

**SAUK RIVER WATERSHED DISTRICT  
ADMINISTRATIVE RULES**

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## SECTION 1. INTRODUCTION

The Sauk River Watershed District was established under the authority of Minnesota Statutes, Chapter 103D, the Watershed Act, on July 22, 1986. The District's primary purpose is conservation of the quality and quantity of water within the watershed.

As required by Minnesota Statutes Chapter 103D, the District has adopted a watershed management plan. In its plan, the District established its goals for protecting and improving surface water quality; protecting groundwater quality; maintaining adequate surface and groundwater supplies for all users; protecting and restoring critical areas; promoting wise land use management; expanding knowledge and understanding of the watershed; engaging residents in water resource management; and providing effective and efficient administration of the District. The District's watershed management plan identifies objectives and initiatives necessary to address these issues, including the adoption of rules and a permitting program.

**Subd. 1. Purpose.** The District is required by Minnesota Statutes Chapter 103D to promulgate administrative rules. These rules are intended to effectuate the purposes of the District and the powers of the Managers under the Minnesota Watershed Act, Minnesota Statutes Chapter 103D and shall have the force and effect of law. The District's watershed management plan identifies several areas where District rules are necessary to effectuate the District's statutory purposes. These areas are drainage, erosion and sediment control, storm water management, and water uses. The District's rules are intended to fill gaps in existing federal, state, and local regulations. The District's rules are not intended to duplicate existing regulations.

**Subd. 2. General Policies.** It is the Managers' intent to use these rules as a management tool in carrying out their responsibility to provide wise and provident management of the District's water resources. The overall water management goal of the District is to ensure that development, use, control, and conservation of the District's water resources is done in a manner that is most beneficial to the general welfare of its present and future residents. The District encourages all landowners to retain non-agricultural land for wildlife habitat purposes. The District may cooperate with private and public efforts to develop improved fish and wildlife habitat in the District. It is the intention of the Managers that no person shall be deprived or divested of any previously established beneficial uses or rights by any District rule without due process of the law.

**Subd. 3. Coordination with Other Units of Government.** It is the intention of the Managers to coordinate the administration of their rules with all interested federal, state, and local governmental units and agencies having jurisdiction in the District. The District's rules are intended to fill gaps in existing federal, state, and local regulations. The District's rules are not intended to duplicate existing regulations.

**Subd. 4. Consistency with State and Federal Law.** If any District rule is inconsistent with state or federal law, the provisions of state and federal law shall govern. Nothing in these rules removes the requirements of other permits or authorizations from other local, state or federal agencies.

**Subd. 5. Severability.** If any part of these rules is declared invalid by a court of competent jurisdiction, such declaration shall not affect the validity of these rules as a whole, but only the part declared invalid.

## SECTION 2. RULE ADOPTION

The following procedures shall apply to the adoption of new rules and rule amendments:

- a. Any District property owner, Manager, or the District Administrator may propose rules or rule amendments to the Board of Managers.
- b. A copy of the proposed rules or amendments shall be submitted to each Manager.
- c. The Board may direct District staff to conduct stakeholder meetings to solicit input from persons and political subdivisions likely to be affected by the proposed rule or amendment.
- d. In accordance with Minnesota Statutes Chapter 103D, the District shall submit the proposed rules to the Board of Water and Soil Resources and all transportation authorities within the watershed for comments 45 days before the Managers vote to accept the proposed rules.
- e. Before adopting any proposed rules or amendments, the Board shall hold a public hearing to take public testimony on the proposed rules or amendments. The time, date, and location of the public hearing shall be determined by the Board and notice shall be given by publication in a legal newspaper of general circulation in each county with territory in the District.
- f. The Managers shall accept or reject the proposed rules or amendments based on a majority vote of the Board.
- g. After public hearing, a majority vote of the Board, and upon being signed by the District's President and Secretary, the proposed rules or amendments are deemed adopted. The adopted rules or amendments shall become effective and have the full force and effect of law after publication in a legal newspaper of general circulation in each a county having territory in the District.
- h. A copy of adopted rules or amendments shall be forwarded to each of the following: the County Auditor and County Commissioners of each county having territory in the District; every Township Board Clerk, City Clerk, and Regional Development Commission Chairman within the District; the Commissioner of the Minnesota Department of Natural Resources ~~Board~~, the Executive Director of the Board of ~~Soil and Water~~ Water and Soil Resources; the Commissioner of the Minnesota Pollution Control Agency; the Commissioner of the Minnesota Department of Health; Soil and Water Conservation Districts within the

Comment [JCK1]: BWSR correction comments

watershed; County Extension agents; all Zoning and Planning Boards in the District; and the Administrator of the Minnesota Environmental Quality Board; all public transportation authorities within the District; and other entities that the Board deems appropriate..

### SECTION 3. DEFINITIONS

For the purposes of these rules, certain words and terms are herein defined as follows. In the absence of a definition hereinafter, the definitions established for the State of Minnesota by statute or by case law shall apply to these rules unless clearly in conflict, clearly inapplicable, or unless the context makes such meaning repugnant:

**SHALL** and **MAY** as used in these rules, are to be construed to indicate a mandatory and a permissive state or condition, respectively.

**BMPs (Best Management Practices):** practices to prevent or reduce the pollution of waterbodies and wetlands, including schedules of activities, prohibitions of practices, and other management practices.

**Board or Managers:** the Sauk River Watershed District Board of Managers.

**Board Meeting:** the District Board of Managers' regularly scheduled or special meeting.

**District:** the Sauk River Watershed District.

**Drainage Facilities:** open ditches and drain tile systems collectively.

**Drainage Way:** any natural or artificial channel which provides a course for the flow of water, whether that flow is continuous or intermittent.

**Drain Tile System:** any privately owned underground conduit used to conduct the flow of water in order to drain agricultural lands.

**Impervious Surface:** means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

**Land Disturbing Activity:** any disturbance to the ground surface that may result in soil erosion from water or wind and the movement of sediments into or upon waterbodies or wetlands within the watershed. Land-disturbing activity includes but is not limited to the demolition of a structure or surface, soil stripping, clearing, grubbing, grading, excavating, filling and the storage of soil or earth materials. This includes a disturbance to the land that results in a change in the topography, existing soil cover, or vegetation

**Comment [JCK2]:** BWSR comment regarding drain tile and open ditches and interplay of statutes 103E. We are not recommending getting into too much detail on these distinctions because they do not play a significant role in activities requiring a permit.

that may result in accelerated storm water runoff which may lead to soil erosion and movement of sediment. The term does not include normal farming practices as part of an ongoing farming operation.

**MPCA:** the Minnesota Pollution Control Agency.

**NPDES:** National Pollutant Discharge Elimination System.

**Open Ditch:** any privately owned open channel used to conduct the flow of water in order to drain agricultural lands.

**Person:** any individual, partnership, company, or corporation, but does not include any political subdivision.

**Political subdivision:** any city, township, county, school district, or political subdivision of the State of Minnesota.

**Public Drainage System:** Any publicly ~~owned-administered~~ or maintained drain tile, ditch, or drainage way subject to Minnesota Statutes Chapter 103E.

**Comment [JCK3]:** BWSR comment on correct legal status of ownership of public drainage systems

**PUD (Planned Unit Development):** a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types, land uses, and form of ownership. This includes resort conversions.

**Redevelopment:** any change in the use of a property or any permanent physical change to a property that alters the drainage pattern of the property or causes an increase in pollutants in storm water runoff from the property.

**Resort:** a building or group of buildings or campsites located adjacent to any waterbody for purposes of providing convenient access to the waterbody, and held out to the public to be a place where sleeping accommodations are furnished to the public or may be established, primarily to those seeking recreation.

**Comment [JCK4]:** SCES comment regarding use of resort definition from statute 103F.227. The language of the statute is directed at public waters. These rules take a broader view. The suggested language modification brings the definition more in line with language of the statute while still preserving the broader definition intended by the rules.

**Shoreland:** land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances.

**Comment [MSOffice5]:** BWSR Comment suggests reference to Statutes 103F.205 and/or Rules 6120.2500. The language in our rule is verbatim from 6120.

**Third party regulatory entity:** any political subdivision, Minnesota state agency, or federal agency.

**Comment [JCK6]:** SCES comment regarding use of statute and rule definitions of shoreland. See comment above.

**Waterbody:** any body of water including lakes, rivers, streams, watercourses, water basins, drainage ways or drainage facilities.

**Watershed:** means the boundaries of Sauk River Watershed District. See map in Appendix B.

**Wetland:** lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water and where hydric soils and hydrophytic vegetation are present under normal circumstances. This definition includes public waters wetlands as designated by the Minnesota Department of Natural Resources and wetlands under the jurisdiction of the Wetland Conservation Act.

**Comment [JCK7]:** BWSR comment regarding whether wetlands should be included in definition of waterbody. Because wetlands are separately defined by their technical characteristics, there is no need to include them here. Throughout the rules waterbodies and wetlands are referenced individually.

**Comment [MSOffice8]:** BWSR comments regarding reference to statutes 103G.005 or rules 8420.0111. The rule definition follows the language contained in 103G.005, subd. 19 and rules 8420.0111, subp. 72. Direct reference to those provisions would be inappropriate since the rule definition is intended to include public waters wetlands and wetland conservation act wetlands. The references suggested only apply to wetland conservation act wetlands. The definition included is consistent with accepted technical definitions of wetlands found in state and federal rules and statutes.

## SECTION 4. PUBLIC MEETINGS, HEARINGS, AND RECORDS

**Subd. 1. Meetings.** All meetings of the District, whether regular or special, shall be open to the public and shall be held at a time, date, and place, as determined from time to time by the Managers. Special meetings may be requested by applicants. If the request is granted, the applicant is responsible for paying all costs associated with the special meeting, including but not limited to per diems, notice costs, and consultant fees.

**Subd. 2. Hearings.** Notice of a public hearing shall be given as required by statute. Testimony given and received at all public hearings may be recorded, and witnesses may be sworn as required by statute or at the discretion of the Board.

**Comment [JCK9]:** SCES comment regarding definition of wetland. See comment above.

**Comment [MSOffice10]:** BWSR suggests inclusion of definitions of floodplain, floodway and flood fringe. Since none of the rules or regulated activities are based on proximity to the floodplain, we do not see a need to include these additional definitions

**Subd. 3. Records.** The records of the District shall be public records, as required by state statute and shall be available to the public for inspection to the extent required. It is the intention of the Board to cooperate with all persons, governmental subdivisions, and government agencies in the promotion of conservation of the natural resources of the District and to share information with the public for the common good.

**Comment [JCK11]:** BWSR comment correction

**Comment [JCK12]:** BWSR comment correction

## SECTION 5. PERMIT REQUIREMENTS

The Managers find that a permit program is needed to help ensure wise development and conservation of the District's water resources in accordance with the District's watershed management plan. Any permit required by these rules will be issued in accordance with the procedural process of this Section. Work that requires a permit from the District may not be undertaken until a permit is issued. Obtaining a District permit does not relieve an applicant from the responsibility of obtaining all other required federal, state, and local permits.

**Subd. 1. Application.** All applications for a District permit are subject to the following requirements:

- a. Prior to the submission of any application, the applicant must meet with District Staff for a scoping meeting. This may be conducted in-person or

over the telephone. The purpose of the meeting is to ensure the applicant is aware of the scope of the District's rules, the application requirements, and the standards for approval of an application.

- b. All applications for a District permit must be submitted on the application form as shown in **Appendix A**.
- c. All applications must be accompanied by a fee of \$10 to cover the administrative costs of processing the permit. No permit fee shall be charged to the federal government, the State, or a political subdivision.
- d. Any application that requires Board review under Subd. 3 of this Section, must be submitted, and deemed complete by the District Administrator, 10 business days prior to the next regularly scheduled Board Meeting in order to be on the agenda.
- e. Drawings or plans are required to be submitted with every permit application. The drawings or plans are not required to be prepared by an engineer unless required by statutes chapter 326. Plans, but they must adequately depict the information required by the application form in **Appendix A**. Plans need not be final. However, approval of a permit based on preliminary plans shall be conditional pending receipt of changes and/or final plans.
- f. A site inspection may be required prior to the approval of a permit application. A site inspection fee is charged to the applicant when a site inspection is required. The fee shall be equal to the District's actual costs, but shall not be less than \$35.
- g. Obtaining a District permit does not relieve the applicant from the responsibility of obtaining any other necessary permits from other governmental units or agencies. The District will endeavor to inform the applicant of permits which may be required. The District, however, will not be responsible if the applicant fails to obtain any required permits.

**Comment [JCK13]:** SCES comment regarding clarity of permit costs. The permit costs listed here are taken directly from statute. The District will develop and adopt a fee schedule to identify the fees

**Comment [MSOffice14]:** WPS Comment regarding application of statute 326 prohibiting the practice of engineering without state certification. The rule is not intended to encourage violation of the law. The District anticipates that most activities will not require engineered plans and specifications which would trigger the requirements of statute 326. The District, aided by its engineer, during review of applications will have to determine whether a licensed engineer is required to certify plans and specification. The language change should clarify the comment

**Comment [MSOffice15]:** WPS comment. The need for site inspections will be determined based on the complexity of the project as recommended by the District's engineer. The District will develop and adopt a fee schedule to identify the fee. The current language reflects the statutory authority to charge a fee for inspections.

**Comment [JCK16]:** SCES comment regarding site inspections and costs. See comment above.

**Subd. 2. Administrative Review and Approval.** It is administratively burdensome for the Board to review every District permit application. Therefore, the District Administrator shall review all applications and make recommendations for approval or denial, including proposed conditions. Certain permit applications may be reviewed and approved administratively by the District Administrator.

- a. The following permit applications may be approved administratively:
  - i. Stormwater permit applications under Section 7 that involve the expansion of a structure on an existing resort, so long as the

expansion does not exceed the lesser of 2,000 square feet or 200 percent of the original square footage of the structure.

- ii. Erosion control permit applications under Section 8 that involve the disturbance of less than 20,000 square feet land.
- iii. Drainage permit applications under Section 9 that involve the drainage of less than 640 acres, the installation of less than 2,000 feet of drain tile; or the expansion of an open ditch that increases the volume or rate of discharge by less than 25 percent.

- b. The District Administrator may work with consultants for a technical analysis on the administrative review of a permit. The District may assess the reasonable costs of such technical analysis to the applicant.
- c. The District Administrator may add reasonable conditions to the approval of a permit to address site-specific or activity-specific concerns.
- d. If a permit meets the administrative approval requirements but the District Administrator determines that administrative approval is inappropriate due to an unusual circumstance, the permit shall be brought before the Board for approval.
- e. All administratively approved permits shall be deemed issued when signed by the District Administrator and all conditions of the permit have been satisfied.
- f. The District Administrator shall provide reports to the Board of all administratively approved permits.
- g. The District Administrator may not deny a permit. The District Administrator must instead bring the permit application before the Board with a recommendation for denial of the permit application, including proposed written reasons for denial.

**Subd. 3. Board Approval.** The Board shall review the Staff recommendations for all permit applications that are not administratively approved.

- a. The Board shall review permit applications at regularly scheduled meetings. A permit may be reviewed by the Board at a special meeting when requested by an applicant, and at the applicant's sole expense.
- b. The applicant or a representative of the applicant must be present at the meeting to answer questions about the permit application.

**Comment [MSOffice17]:** BWSR comment rate vs. volume

**Comment [cjm18]:** This should address faster flows while also incorporating the expansion of a system.

**Comment [MSOffice19]:** WPS Comment. The statute does not place a cap on the assessment of costs. The driving factor derived from case law is whether the costs are reasonable. The District will adopt a fee schedule for such costs.

**Comment [JCK20]:** SCES comment on costs. See comment above.

**Comment [JCK21]:** WPS comment regarding reasonableness of conditions. An applicant may appeal the reasonableness of conditions by appeal or dispute resolution processes under section 6 of the rules.

**Comment [JCK22]:** WPS comment regarding whether the applicant must be present for a permit renewal. This provision is placed in the rules to give applicants notice to be present for the Board's review of the original permit. Under these rules the District does not renew permits, it extends the original permit. Attendance of the applicant for an extensions are specifically not addressed because the circumstances of the extension will influence whether the applicant should be present. See section 5, subd. 10.

- c. The Board may add reasonable conditions to the approval of a permit to address site-specific or activity-specific concerns.
- d. All Board approved permits shall be deemed issued when signed by the District’s President and Secretary and all conditions of the permit have been satisfied.
- e. If the District denies an application, written reasons for the denial will be provided.

**Subd. 4. Conditions.** A permit may be approved subject to reasonable conditions to assure compliance with the requirements and intent of these rules and address site-specific or activity-specific concerns. All conditions of the permit, to the extent possible, must be satisfied before the permit is discharged. Conditions requiring performance prior to initiation of work must be satisfied before the permit deemed to be issued and the applicant can begin work.

- a. Inspections, consistent with Section 5. Subd. 1.f., may be required to ensure that the applicant complies with the conditions of the permit. Inspection fees must be paid as a condition of all permits.
- b. The requirements of any other permission (NPDES permit, wetland determination, public water permit, etc) required for the proposed activity are incorporated into the District permit.

~~e. A violation of other required permits is a violation of the District permit.~~

~~d.c.~~ By requesting and receiving a District permit, an applicant affirmatively grants the District a right of entry onto the applicant’s property for the purpose of performing required site inspections.

**Subd. 5. Deadlines for Action.** The District will seek to approve or deny a permit application within 60 days after receipt of a complete application and full payment of fees.

- a. An application that requires a site inspection is not deemed complete until a site inspection is complete by District Staff. When weather, or other uncontrollable natural conditions, makes a site inspection temporarily impossible, then the timeline under this Section and Minnesota Statute 15.99 is ~~tolled~~ suspended until conditions allow for the site inspection. Within 15 business days of receiving an application, the District will notify the applicant if the application is incomplete. ~~Within 15 days, the District will also notify the applicant if, and whether,~~ the application requires a site inspection and is therefore incomplete until the site inspection is performed.

**Comment [MSOffice23]:** BWSR comment whether this should read reasonably possible. We assume our conditions to be reasonable. If not, the applicant should appeal. By including this phrase the District is indicating the possibility of giving the permittee relief when factors make it impossible to meet the conditions.

**Comment [JCK24]:** Staff initiated language change to clarify the role of conditions in the performance of work under a permit.

**Comment [JCK25]:** WPS comment regarding the purpose and meaning of this provision. This provision is intended to reinforce the requirement of compliance with other permits and the incorporation of those permit requirements as conditions of the District’s permit. The applicant could be subject to multiple enforcement actions. The language could be deleted with affecting the operation or intent of the rules. Staff recommends deletion.

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**Comment [MSOffice26]:** BWSR comments regarding the specific requirements of statutes section 15.99 (ie. 15.99(f) requires reasons for extensions and anticipated length of extension to be included in notice). This section of the rules is not intended to be a guide to statute 15.99. Rather, it is intended to be a general articulation of the deadlines of action and the manner in which the District will consider permit applications in relation to the requirements of 15.99. No changes are necessary.

**Comment [JCK27]:** SCES comment regarding use of work “seek”. This word is used to identify the District’s goal of quickly processing applications. Statute 15.99 does allow for extensions under several circumstances. See comment above.

**Comment [JCK28]:** CMBA comment regarding the specific requirement of statute 15.99. See comments above. No change is necessary.

**Comment [JCK29]:** BWSR comment regarding the definition of the word “tolled” Tolled is a technical word. The word “suspended” will accomplish the same meaning and it probably more readily understood.

**Comment [JCK30]:** Staff correction based on SCES comment.

- b. The District will comply with Minnesota Statutes Section 15.99 where it is applicable. Failure to meet an approval deadline shall not authorize any activity for which a permit cannot be granted because the activity is unlawful under applicable law.
- c. If a state or federal law or court order requires a process to occur before the District acts on an application, or if an application requires prior approval of a state or federal agency, any applicable deadline for the District to approve or deny is extended to 60 days after completion of the required process or the required prior approval is **granted**.
- d. Before the expiration of the initial 60 days, the District may extend any applicable initial 60-day period to 120 days by providing written notice of the extension to the applicant.

**Subd. 6. Performance Surety.** In accordance with Minnesota Statute 103D.345 Subd. 4, the Board may require a performance surety, such as an approved escrow deposit, a bond, or an irrevocable letter of credit, to secure performance of permit conditions and compliance with District rules. The federal government, State, and political subdivisions are exempt from the requirements of this subdivision.

- a. When the Board requires a performance surety, it shall be for an amount sufficient to cover the potential costs of restoration that may result from a violation of the permit. The District engineer shall assist in determining this **amount**.
- b. The performance surety must be in a form acceptable to the District and from a surety company licensed to do business in Minnesota.
- c. The performance surety must be in favor of the District and be conditioned on the applicant's compliance with the terms of the permit. The performance surety must allow the District to claim the performance surety if the conditions are not met and use the forfeited funds to complete the work. If the surety funds are insufficient to complete the work, the applicant may be assessed for the balance. Unused funds shall be returned to the applicant.
- d. The District shall release the performance surety in writing after all work is completed in compliance with the permit and District rules. The District, in writing, may release a portion of the surety if the entire surety, in the District's sole discretion, is no longer necessary to secure compliance with the permit and District rules.

**Comment [JCK31]:** WPS comment regarding application of statute 15.99 and extending review time. Without applicant consent, the District may only extend the time for decision to 120 days. The statute allows for suspension of the time line or for additional time if other approvals are required or if environmental review is occurring. If the District runs against its timeline, or if the District finds that the activity is not lawful, it should deny the application and give findings to support the denial.

**Comment [JCK32]:** SCES comment regarding sureties: Establish sureties that do not have an expiration date, but that automatically renew until the district releases it; Require that the portion of the surety held for grading and stormwater management facilities be released only after the design engineer has signed off that as-built conditions meet design guidelines; Duplication in financial guarantees should be avoided. Concur with comments from SCES. There is no need, however to adjust rule language. See comments below.

**Comment [MSOffice33]:** WPS Comment. The District, where appropriate will require its own surety. It may, where appropriate, accept the placement of other security with another unit of government. Staff does not recommend specifying this process since each application will have to be considered on its merits and some investigation will have to occur to ensure alternative security is sufficient to cover the District's concerns.

**Comment [JCK34]:** CMBA comment regarding combined surety. See comment above.

- e. When a permit is conditionally approved upon the applicant providing a performance surety, the surety must be provided to the District before the permit is deemed to be issued and the applicant can begin work.

**Subd. 7. Project Agreement.** The Board may require that an applicant and owner, including any mortgagee, enter into an agreement with the District, to specify responsibility for the construction and future maintenance of approved structures; document other continuing obligations of the applicant or owner; grant reasonable access to the proper authorities for inspection, monitoring and enforcement purposes; affirm that the District or other political subdivisions can require or perform necessary repairs or reconstruction of such structures; require indemnification of the District for claims arising from issuance of the permit or construction and use of the approved structures; and reimburse the reasonable costs incurred to enforce the agreement. Permits and agreements may be filed for recording with the County Recorder to provide notice of the conditions and continuing obligations. When a permit is conditionally approved upon the applicant entering into an agreement with the District, the agreement must be executed before the permit is deemed to be issued and the applicant can begin work.

**Subd. 8. Assignment and Transfer of District Permits.** An assignment or transfer of a District permit without a change in the approved plans may be approved by the District Administrator. No assignment or transfer of a District permit is allowed where the approved plans are changed. A change in the approved plans requires a new permit application. No assignment or transfer, regardless of whether the assignment or transfer is approved by the District Administrator, shall relieve the original applicant from liability under the permit.

**Subd. 9. Expiration of District Permits.** Permits are valid for 12 months from the date they are issued. Expiration of a permit does not discharge the permit nor does it relieve the application of the permit conditions. Rather, expiration of a permit cancels the District's permission to perform the work. Permit extensions may be granted by the District Administrator or the Board, whomever approved the original permit. Extension requests must be made in writing at least 30 days before the expiration of the permit. Additional conditions may be added to the permit when an extension is requested.

**Subd. 10. Phased or Multi-year projects.** For phased projects or projects to be implemented over a period of years, an applicant may request and the District may grant approval of a permit to be valid for a period of greater than 12 months.

**Subd. 11. Discharge of Permit.** A permit may be discharged at any time after a final inspection confirms completion of all work associated with the permit and compliance with all conditions. Upon successful completion of the work and compliance with conditions, the District may issue a certificate of completion. Upon discharge, security, if any, for the work shall be released.

**Comment [JCK35]:** WPS comments regarding how plans are approved. Plans are reviewed by District staff for consistency with the rules standards. District staff does not validate the correctness of plans and is relying on representations of the applicant. What is referred to in this provision are the plans that formed the basis of the originally approved permit. If those plans have not changed, then the administrator can approve the assignment or transfer.

**Comment [JCK36]:** WPS comment regarding changes in plans with specific reference to SWPPPs. First it is unlikely that a project requiring a SWPPP will also require a District permit. If such a project does require a District permit, modifications to the SWPPP are expected but do not change the overall plan of development or for the project. The District may retain its discretion in determining whether a change in the project is such a departure from the facts upon which original permit approval was granted to warrant a new permit.

**Comment [JCK37]:** WPS comment requesting examples of additional conditions. Each project possesses its own unique conditions which influence District resources. Additionally, conditions change over time as regulatory requirements change. The provision reserves to the District the opportunity to modify permit conditions to address these requirements.

**Comment [JCK38]:** WPS Comment regarding long term project and phases. For such projects the District would expect permitting for each phase in order to ensure the permit and permit conditions remain current with various regulatory requirements and the Watershed Management Plan.

**Comment [JCK39]:** CMBA comment regarding 12 month period for permits and long term projects. See comment above.

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**Subd. 1012. ~~Exemption~~Exception.** The Board may hear requests for an ~~exemption~~ exception from the provisions of these rules in the rare circumstances where strict enforcement would cause undue hardship because of conditions unique to the property under consideration and not created by the landowner. “Undue hardship” as used in connection with the granting of an exception means the property in question cannot be put to a reasonable use if used under conditions required by these rules. The Board may grant an ~~exemption~~ exception in the rare circumstances where it is demonstrated that such action will be consistent with the spirit and intent of these rules. Such a request must be addressed to the Board as part of a permit application. In order to grant an ~~exemption~~ exception, the Board must find that the request meets **ALL** of the following four standards:

- a. Special conditions apply to the applicant’s property that do not apply generally to other property within the District.
- b. Because of the unique conditions of the property involved, undue hardship to the applicant will result, as distinguished from mere inconvenience, if the strict letter of the rules is carried out. Economic considerations alone shall not constitute undue hardship if any reasonable use of the property exists under the terms of the District’s rules.
- c. The proposed activity for which the ~~exemption~~ exception is sought will not adversely affect the public health, safety, and welfare; will not create extraordinary public expense; and will not adversely affect water quality, water control, or drainage in the District.
- d. The intent of the District’s rules is met.

An ~~exemption~~ exception expires when the permit it is associated with expires. A violation of any condition for a permit where an ~~exemption~~ exception has been granted shall automatically terminate the ~~exemption~~ exception.

**Subd. 1013. Coordination with Adjacent Jurisdictions.** The Board may, by Joint Powers or other agreement, coordinate with an adjacent jurisdiction to allow single permitting of an activity lying in both jurisdictions. In evaluating the propriety of such an agreement, the Board shall evaluate the consistency of regulatory standards between the District and the adjacent jurisdiction, the efficiency of allowing a single permit, and the proportion of the total project lying within the boundary of the District as compared to that lying within the adjacent jurisdiction.

## **SECTION 6. APPEALS/~~DISPUTE~~ RESOLUTION**

Any person aggrieved by the adoption or enforcement of these rules or the denial of a permit by the District may appeal under the ~~appeal~~ late and dispute resolution procedures ~~and review~~ provided in Minnesota Statutes Sections 103D.537 and 103D.539 or successor statutes.

**Comment [MSOffice40]:** This word change is made to better reflect the action contemplated by this provision of the rules. We are not exempting the applicant from the rules. Rather, we would be granting an exception from certain rule provisions or performance standards. This is intended to be a high standard. That is why we are using hardship rather than practical difficulty as the standard.

**Comment [JCK41]:** SCES comment regarding hardship vs. practical difficulty language. See comment above.

**Comment [JCK42]:** BWSR comment regarding use of exemption and whether it include permitted activities, fees or both. The remainder of the subdivision makes clear that we are talking about giving an exception to compliance with certain rule provisions or performance standards. The word change should help clarify the rule.

**Comment [MSOffice43]:** BWSR comment regarding the definition of hardship. This description of undue hardship is taken from statutes 462.357, subd. 6(2)

**Comment [MSOffice44]:** BWSR comment drawing the distinction between watershed appeals under 103D.535, legal challenges to rule decisions under 103D.537 and dispute resolution under 103D.539. The suggested language changes should highlight the distinction.

## SECTION 7. **STORMWATER**

**Subd. 1. Purpose.** The District intends to manage stormwater runoff within the watershed to promote infiltration, encourage pretreatment, and minimize peak flows after storm events and spring snow melt.

**Subd. 2. Permit Required for Certain Development and Redevelopment.** A District permit is required for any development or redevelopment of the following properties:

- a. The development or redevelopment of property resulting in the creation of one acre or more of impervious surface.
- b. The development of any new Resort or PUD, which includes resort conversions.
- c. The expansion or replacement of a structure at an existing resort or PUD.
- d. The redevelopment of a parcel that currently exceeds impervious surface limits imposed upon property within shoreland by Minnesota Rules Chapter 6120 or by any political subdivision within the watershed. For the purposes of this subdivision the impervious surface limits imposed on property within shoreland shall apply to all property, whether in or out of shoreland, that discharged to any waterbody or **wetland**.

**Subd. 3. Standards.** A storm water permit application under this Section must meet the following standards:

- a. The runoff rate for the property after development shall not exceed runoff rates for the 2-year, 10-year, and 100-year **24-hour, and 7.2 inch 100-yr, 10-day snow melt runoff event** ~~critical storm events~~ for the predominant land use over the last 10 years.
- b. All development or redevelopment of property shall treat 0.5 inch of runoff from all newly created or redeveloped impervious surface on the property. Treatment methods, such as storm water BMPs, shall achieve removal of 80 percent of total suspended solids and 50 percent of total phosphorus prior to any runoff leaving the property.
- c. If the development or redevelopment drains to a discharge point within one mile of a special or impaired water, as defined by the MPCA NPDES General Permit, the property shall treat 1.0 inch of runoff from all newly created or redeveloped impervious surface on the property such that implemented storm water BMPs; meet the requirements of MPCA NPDES General Permit; achieve removal of 80 percent of total suspended solids

**Comment [JCK45]:** SCES comment regarding an agreement between the District and the County for enforcement of most restrictive rules. Such an agreement is contemplated by section 12 of the rules.

**Comment [JCK46]:** BWSR comment regarding application of impervious surface standards for property within shoreland to all properties discharging to a waterbody or wetland. The impervious standards in state law are written to protect only public waters, not all waterbodies and wetlands as those terms are defined in these rules. The District found that the detrimental impacts from impervious surface runoff are not limited to public waters, but effect all waters. Therefore the application of the impervious standards are expanded by this rule.

**Comment [JCK47]:** WPS comment regarding reference to land locked basins in appendix A.

**Comment [cjm48]:** This should clear up the distinction between the events as these are standards used nationally.

**Comment [JCK49]:** BWSR comment regarding the source of the snowmelt requirement.

**Comment [JCK50]:** SCES comment regarding the source of the snowmelt requirement.

and 50 percent of total phosphorus prior to any runoff leaving the property; and infiltrate 50 percent of the volume if possible. Treatment standards shall be based upon the predominant, existing pre-project conditions in the ten year period immediately preceding the activity.

- d. A site plan must be submitted with the permit application in accordance with **Appendix A**. The applicant must submit runoff calculations for 2-year, 10-year, and 100-year critical storm events. The applicant must also submit water quality calculations demonstrating that the total suspended solids and phosphorus standards will be met. Approved models are noted in **Appendix A**.

## SECTION 8. EROSION CONTROL

**Subd. 1. Purpose.** The District intends to prevent erosion and sedimentation into surface waters within the watershed by regulating land disturbing activities. The District requires that erosion and sediment control measures be in place for all land disturbing activities above specific thresholds. The erosion control measures must minimize erosion and sedimentation to the greatest extent reasonably possible.

**Subd. 2. Permit and Plan Required for Certain Land Disturbing Activity.** A District permit is required for any person or political subdivision undertaking a land disturbing activity that is (a) greater than 200 square feet in area; **AND** (b) within 500 feet of any waterbody- or wetland.

**Subd. 3. Agricultural/Horticultural Exemption.** The ordinary agricultural practices of cultivating and planting, or activities required as part of an agricultural conservation program, performed as part of an ongoing farming operation on agricultural property, are exempt from this Section. Similarly, Horticultural practices (such as household gardens) disturbing up to 1,200 square feet, on any property, are exempt from this section. This exemption shall not include agricultural activities that disturb land in the right of way of any public road or in any road ditch adjacent to any public road.

**Subd. 4. Standards.** An erosion and sediment control plan must be submitted and approved before a permit may be issued. The plan must minimize erosion and sedimentation to the greatest extent reasonably possible. The plan must include the following standards:

- a. The project must be phased to the greatest extent possible to minimize the area of disturbed land at any given time.
- b. Site specific topography and soil conditions must be specifically addressed.

**Comment [MSOffice51]:** WPS wants to add the "downstream" here

**Comment [MSOffice52]:** BWSR Comment related to cost and practicality. The addition of the word "reasonably" should clarify.

**Comment [JCK53]:** SCES comment regarding imposition of erosion control standards within Stearns County. The challenge to these rules is that they have to be the best fit for five counties. The District has chosen a class of activities occurring in close proximity to water resources.

**Comment [MSOffice54]:** BWSR comment regarding duplication of permitting for project that will also require NPDES construction stormwater permits. This rule is intended to cover smaller, otherwise unregulated activities which the District has found to damage water resources by their cumulative impacts. The gap this fills is for smaller projects in close proximity to water resources. In section 11 of the rules a general permit is issued to members of the public for activities requiring an NPDES or similar permit. The District will defer to the requirements of the third party permit after review and comment. The District will reserve the right to enforce the requirements of the third party permit as a condition of its general permit.

**Comment [JCK55]:** BWSR comment regarding the inclusion of this provision as a re-capture of the ag exemption. This provision seeks to remedy an ongoing and unregulated prohibited practice in the District – cultivation and planting in road ditches. Erosion, soil loss and nutrient transport resulting from this practice has a detrimental impact on water resources within the District.

**Comment [JCK56]:** WPS comment regarding the mention of de-watering plans in appendix A. The comment suggests a disconnect in the timing of permitting and the letting and bidding of contracts.

**Comment [JCK57]:** WPC comment regarding documentation of NPDES permitting and the timing of District and PCA permit applications.

**Comment [MSOffice58]:** BWSR Comment related to cost and practicality. The addition of the word "reasonably" should clarify.

- c. Work in or near water bodies and wetlands shall be conducted so as to minimize increases in suspended solids in discharging run-off or receiving waters.
- d. Materials used in erosion prevention, such as riprap and bio-fabrics, shall be non-polluting under foreseeable conditions and shall be installed consistent with good engineering practices and in such a way to assure effectiveness and permanence/longevity of erosion control.
- e. Fill material shall be non-polluting. Spoils shall be prevented from entering public waters or drainage ways.
- f. BMPs must be utilized in a manner consistent with MPCA guidance documents.
- g. A site drawing must be submitted with the permit application in accordance with **Appendix A**.

**Comment [MSOffice59]:** BWSR comment regarding whether erosion control methods can be considered permanent. The revised language should clarify.

**Comment [JCK60]:** WPS comment requesting clarification up front that this section applies only to agricultural drainage. This section does not apply only to agricultural land. It may apply to drainage from developed property which makes use of traditionally agricultural drainage infrastructure. The SONAR accurately reflects the purpose of this rule.

**Comment [MSOffice61]:** BWSR Comment related to retention of waters on drainage systems in a manner that does not reduce beneficial drainage. The language revision better reflects the intent of the District and leaves open the possibility that drainage may be modified for various management purposes.

**Comment [JCK62]:** SCES comment seeking clarification of this statement. This is an articulation of the reasonable use rule. It is also articulated in statute 103D.515. The intent is to ensure that nothing in these rules is intended to interfere with reasonable use laws between private parties.

**Comment [MSOffice63]:** BWSR Comment regarding what is meant by expansion. The term expansion was chosen and included to acknowledge that some repair and maintenance activities can expand or increase the volume, rate and timing of flow as well as facilitate enlargement of the area drained. "Expansion, expand or expanded" as related to drainage include improvements and repairs that increase the volume, rate and timing of flow or facilitate enlargement of the area drained

**Comment [JCK64]:** WPS comment regarding application of this rule to residential and commercial project. As written the rules would apply to such projects.

**Comment [JCK65]:** SCES comment regarding definition of private ditch vs. other watercourses within the District. This portion of the rule is focused on drainage and drainage infrastructure. The use of natural watercourse as outlets for drainage are otherwise regulated. The scenario offered in the comment would trigger a stormwater permit requirement.

**Comment [JCK66]:** SCES comment regarding application of WCA to drainage activities. The suggestion that WCA regulates all drainage is incorrect. WCA is only triggered if a jurisdictional wetland is impacted. This part of the rule gets as the volume of drainage when a system is installed or expanded to require such a large diameter.

## SECTION 9. DRAINAGE

**Subd. 1. Purpose.** The District is the drainage authority for several public drainage systems within the watershed. The District intends to preserve/maintain beneficial drainage capacity, prevent flooding, and improve water quality by regulating certain drainage facilities within the watershed and work within the right of way of all public drainage systems under District authority. All land may be reasonably used to dispose of surface water. Artificial discharge into a waterbody or wetland of more water than it has capacity to carry or burdening a lower property with more water than is reasonable under the circumstances is prohibited. Areas that have a significant value to the District in recharging ground water, as wildlife habitat, as settling basins, or which serve other important conservation purposes shall be preserved to the extent practicable.

**Subd. 2. Exemptions.** The repair or replacement of existing drainage facilities, so long as the replacement is not an expansion, is exempt from this Section, but may be subject to Sections 7 or 8 of these rules. This Section does not apply to municipal drainage facilities or storm water systems.

**Subd. 3. Permit Required for Drainage Work.** A District permit is required for the following:

- a. Any new or expanded private open ditch.
- b. Any new or expanded drain tile system with a diameter of 12 inches or greater.
- c. Any open surface intake to agricultural drainage facilities.

- d. Work in the right of way of any public drainage system within the District, regardless of whether the District is the drainage authority for such system.
- e. The diversion of water into a public drainage system from land not assessed for the system.
- f. The manipulation of, or connection to, any public drainage system.

**Subd. 4. Standards.** A drainage facility permit application under this Section must meet the following standards:

- a. Reasonably demonstrate that downstream capacity exists for the additional water discharged by the drainage facility in accordance with Appendix A.
- b. The drainage facility must be constructed so as to reasonably minimize soil erosion, giving due consideration to the intended capacity of the drainage way, its depth, with an elevation its grade, and the character of the soils through which the drain passes. Such considerations shall include the establishment of vegetated buffers to capture sediment.
- c. Provide and maintain a stable outfall that minimizes erosion and sedimentation in accordance with MPCA guidance documents.
- d. Design and maintain drain tile system intakes in a way that minimizes the introduction of sediments to the drainage facility.
- e. All trees and brush cut from the banks of drainage facilities and the rights of way of public drainage systems shall be removed and disposed of properly.
- f. Demonstrate that the drainage facility complies with all federal, state and local wetland regulations.
- g. Work in the right of way of the public drainage system must not impair the capacity or integrity of the public drainage system; must be performed in a manner that minimizes soil erosion and the introduction of sediments to the drainage system; and must not impede the maintenance and repair of the public drainage system.
- h. For a connection to the public drainage system, the applicant must demonstrate that downstream capacity exists for the additional water discharged to the public drainage system.

**Comment [JCK67]:** BWSR comment regarding whether this provision applies to municipal drainage systems. This provision is limit to the rights of way of public drainage systems as that term is defined in the rules. This provision as written does not apply to municipal storm water systems, except to the extent that the municipality is utilizing a public drainage system as an outlet for stormwater.

**Comment [JCK68]:** SCES comment regarding the definition of drainage system right of way. The right of way of a drainage system includes the extent of the system itself, as well as any additional area either acquired or for which damages were paid in any proceeding to establish or improve the system.

**Comment [JCK69]:** BWSR comment regarding consistency with statutes 103E.401. The provisions does duplicate the statute requirement. However, the District is not the drainage authority for all drainage systems within its boundary. The District's experience is that not consistent standard is followed for section 103.401 for Drainage Authorities within the District. The rule is necessary to ensure uniform standards and management of drainage and diversions of water.

**Comment [JCK70]:** SCES comment regarding how properties are assessed. Please refer to statutes chapter 103E for the determination of benefitted properties. See the definition of public drainage system.

**Comment [JCK71]:** BWSR comment regarding consistency with statutes 103E. There is no explicit prohibition on the listed activities in the drainage code. As a result, several inadequate crossings, degraded outlets and other manipulations occur within the systems. This rule seeks to prevent these activities occurring without oversight from the District. It also give teeth to the enforcement process.

**Comment [JCK72]:** SCES comment regarding manipulations of public drainage systems requiring DNR permits. Manipulation of a public drainage system would only require a DNR permit if the drainage system was also a public water.

**Comment [JCK73]:** WPS comment regarding extent of study. The study would need to reasonably show the existence of adequate capacity. Because each project it different, it is impossible to set a hard standard for analysis. Language change should clarify.

**Comment [JCK74]:** BWSR comment on clarity. The word revisions clarify.

**Comment [JCK75]:** BWSR comment regarding unspecified MPCA guidance documents.

- i. No illicit discharges are connected to the drainage facility including, but not limited to, wastewater treatment systems, wash stations, manure management facilities and household drains.
- j. A site drawing must be submitted with the permit application, in accordance with **Appendix A**, with the location of all drainage facilities must be submitted with the permit application. Where the exact location of drain tiles is unknown, an approximate location is sufficient. Upon completion of work, the applicant shall provide the District with copies of as-built specifications for the work.

**SECTION 10. WATER USES**

**Subd. 1. Purpose.** The District intends to regulate the intentional flooding of land, the creation or expansion of wetlands, and the alteration of waterbodies in order to improve water quality, ~~preserve-maintain~~ **beneficial** drainage capacity, and minimize the impacts of flooding.

**Subd. 2. Permit and Plan Required for Water Uses.** A District permit is required for:

- a. The intentional flooding of land or enlargement of a wetland by means of diversion, detention, or impoundment.
- b. The construction, installation or alteration of any water control structure in any **waterbody**.
- c. The diversion of water into a different sub-watershed. See map in **Exhibit C**.
- d. The construction or reconstruction of waterbody crossings.

**Subd. 3. Standards.** A water use permit application under this Section must meet the following standards:

- a. ~~Unless for the purpose of water management, dD~~ drainage way openings in new or reconstructed crossings shall have a capacity that is compatible with the nearest crossing upstream or downstream in the drainage way of their planned placement and shall be consistent with the District Engineer's **recommendations**.
- b. Site specific topography and soil conditions must be specifically addressed.

**Comment [JCK76]:** SCES comment regarding other regulation of these activities. The activities listed are not always regulated by other entities and are not always regulated for the same purposes as these rules require.

**Comment [JCK77]:** BWSR Comment related to retention of waters on drainage systems in a manner that does not reduce beneficial drainage. The language revision better reflects the intent of the District and leaves open the possibility that drainage may be modified for various management purposes.

**Comment [JCK78]:** BWSR comment regarding duplication of regulation with DNR public waters works permits. For some projects there could be duplication with DNR permitting. However, the rule is necessary to ensure consistency with the District's management objectives which are different from those of DNR.

**Comment [JCK79]:** BWSR comment regarding whether this would inhibit or preclude culvert sizing as a means of water management. Nothing in this rule would prevent the sizing of culverts for such a purpose. The language change should clarify. A permit would, however, be required.

- c. Work in or near waterbodies, drainage facilities, and drainage ways shall be conducted so as to minimize increases in suspended solids and turbidity of run-off or receiving waters. Management practices such as the establishment of vegetated buffers to capture sediment shall be incorporated into **plans**.
- d. The intentional flooding of land or enlargement of a wetland by means of diversion, detention, or impoundment and the construction, installation or alteration of any water control structure in any waterbody or drainage way must not flood adjacent, nearby, upstream or downstream properties. The applicant must demonstrate that adequate measures have been taken to protect adjacent, nearby, upstream and downstream properties from flooding **or that necessary easements or other interests have been obtained**. The applicant must also evaluate the project's potential interaction with ground water and address what measures will be taken to prevent the introduction of pollutants or other adverse effects to ground water.
- e. The applicant must include with its application the maximum and average depth and elevation of water in any detention basin, impoundment, wetland, pond or slough. Upon completion of the project, the applicant shall provide as-built engineering specifications for the project to include an operations and maintenance plan for the project.
- f. The applicant must include with its application the **finished design** elevation of all proposed dikes, dams, levies, berms, or any area filled higher than original ground level.
- g. The applicant must include with its application the capacity of any altered or improved natural drainage way or new artificial drainage way.
- h. The applicant must show, in relation to the elevation of any structures, detention basins, impoundments, wetlands, ponds or sloughs, the location, size and capacity of all outlets for water from the property;
- i. A site drawing must be submitted with the permit application in accordance with **Appendix A**.
- j. The Board may require an engineering study for projects where improper construction or failure will have a significant impact on water quality or flood adjacent, nearby, upstream or downstream properties.

**Comment [JCK80]:** BWSR comment regarding whether this requires vegetated buffers for all projects. Where practical vegetated buffers will be incorporated into such projects

**Comment [JCK81]:** BWSR comment regarding whether the language would inhibit or prevent either participation of adjacent landowners or use of easement to account for impacts of project. The suggested language change should clarify. A project proponent may demonstrate that it has acquired necessary easements or other interests to address project impacts. Adjacent landowners may join as joint applicants on a project that will impact only their property.

**Comment [JCK82]:** BWSR suggest correction.

**Comment [JCK83]:** BWSR Comment regarding authority to enforce third party permits. After researching the district's express statutory authority we concur with BWSR that the authority to make the violation of a third party permit an enforceable violation of the rules is unclear. To remedy this issue but still retain the intent of assuring compliance with third party permits, this section has been revised to include the issuance of a general permit to the public for activities not individually regulated by the District that still require a third party permit. The conditions of the general permit include full compliance with the conditions of the third party permit.

**Comment [JCK84]:** CMBA comment regarding timing of review and comment. Nothing in the timing the District's review and comment is determinative of the issuance or denial of a permit by another regulatory entity. The District is merely seeking, in its coordinate function, the opportunity to review and comment on the application. No more definite timing requirements is necessary.

**Comment [JCK85]:** Further BWSR comment regarding administrative burdens and District workload. This provision reflects the inter-agency/inter-governmental coordination that is already occurring in the District. District staff does not anticipate substantial additional burden.

**SECTION 11. WATERSHED DISTRICT NOTICE, GENERAL PERMIT AND DISCRETIONARY ENFORCEMENT**

**Subd. 1. Purpose.** The District must focus its regulatory efforts due to limited resources. Other third party regulatory entities within the watershed regulate activities relevant to water quality and water quantity in the watershed. Where these other regulated activities, though within the regulatory purview of the ~~Distiret~~District, are outside of the scope of direct regulation under the District's rules, the District grants a General Permit to the public for such activities and requires notice and an opportunity to comment in the permitting process for these other regulated activities~~them~~.

**Subd. 2. Applicable Review Processes and Permits.** This Section applies to the following review processes and permits issued within the watershed:

- a. Any review required under the Minnesota Environmental Protection Act (Minnesota Statutes Chapter 116D and corresponding Minnesota Rules Chapter 4410), or other environmental review required by Minnesota law.
- b. NPDES permits, any pollution discharge permits required under Minnesota Statutes Chapter 115, Minnesota Rules, or other state law, including storm water pollution prevention plans required under NPDES permits.
- c. Wetland applications under Minnesota Statutes Chapter 103G and Minnesota Rules Chapter 8420, U.S. Army Corp of Engineers permits under Sections 404 or 401 of the federal Clean Water Act.
- d. Public waters permits required under Minnesota Statutes Chapter 103G and Minnesota Rules Chapter 6115.
- e. Approval of any nutrient management plan related to land application as required by state law or by any political subdivision within the watershed.
- f. Approval of any application for a PUD within the watershed.
- g. Approval of any application for shoreland development within the watershed including, but not limited to variance requests, conditional use permit requests, platting requests, rezoning requests, major shoreland alteration permits, interim use permits or other permit requests.

**Subd. 3. Notice.** Third party regulatory entities within the watershed, applicants for such approvals, or both shall provide the District, as soon as practical, with a copy of environmental review documents and permit applications listed in Subd. 2 of this Section. The regulatory entity, applicant for such approvals, or both shall also provide the date and time of any public hearings related to the environmental review or permit application.

**Subd. 4. Comment.** The District Administrator will provide the regulatory entity~~political subdivision~~, as soon as practical, with~~with~~ comments on behalf of the District.

**Comment [JCK86]:** SCES comment regarding scope of District review of NPDES permits. The District seeks to review any permit authorizing or regulating the discharge of pollutants to water resources. This includes all NPDES permits, not just stormwater permits.

**Comment [JCK87]:** SCES comment regarding District approval of shoreland permits. This is an incorrect reading of the rule. The District only seeks to review and comment such applications as is the current practice.

**Comment [JCK88]:** BWSR suggested correction

**Subd. 5. Copy for District Files.** A copy of the ~~documents provided permit, if any,~~ issued by the ~~regulatory entity political subdivision~~ will be maintained in the District's files.

**Comment [JCK89]:** BWSR comment regarding administrative burden. The intent was not to create a large document management requirement. The language is suggested to be changed so that only the permit itself is maintained. Other documentation may be maintain in the District's discretion or according to a document retention plan.

**Comment [JCK90]:** BWSR suggested correction

**Subd. 6. General Permit, Discretionary Enforcement.** The Managers find that other third party regulatory entities issue permits for activities within the watershed related to water quality and quantity in the watershed. To eliminate duplication in regulation, the District has chosen not to directly regulate these activities by requiring an individual permit. Some of the activities requiring a permit from a third party regulatory entity do not require a District permit. The Managers find that there are instances when third party regulatory entities lack the means, will, or capacity to enforce their permits. The Managers find that District enforcement of third party permits issued for activities within the watershed is necessary to carry out the District's watershed management plan. Therefore the District issues a General Permit to the public for these activities subject to the following conditions:

- a. All persons within the watershed district that have been issued a permit by a third party regulatory entity related to water quality or water quantity within the watershed, must comply with all terms of such a permit. Permits include but are not limited to NPDES permits, wetland permits, public water permits, water appropriation permits, and land use permits.
- b. Any violation of a permit issued by a third party regulatory entity related to water quality or water quantity within the watershed is a violation of the ~~District rules~~ General Permit and subject to all enforcement measures authorized by these rules ~~law~~.

## SECTION 12. EXEMPTION FOR EXISTING REGULATION

**Subd. 1. Purpose.** The District does not intend to duplicate the regulations of other political subdivisions where other political subdivisions have regulations, in the District's discretion, that are equally as stringent or more stringent than the District's regulations. The District intends to enter into agreements with political subdivisions that have regulations that are equally as stringent or more stringent than the District's regulations that allow for the exemption of regulation by the District.

**Subd. 2. Agreement to Regulate and Enforce.** All agreements that allow for the exemption of District rules when other political subdivisions have sufficient existing regulations shall contain the following terms:

- a. The political subdivision must agree to enforce its regulations.

- b. The agreement must terminate if the political subdivision amends its regulations in a way that causes them to be less stringent than the District's rules.
- c. The agreement must be amended and signed by the District and the political subdivision when the District amends its rules.
- d. The political subdivision must provide the District with notice of all permits issued within the watershed by the political subdivision subject to the agreement.

### SECTION 13. ENFORCEMENT

**Subd. 1. Violation is a Misdemeanor.** A violation of a District rule, or a permit issued under District rules, is a misdemeanor subject to the maximum penalty provided by Minnesota law.

**Subd. 2. Notification Regarding Violations.** The District, at its discretion, may file notification of a violation or threatened violation of any part of these rules, or other environmental rules or standards, by any person or political subdivision with ~~the MPCA, the Minnesota Department of Natural Resources, or the Minnesota Department of Health~~ any appropriate state or federal agency. Such notification shall not preclude any right of the District to prevent or continue to prevent any act not allowed or any action required to be performed by these rules, nor shall it prevent simultaneous actions to be taken against any violator by the District, ~~the Department of Natural Resources, the MPCA, the Minnesota Department of Health~~ any appropriate state or federal agency, the courts, or any other person or authority having jurisdictional powers or interest to take such action.

**Comment [JCK91]:** BWSR comment regarding the inclusion and/or exclusion of state and federal regulatory agency. The suggest language changes should clarify.

**Subd. 3. Court Action.** The District may exercise all powers conferred upon it by Minnesota Statutes Chapter 103D in enforcing these rules, including criminal prosecution, injunction, or an action to compel performance, restoration, or abatement.

**Subd. 4. Administrative Order.** The District may enforce its rules by issuing a cease and desist order when it finds that an activity violates any rule of the District.

**Subd. 5. Order to Show Cause.** The Board may require a person or political subdivision in violation of a District rule or permit to appear at a District meeting to show cause why the violation should be allowed to continue.

**Subd. 6. Future Permits.** No future permit shall be issued to an applicant in violation of District rules or a previously issued District permit until the violation has been remedied to the sole satisfaction of the District.

**Subd. 7. Contractor Liability.** Any person or political subdivision contracting to perform services regulated by these rules shall perform all work in compliance with the conditions and specifications of the permit and the rules. Contractors in violation shall be subject to all sanctions or penalties, criminal or civil, imposed by these rules.

**SECTION 14. EFFECTIVE DATE**

The provision of these rules shall become effective upon the passage by the Board of Managers and the publication in a legal newspaper of general circulation in Douglas, Meeker, Pope, Stearns and Todd Counties.

**SECTION 15. ADOPTION**

These rules are hereby adopted pursuant to Minnesota Statutes Chapter 103D, and replace all prior rules, this 16th day of February, 2010, by the Board of Managers of the Sauk River Watershed District.

By \_\_\_\_\_  
President, Board of Managers

ATTEST:

By \_\_\_\_\_  
Secretary, Board of Managers

**EXHIBIT A**

Application; Technical Guidance

**EXHIBIT B**

Watershed District Map

**EXHIBIT C**

Sub-watershed map