

**Side-by-Side Comparison of Proposed and Current MCWD Rules
Rule 9. Dredging**

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
1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ol style="list-style-type: none"> a. Protect surface waters, backwater areas and wetlands next to or hydrologically connected to lakes to maintain stable shoreline; support vegetative diversity and integrity; and protect riparian and aquatic habitat; b. Minimize impacts from dredging in biologically productive and ecologically sensitive littoral zones to protect water quality and prevent invasive species proliferation; c. Recognize riparian rights of property owners while protecting public water resources. d. Preserve the natural appearance of shoreline areas. 	1	<p>POLICY. It is the policy of the Board of Managers to:</p> <ol style="list-style-type: none"> (a) Preserve the natural appearance of shoreline areas; recreational, wildlife and fisheries resources of surface waters; surface water quality and the ecological integrity of the riparian environment; (b) Protect backwater areas and wetlands adjacent to or hydrologically connected to area lakes, with particular protection of backwater areas and wetlands that have been identified by the District as particularly sensitive to stormwater impacts or as providing valuable vegetative diversity or integrity; wildlife or fish habitat; shoreline protection; or exceptional aesthetic, educational, recreational or cultural features; (c) Minimize impacts from dredging to the biologically productive and ecologically sensitive littoral zone of water bodies to prevent the deterioration of water quality, the proliferation of invasive species and increased seepage; (d) Balance the riparian rights of property owners with the public interest in protecting water resources.
2a	<p>APPLICABILITY. A District permit is required to dredge within the bed, or below the top of bank, of a public water or public waters wetland, except that a permit is not required to install, maintain or remove a utility structure when that work is subject to a permit under the Waterbody Crossings & Structures Rule.</p>	2	<p>REGULATIONS. No person shall dredge in the beds, banks or shores of any public water in the District without first securing a permit from the District, and posting a bond or letter of credit pursuant to the Financial Assurance Rule.</p>
2b	<p>A permit applicant is responsible to obtain all required approvals from other public agencies including the Minnesota Department of Natural Resources (DNR) and, for dredging in Lake Minnetonka, the Lake Minnetonka Conservation District (LCMD). An applicant who has obtained a District permit under this rule may qualify to operate under DNR General Permit No. 2001-6009, in place of an individual DNR permit.</p>	3c	<p>Before District review, all dredging proposals that involve navigational access to docking structures shall be submitted to and approved by, in the case of public waters, the Minnesota Department of Natural Resources and, in the case of Lake Minnetonka, the Lake Minnetonka Conservation District. Proposed dredging in Lake Minnetonka is subject to the dredging standards of the DNR, MCWD and LMCD Dredging Joint Policy Statement (April 1993).</p>
2c	<p>Navigational dredging in Lake Minnetonka must meet the standards of the DNR, MCWD and LMCD Dredging Joint Policy Statement (April 1993), which is an attachment to this rule and incorporated by reference. Certain terms of the Joint Policy Statement are incorporated directly into this rule, below.</p>	4e	<p>Dredging presenting the conditions identified in 4(d)(1-3) above may be permitted where the project complies with applicable DNR rules.</p>
2d	<p>Maintenance dredging by a public agency may qualify for an expedited general permit pursuant to section 7 of this rule.</p>	N/A	N/A
3a	<p>PERMITTED DREDGING. Dredging is permitted only for one of the following purposes:</p> <ol style="list-style-type: none"> 1. To maintain an existing public or private channel to dimensions the District previously has approved; 2. To implement or maintain a legal right of navigational access; 3. To remove sediment that is a source of nutrients or other pollutants; 	4a	<p>CRITERIA. Dredging shall be permitted only:</p> <ol style="list-style-type: none"> (1) To maintain, or remove sediment from, an existing public or private channel, not exceeding the original or originally permitted extent of dredging, whichever is less, and subject to such further limitations on method or extent of dredging as this rule may provide;

	4. To improve the wildlife or fisheries resources of surface waters; or 5. By a public entity, for a public purpose.		(2) To implement or maintain an existing legal right of navigational access; (3) To remove sediment to eliminate a source of nutrients, pollutants, or contaminants; (4) To improve the public recreational, wildlife, or fisheries resources of surface waters; or (5) For actions by public entities for public purposes.
3b	In evaluating an application under paragraph 3.a.1, the District will review evidence of historic dredging, including how recently the original dredging or subsequent maintenance occurred and the extent of recent navigational use.	4b	In evaluating an application to dredge to maintain or remove sediment from an existing public or private channel, the significance of historic dredging will depend on how recently the original dredging or subsequent maintenance to sustain use took place, the extent of recent use, and the amount and significance of evidence supporting use for the proposed purpose.
3c	In evaluating an application under paragraph 3.a.2., the District will apply principles of riparian rights to determine whether the navigation sought is reasonable. This includes considering: 1. The ecological sensitivity of the affected waterbody or wetland; 2. The size, draft, speed, motorized status and other characteristics of watercraft historically used or proposed to be used in the area to be dredged; 3. The size and restrictiveness of existing channels and bridge openings that may affect navigation; and 4. The availability of other means to gain access, such as extending docks; purchasing, renting or leasing shore moorings; or anchoring watercraft away from shore moorings.	4c	In evaluating an application to dredge to create or maintain navigational access, the District will determine whether the navigation sought is reasonable under the circumstances, considering: (1) The ecological sensitivity or preserve status of any potentially affected water body or wetland; (2) The size, draft, speed, motorized status and other characteristics of watercraft historically used or proposed to be used in the area proposed to be dredged; (3) The size, draft, speed, motorized status and other characteristics of watercraft typically moored and used within 200 yards of the area proposed to be dredged; (4) The size and restrictiveness of existing channels and bridge openings that may affect navigation; and (5) The availability of alternative means of gaining access, such as extending docks; purchasing, renting or leasing shore moorings; or anchoring watercraft away from shore moorings.
3d	The applicant may not dredge: 1. To offset floodplain fill, or otherwise above the ordinary high-water level or into the upland next to the waterbody; 2. Where the dredging would create a channel to connect backwater areas for navigation, or extend riparian rights to non-riparian land; 3. Where the dredging would alter the natural shoreline or streambank; 4. Where the dredging may affect the hydrology of an adjacent resource; or 5. Where the dredged area contains a slope steeper than 3:1 (H:V) in a marina or channel, or 10:1 (H:V) near residential lakeshore.	4d (1-5)	No dredging shall be permitted: (1) Above the ordinary high water level or into the upland adjacent to the lake or watercourse; (2) That would enlarge a natural watercourse landward or that would create a channel to connect adjacent backwater areas for navigational purposes; (3) Where the dredging will alter the natural shoreline of a lake; (4) Where the dredging might cause increased seepage or result in subsurface drainage; (5) Where any portion of the dredged area contains any slope steeper than 3:1 (H:V) in a marina or channel, or steeper than 10:1 (H:V) for an area adjoining residential lakeshore;
4a	STANDARDS. The application must consider other ways to achieve the purpose of dredging such as dock extension, aquatic nuisance plant removal without dredging, less extensive dredging in another area of the public water, or agreement with a neighboring property. The applicant must show that the proposed dredging is the means to resolve their need that has least impact. Impact to a Preserve wetland or other ecologically sensitive area must be minimal. For the purpose of this paragraph, "impact" means effect on water quality, ecology, groundwater protection, flood management and all other beneficial uses of water resources as described at Minnesota Statutes §103B.201.	3d	The proposed project shall represent the "minimal impact" solution to a specific need with respect to all other reasonable alternatives such as dock extensions, aquatic nuisance plant removal without dredging, beach sandblankets, excavation above the bed of public water, less extensive dredging in another area of the public water, or management of an alternative water body for the intended purpose. For a project determined by the District to present potential impacts to Preserve Wetlands and other ecologically sensitive areas, the applicant must demonstrate that the proposed project is likely to cause minimal ecological impact and that it presents the least ecological impact of all reasonable alternatives.
		4d(6)	No dredging shall be permitted: (6) Where adverse ecological impact to a preserve wetland or other ecologically sensitive area cannot be minimized.
4b	If dredging is to remove sediment that was transported into the waterbody, the plan must remedy the cause of sediment transport for the future, to the extent the applicant reasonably can do so.	3b	Where there is an identifiable source of sediment under the control of the applicant, the plan shall include remedial action to minimize deposition of sediment into a waterbody or off-site.
4c	Dredging is limited to the minimum dimensions necessary to achieve the purpose. Maximum dredging width for navigation is 15 feet, unless a wider channel better protects water resources. Maximum dredging depth for navigation is as follows, except that the District may consider deeper dredging in accordance with paragraph 3.b, above: 1. Within Lake Minnetonka: 924.6' for individual channels and mooring spaces, 923.6' for multiple	3e	The dredging shall be limited to the minimum dimensions necessary for achieving the stated purpose.

	<p>user channels and mooring/maneuvering areas, and 921.6' for public channels maintained by Hennepin County.</p> <p>2. Within other waterbodies: Four feet below the ordinary high water elevation.</p>		
4d	Side slopes within dredged areas are to be 3:1 (horizontal to vertical), unless the District finds that substrate conditions warrant a steeper or gentler slope.		[See section 4d(5)]
4e	Dredging may not occur between April 1st and June 30th, except that the District may allow dredging in a public water wetland during this period if the applicant is able to show that fish spawning does not occur in the wetland.	4d(7)	No dredging in a public water shall occur between April 1st and June 30th. No dredging in any other waterbody shall occur between April 1st and June 30th unless the applicant demonstrates that fish spawning does not occur in the waterbody.
4f	The application must identify a spoil disposal site. The site must not be below the OHW of a public water or wetland, or in a floodplain absent flood storage replacement. The applicant must place and stabilize all spoils so that they will not be transported by reasonably expected high water or runoff.	3a	<p>GENERAL STANDARDS.</p> <p>A spoil disposal site must be identified and found not to be below the OHW of a public water or public water wetland, wetland subject to the Wetland Conservation Act of 1991, or floodplain and not prone to erosion.</p>
5	<p>HYDRAULIC DREDGING.</p> <p>In addition to the standards of section 4, above, hydraulic dredging is subject to the following standards:</p> <p>a. Dikes must be of compacted earth and not exceed 5.5 feet in height at any point, with a minimum four-foot- wide top and side slopes not steeper than 2:1 (H:V). An alternative design is permitted but must be certified by a professional engineer registered in Minnesota. If the spoil containment has no outlet, it must have four times the calculated volume of solid material to be removed, and a minimum freeboard of one foot above the projected water surface elevation.</p> <p>b. The applicant must provide a copy of: (i) the Minnesota Pollution Control Agency (MPCA) spoils disposal permit or notification, and (ii) any sediment analysis performed.</p> <p>c. The applicant must submit a restoration plan that shows how they will retain sediments on site during operations, and how they will restore and revegetate the site. The plan must show final grades.</p> <p>d. Discharge from a spoil containment must meet MPCA turbidity and total suspended solids standards applicable to the receiving water. The applicant must monitor at least weekly and promptly forward results to the District.</p>	3f	<p>If the dredging will be accomplished by means of hydraulic dredging the following additional standards will apply:</p> <p>(1) The spoil disposal site shall have a minimum storage capacity equal to four times the calculated volume of solid material to be removed, and a minimum free board between the top of the projected water surface elevation and the top of the dike of one foot, if no outlet from the spoil disposal site is proposed.</p> <p>(2) The construction of the spoil containment site shall be with earthen dikes. No such dike shall exceed 5.5 feet in height at any point. Dikes shall have a minimum 4 foot wide top and side slopes of 2:1 (H:V) or flatter. The dikes shall be adequately compacted by traversing with appropriate equipment during construction.</p> <p>(3) Proposed embankments which differ from the standard in 3(f)(2) shall comply with generally accepted engineering principles and be designed and certified by a professional engineer registered in the State of Minnesota.</p> <p>(4) Spoil containment sites of limited storage volume which propose a discharge back into a receiving water body through a control structure shall meet applicable State water quality guidelines for the receiving water body. Weekly monitoring of the instantaneous discharge shall be performed and paid for by the applicant. The results shall be promptly forwarded to the District Engineer for comparison to state water quality standards for turbidity and total suspended solids.</p> <p>(5) A restoration plan prepared by a qualified individual shall show proposed methods of retaining waterborne sediments on site during the period of operation. The plan shall show final grades and how the site will be restored, covered and/or vegetated after construction. Sites with high erosion potential characterized by steep slopes or erodible soils may require a cash deposit or surety to ensure performance and any necessary remedial actions.</p>
6	<p>SUBMITTALS.</p> <p>The following must accompany the permit application. On written approval from District staff, the applicant may omit or modify specific items.</p> <p>a. Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, ordinary high water elevation, and 100-year high water elevation (if available). All elevation must be reduced to NGVD (1929 datum).</p> <p>b. Profile, cross sections and topographic contours showing existing and proposed elevation and side slopes in the work area. Topographic contours must be at intervals of no more than 1.0 foot.</p> <p>c. For hydraulic dredging:</p> <ol style="list-style-type: none"> 1. Cross section of the proposed dike. 2. Stage/storage volume relationship for the proposed spoil containment. 	5	<p>REQUIRED EXHIBITS. The following exhibits shall accompany the permit application. One set - full size; one set - reduced to maximum size of 11"x17".</p> <p>(a) Site plan showing property lines, delineation of the work area, existing elevation contours of the adjacent upland area, ordinary high water elevation, and 100-year high water elevation (if available). All elevations must be reduced to NGVD (1929 datum).</p> <p>(b) Profile, cross sections and/or topographic contours showing existing and proposed elevations and proposed side slopes in the work area. (Topographic contours should be at intervals not greater than 1.0 foot.)</p> <p>(c) In the case of projects using hydraulic means of sediment removal and on-site spoil containment the applicant shall supply:</p> <ol style="list-style-type: none"> (1) Cross section of the proposed dike.

	<p>3. Detail of any proposed outlet structure, with size, description and invert elevation.</p> <p>4. Stage/discharge relationship for any proposed outlet structure from the spoil containment.</p> <p>5. Site plan with the locations of any proposed outlet structure and emergency overflow from the spoil containment.</p> <p>d. Site plan with the proposed location of floating silt curtains.</p> <p>e. Support data:</p> <ol style="list-style-type: none"> 1. Description and volume computation of material to be removed. 2. Description of equipment to be used. 3. Construction schedule. 4. Location map of spoil containment. 5. Erosion control plan for containment. 6. Restoration plan for any proposed permanent on-site spoil containment with final grades, removal of control structure, and a description of site restoration and revegetation. 		<p>(2) Stage/storage volume relationship for the proposed spoil containment area.</p> <p>(3) Detail of any proposed outlet structure, showing size, description and invert elevation.</p> <p>(4) Stage/discharge relationship for any proposed outlet structure from the spoil containment area.</p> <p>(5) Site plan showing the locations of any proposed outlet structure and emergency overflow from the spoil containment area.</p> <p>(d) Site plan showing the proposed location of floating silt curtains.</p> <p>(e) Support data:</p> <ol style="list-style-type: none"> (1) Description and volume computation of material to be removed. (2) Description of equipment to be used. (3) Construction schedule. (4) Location map of spoil containment area. (5) Erosion control plan for containment area.
7	<p>GENERAL PERMIT.</p> <p>a. A public applicant may obtain a general permit to remove non-native sediments at a stormwater conveyance outfall into a public water or public water wetland. In place of the submittals listed in section 6, above, the applicant must submit the following:</p> <ol style="list-style-type: none"> 1. Location of dredging and estimated volume of dredged material. 2. Basis to determine dredging depth, in the form of approved plans or post-dredge elevation data from prior dredging, core samples establishing the native bed elevation, or a narrative describing other method to determine dredging depth. <p>b. An application under this section is not subject to section 6 or 8 of the District's procedural Requirements Rule. When the District has confirmed in writing receipt of the applicant's submittal, the general permit is deemed granted and dredging may occur as described.</p> <p>c. A permittee operating under a general permit must conduct activity in accordance with the following terms:</p> <ol style="list-style-type: none"> 1. The permittee may remove only sediment identified as non-native material accumulated due to stormwater runoff or erosion. 2. Dredging may not materially change the elevation or contour of the bed of the affected waterbody. 3. Silt curtain must be used to contain sediment. 4. Disturbed bank or upland, including vegetation, must be restored to its prior condition. 	6	<p>FAST-TRACK PERMIT.</p> <p>A fast-track permit may be issued by District staff for the removal of accumulated sediment caused by a stormwater outlet. The application otherwise must comply with all provisions of this rule. In addition to the requirements of sections 3, General Standards and 5, Required Exhibits of this rule, the following criteria shall be met:</p> <ol style="list-style-type: none"> (a) Authorization shall apply only to removal of sediment identified as non-native material accumulated due to stormwater runoff or erosion. (b) Dredging shall not materially change the elevation or contour of the bed of the affected basin.
8	<p>FAST-TRACK PERMIT.</p> <p>a. An applicant dredging to maintain an existing navigational channel or access may obtain an expedited permit. In place of the submittals listed in section 6, above, the applicant must submit prior District-approved plans establishing channel dimensions, along with an erosion control and restoration plan. The application is not subject to section 6 or 8 of the District's Procedural Requirements Rule.</p> <p>b. The District may withhold fast-track approval if an application raises considerations that, in the judgment of District staff, should be addressed through ordinary permit review.</p>	N/A	N/A
9	<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>	2	[See section 2 above]