) The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from the site, or diverts water around a site must be stabilized. Stabilization must be completed within 24 hours of connecting to a surface water. Portions of the ditch that are under construction must be stabilized within 24 hours after the construction activity in that portion has ceased.</p> <p>(c) Sediment control practices must minimize sediment from entering surface waters, including curb and gutter systems and storm sewer inlets.</p> <p>(d) Sediment control practices must be established on all downgradient perimeters before any upgradient land-disturbing activities begin. These practices shall remain in place until the District has determined that the site soils have been permanently stabilized.</p> <p>(e) The timing of the installation of sediment control practices may be adjusted to accommodate short-term activities such as clearing or grubbing or passage of vehicles. Any short-term activity must be completed as soon as possible and the sediment control practices must be installed immediately after the activity is completed. However, sediment control practices must be installed before the next precipitation event even if the activity is not completed.</p> <p>(f) All storm drain inlets must be protected by BMPs determined by the District to be appropriate, during construction until all sources with potential for discharging to the inlet have been stabilized.</p> <p>(g) Pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.</p>

			<p>(h) In order to maintain sheet flow and minimize rills and gullies, there shall be no unbroken slope length of greater than 30 feet for slopes with a grade of 3:1 or steeper.</p> <p>(i) Temporary stockpiles must have effective sediment controls in place to prevent discharge to surface waters including stormwater conveyances such as curb and gutter.</p> <p>(j) Vehicle tracking of sediment from the construction site must be minimized by BMPs such as rock construction entrances, wash racks or equivalent practices. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked off site.</p> <p>(k) During construction of an infiltration or biofiltration system, rigorous prevention and sediment controls must be used to prevent the discharge of sediment into the infiltration/biofiltration area. Infiltration/biofiltration areas must not be excavated to final grade until the contributing drainage area(s) has been constructed and finally stabilized.</p> <p>(l) Dewatering or basin draining (e.g. pumped discharges, trench/ditch cuts for drainage) related to the construction activity that may have turbid or sediment laden discharge water must be discharged to a temporary or permanent sedimentation basin on the site whenever possible. If water cannot be discharged to a sedimentation basin prior to entering the surface water, it must be treated with the appropriate BMPs, such that the discharge does not adversely affect the receiving water or downstream landowners.</p> <p>(m) If determined to be compacted by the District, site soils shall be decompacted to a depth of 18 inches and organic matter shall be incorporated before revegetation. Decompaction shall be accomplished solely by incorporation of organic matter within the drip line or critical root zone of trees or within 10 feet of underground utilities.</p> <p>(n) Inlet protection devices and all perimeter control shall be maintained once sediment accumulates to a depth 1/3 of the designed capacity.</p>
		10a	<p>NOTIFICATION AND INSPECTION.</p> <p>(a) INSPECTION:</p> <p>(1) The individual identified as being responsible for implementing the erosion control plan must routinely inspect the construction site once every seven days during active construction and within 24 hours after a rainfall event greater than 0.5 inches in 24 hours.</p> <p>(2) All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the erosion control plan and made available at the District's request within 24 hours. Records of each inspection and maintenance activity shall include:</p> <p>(i) Date and time of inspections;</p> <p>(ii) Name of person conducting inspections;</p> <p>(iii) Findings of inspections, including recommendations for corrective actions;</p> <p>(iv) Corrective actions taken (including dates, times and party completing maintenance activities); and</p> <p>(v) Date and amount of all rainfall events greater than 0.5 inches in 24 hours.</p>
5	<p>GENERAL PERMIT.</p> <p>a. Before land disturbance or stockpiling occurs, the applicant must submit a notice of disturbance and a simplified ESC Plan through the Online Permitting Portal. The simplified ESC Plan will include the content at subsection 3.b, paragraphs (1), (2), (6), (7) and (13), above. If the Online Permitting Portal notes the presence of regulated waterbody or floodplain on a parcel on which the activity is to occur, the applicant is notified and the general permit is not effective until District staff have determined that the activity does not require a permit under another District rule.</p> <p>b. A permittee operating under a District general permit must conduct all activity in accordance with the following terms:</p> <p>1. Erosion and sediment control measures must be consistent with best management practices, and sufficient to retain sediment onsite as demonstrated in the Minnesota Stormwater Manual.</p>	N/A	N/A

	<p>2. Erosion and sediment controls must be in place prior to construction start and assessed periodically to ensure functionality.</p> <p>3. If dewatering, Section 10 of the MCSGP.</p> <p>4. When land disturbing or stockpiling is complete, the site must be stabilized, and then erosion and sediment controls must be removed.</p> <p>5. By engaging in activity under a District permit, a property owner recognizes that District representatives may enter to inspect, and may direct site measures or institute compliance procedures if they find non-conformance with subsection 5.b, or that the site condition presents a risk to water resources.</p>		
6	<p>NOTIFICATION.</p> <p>The permittee or its authorized agent must notify the District through the Online Permitting Portal at the following times. A public applicant may request an alternative notification plan.</p> <p>a. When perimeter erosion and sedimentation controls have been installed.</p> <p>b. Before any site dewatering.</p> <p>c. When land-disturbing activity, stockpiling and soil stabilization and revegetation measures have been completed.</p> <p>d. When the site has achieved permanent stabilization.</p> <p>e. When all temporary erosion and sedimentation controls have been removed.</p>	10b	<p>NOTIFICATION. The applicant or its authorized agent shall notify the District in writing at the following points (large public projects may request alternative notification through use of on an onsite written log of the following points):</p> <p>On completing installation of perimeter erosion and sedimentation controls.</p> <p>On completing land-disturbing activities and putting into place measures for final soil stabilization and revegetation.</p> <p>Prior to any site dewatering.</p> <p>When the site has been permanently stabilized and re-vegetated.</p> <p>When all temporary erosion and sedimentation controls have been removed from the site.</p>
7	<p>FINANCIAL ASSURANCE.</p> <p>A bond, letter of credit or cash escrow in accordance with the District's Financial Assurances rule is a condition of permit issuance.</p>	8	<p>FINANCIAL ASSURANCE</p> <p>The District may require the applicant to file a bond or other financial assurance in accordance with the Financial Assurance Rule. The assurance must be in the form of a performance bond, a letter of credit or a cash escrow. The assurance shall be maintained until:</p> <p>(a) Final site stabilization and removal of erosion and sedimentation controls, as determined by the District, and the payment of all fees and amounts due to the District;</p> <p>(b) Forty-five (45) days after written notification to the District under paragraph 10(b)(5), if the District has failed to respond in writing; or</p> <p>(c) Such earlier time as the District may advise the applicant in writing.</p>