



**Title:** Public Hearing for Proposed Rule Revisions

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**Purpose:**

The Minnehaha Creek Watershed District (District) has prepared proposed revisions to its permitting rules. A public hearing will be held at the January 11, 2024 Board Meeting to obtain public input on the proposed revisions. This memo summarizes the purpose of the proposed revisions and the development and review process.

**Background:**

Rule Revision Purpose

A principal purpose of the revision is to improve the District's development review and permitting process by bringing more clarity to its rules and review procedures. To that end, the existing rules have been reworded and reorganized with the goal to make them as clear and understandable as possible. In addition, the proposed rules pare unneeded application submittals and allow District staff to conform submittal requirements to the particular application. The proposed rules also introduce "fast-track" and general permits to reduce application burden and speed permitting time for certain activities that pose limited risk to water resources.

A second central purpose of this rulemaking is to bring the District's erosion & sediment control and stormwater management rules into conformance with state and federal law. The District is designated as an owner or operator of a "municipal separate storm sewer system" (MS4) and is required to comply with an MS4 General Permit (GP) issued by the Minnesota Pollution Control Agency. The MS4 GP requires that each MS4 owner or operator use its permitting authority to regulate land-disturbing activity in accordance with specific standards set forth in the MS4 GP. The 29 municipalities within the District's boundaries are also subject to the same requirements under the MS4 GP. By conforming its standards to the MS4 GP, the District is aligning those standards with the regulations of its cities. The District believes this alignment will benefit its cities, which are subject to District permitting, and also private property owners and developers who must comply with the permitting standards of both the District and the city.

Finally, the revisions propose a number of changes to the District rules based on the District's permitting experience and the input of its Technical Advisory Committee (TAC), composed principally of municipal and other public agency staff. The District's goal for its rules is to find the balance point where water resource impacts from land development and disturbance are minimized but regulated parties are not subject to unnecessary cost or burden. The revisions also seek to clarify rule language that has been a point of confusion to regulated parties, and to incorporate interpretations of rule language that the District has formed, and applied consistently, over time.

Rule Revision Process

The present rulemaking process originated in a comprehensive review of the permitting program in 2018 to identify issues as they have arisen over the course of implementing the program. District staff engaged the District's Citizens Advisory Committee (CAC) to review and categorize issues, and to develop consensus over a proposed approach to addressing these issues. In early 2019, District staff presented the results of this process to the Board's Operations and Policy Committee. The categorical issues and solutions outlined through this process served as the basis of a Permitting Alignment Scope of Work, which was authorized by the Board in September 2019. In doing so, the Board endorsed the following goals for the rulemaking:

- Align the District’s regulatory scope and standards with state agencies for consistency and compliance
- Simplify and streamline rule language, submittals, and processes to enhance clarity and improve customer service
- Improve program efficiency and effectiveness by tailoring regulations and field presence to potential natural resource risk and opportunity

Between 2019 and 2021, staff worked with the District engineer and legal counsel to develop a set of specific policy recommendations to update the existing rule language and standards. In Fall 2021, District staff brought these recommendations to the CAC and the Board for consensus. From Fall 2021 through Fall 2022, staff worked with the engineer and counsel to draft proposed rule text.

Pursuant to Board authorization, staff then engaged the TAC in a structured review of the proposed revisions. From October 2022 to June 2023, the TAC participated in eight in-person meetings, in addition to online surveys. Through these efforts, the District sought to incorporate the perspective and technical expertise of its public partners in their roles as parallel regulatory entities, regulated parties, and project partners. The TAC process concluded with written documentation of the matters reviewed, TAC input, and conclusions of District staff as to how the proposed rule would address each matter.

Staff presented the final proposed rules to the Board’s Policy and Planning Committee in August 2023, and then to the Board itself in [October 2023](#), where the Board directed that the proposed rules be published and distributed for formal public comment in accordance with Minnesota Statutes §103D.341, subdivision 2.

**Summary:**

On December 18, 2023, the proposed revisions were issued for public comment. The notice was published in the Star Tribune and on the District website and sent to public transportation authorities (MnDOT, counties, cities, townships), state agencies, TAC members, major contractors and engineering firms, and frequent applicants.

The District is accepting comments over a period of 45 days, which will close on February 1, 2024. In addition, the District Board will hold a public hearing on the proposed rules at its regular meeting on January 11, 2024. At that time, any interested member of the public will have the opportunity to address the Board on the proposed changes.

The District created a dedicated [webpage](#) that explains the purpose and scope of the rule revisions and provides access to the current and proposed rules. Because most of the rules have been substantially reorganized, redlined versions showing proposed changes to existing rules would be of limited use. Instead, the District has produced a side-by-side comparison of each rule to aid in review of changes. In addition, the District has developed a [Guidance Document](#) that summarizes the purpose and scope of revisions, the rule-making process, and rationale for all substantive revisions.

The District welcomes comments from all parties so that the rule revision is reasonable and best suited to accomplish its water resource management goals without undue regulatory or administrative burden. Once the comment period has closed, the District will carefully consider all comments and make appropriate changes to the proposed rules before adoption.

**Supporting documents:**

[Website link:](#)

- Guidance to proposed revised rules
- Current rules
- Proposed rules
- Side-by-side comparisons