

| | Commenter | Comments on March 9, 2018 Draft Redlines | Discussion and proposed revisions |
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| General Comments | | | |
| 1 | PL, SV, SC, [SC] | <p>Current revision is inconsistent with stated goals:</p> <ul style="list-style-type: none"> -Updating rules before updates of the Construction Stormwater Permit and the MPCA MS4 Permit in 2019 will lead to further inconsistencies. -PLSLWD rules differ from Scott WMO and state rules. <p>[District standards is or was either ½ inch or 1 inch, we don't understand how using 1-inch, consistent with the NPDES permit, is relaxing stormwater standards. Additionally, MPCA has found that the NPDES standards meet anti-degradation, or non-degradation. Please clarify. County is supportive of doing what is shown to be needed, but questions the cost and efficiency of doing things just "because." Our experience in the long run is that we stand to lose more ground requiring things that don't have solid justification because of the animosity created with the regulated community.]</p> | <p>Goals were framed in 2013 when the District's volume standard was less than 1.0-inch and Scott WMOs rules were substantively different as well. The Construction Stormwater Permit is updated and Scott WMO draft rules defer in large part to NPDES.</p> <p>The PLSLWD Board has provided clear direction to staff not to relax stormwater standards to NPDES standards for new development, however the District is proposing to relax standards for road reconstruction and redevelopment projects. Currently the stormwater standards are the same for all development, whether new, redevelopment or road reconstruction including: 1) peak rate control, 2) volume control (1.0-inch), 3) and water quality treatment – BMPs sized to retain, filter or detain the 2-year, 24-hour event (2.8-inches). The proposed rule revisions relax stormwater management standards for redevelopment and road reconstruction by striking the requirement to meet the water quality treatment standard.</p> |
| 2 | SC | Draft revision are confusing and complicated. | Opinion noted. |
| 3 | SC, [SC] | <p>A well-defined and transparent process of problem definition, future planning and needs assessment is need before modifying rules.</p> <p>[Yes we realize that there have been conversations for 5 years, but we haven't received documentation of the need for making some of these changes despite asking. County has also pointed out a number of times that how land use is now guided in the unincorporated areas of much of Spring Lake Township will result in some improvements, but we have yet to hear clear acknowledgement of that by the District and its engineer through policies and programs of the District.]</p> | <p>The majority of issues and respective rule modifications have been identified for well over 5-years during which time the TAC was engaged. With renewed efforts in starting in 2017 the rule revision process has engaged the TAC at 5 meetings, local road authorities at 3 additional meetings, and the District's 2020 Plan Public Engagement Process for issues identification.</p> |
| 4 | ST | Initial discussions have led to the question of what is the basis/need for these changes. Present clear need for rule changes, the desired outcome, and show how the rule changes accomplish goal. | See response to comment #3. |

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| 5 | ST | Examples should be given of how the new rules would be applied to some recent/proposed developments, to show how these new rule changes would compare to the current rules. This should be done for various sized developments, like a lot split (2 lots) or smaller development with no new infrastructure, and for a larger 12+ lot development with new roads/stormwater systems. These examples could be used to show the differences in review process, plans/permits, cost of infrastructure/ponding requirements, and added water quality benefits. | Examples were provided for recently permitted municipal road reconstruction projects. The examples illustrated how the proposed revisions relax stormwater management requirements. New development stormwater management standards remain largely unchanged. |
| Rule A - Definitions | | | |
| 6 | PL, SV | Eliminate definitions that differ from MS4 Permit or Construction Stormwater Permit and reference Permit definitions. | Review of and revision to proposed definitions have been made, as appropriate. |
| 7 | SV | Impervious Surface: The rule states "open decks with joints at least 1/4 inch wide shall not constitute and impervious surface". All decks constructed in the City of Savage would have this spacing and the addition of this language is unnecessary. | This language has been eliminated. |
| 8 | SP | Impervious Surface: Use the general permit language: "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, driveways, parking lots, and concrete, asphalt, or gravel roads. Bridges over surface waters are considered impervious surfaces. | Proposed draft is revised as suggested. |
| 9 | SV | Memorandum of Understanding (MOU): A definition shall be added that identifies that an MOU will be established with the local jurisdiction and the PLSLWD. The local jurisdiction will be responsible for adopting and enforcing the requirements of the PLSLWD. | Language has been added to the Relationship with Municipalities and County section of the Rules. |

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| 10 | SP | New Development: Definition is not clear, consider: "Any construction activity that is not defined as redevelopment." | Proposed draft is revised as suggested. |
| 11 | SP | Redevelopment: Definition is not clear, consider: "Any construction activity where, prior to the start of construction, the areas to be disturbed have 15% or more of impervious surface." | Definition for redevelopment is proposed to remain as draft in order to extend redevelopment standards to razed sites. |
| 12 | SC, [SC] | Mill, reclamation and overlay – further clarification needed on whether base layer (class V) would be considered one of the top layer(s) [Based on the response then it should not be a problem for the District to add "gravel" to the parenthetical list of impervious surfaces included in this sentence.] | By definition, gravel is impervious surface. The definition as drafted states, "without disturbance of the underlying native soil". |
| 13 | MnDOT | Impervious Surface – Please add that the trails must be greater than 10 feet wide and not bordered by a 5 foot vegetated buffer strip to be considered impervious surfaces. | This has been added at an exception to Rule D. |
| 14 | MnDOT | New Development – Please confirm that new development and any requirements for new development is not applicable to linear development. For example, confirm that criteria 3, e, i of the Rules is not applicable to linear development. | New Development standards do not apply to Linear Projects. Rule D.3(e)(i) starts with, "For New Development only...". |
| 15 | MnDOT | Reconstructed Impervious Surface: Please clarify that catch basin and pipe/culvert repair/replacement with the same capacity infrastructure does not constitute triggering the Stormwater rules even if the underlying soil is disturbed. | This clarification is included in the definition. |
| Rule D - Stormwater Management | | | |
| 16 | PL | 1.(c) Add a definition for the term "Directly connected impervious surface". | This has been added to Rule A: Directly Connected Impervious Surface – an impervious surface that is hydraulically connected to a conveyance system (i.e. streets, curb and gutter, catch basins, storm drains, etc.) without flowing over pervious areas. |

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| 17 | SV | 2.(a) Rule should be revised to allow flexibility for local jurisdictions to enforce their current rules. The City of Savage requests that for sites less than 1 acre the permitting thresholds be left to the local permitting authority. | It was our understanding that the TAC recommended adopting the lowest threshold of its partners. |
| 18 | SP | 2.(a) Replace "Development" with "New development". | Proposed draft is revised as suggested. |
| 19 | SP, SC, [SC] | 2.(a) Consider simplifying, change to impervious area, instead of meeting both disturbed and impervious area. What is the basis for 3,500 sf of impervious? [Thank you for the clarification, and thank you for the exception for Single Family Homes. However, as noted below we recommend making this about the base zoning, not homes.] | The basis of this language is the City of Prior Lake regulations. Paragraph 8. Exception (g) has been revised to exempt development of Rural Residential Reserve. |
| 20 | PL | 2.(b) Eliminate rule and replace with reference to MS4 Permit requirements. | Per Board direction, the Public Linear Project regulation will remain as drafted. |
| 21 | SP | 2.(b) Change language to "net increase" of 10,000 sf of impervious area. | Per Board Direction, the Public Linear Project regulation will remain as drafted. |
| 22 | MnDOT | 2.(b) Please consider 1 acre of net new and reconstructed impervious surface as the trigger for treatment, rather than 10,000 square feet or new or reconstructed impervious. | Per Board Direction, the Public Linear Project regulation will remain as drafted. |
| 23 | PL | 2.(c) This rule would require lots that are generally less than ¼ acre to provide stormwater management. Additional information requested: -Will the PLSLWD review applications and stormwater management calculations? -Will the PLSLWD take conservation easements for BMPs under this rule? -Will the PLSLWD provide compliance checks to ensure that these private BMPs are functioning as they should be and enforcement if they are not? -This rule will not meet the goal stated in 8/8/17 Memo, "Promoting consistency with other regulations such as the NPDES Construction Permit to minimize the regulatory burden on developers." | Per Board Direction, this standard is proposed to remain as drafted and the District is willing to take on review, design guidance, and inspection and enforcement for the few projects that would be regulated under this criteria. |

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| 24 | SP | 2.(c) Replace "Development" with "New development". | Proposed draft is revised as suggested. |
| 25 | PL, SV, SC, [SC] | 3.(a) Rate control requirements should not be changed from storm event-based to flood event-based. [Thank you] | Proposed draft is revised as suggested. |
| 26 | PL, SV | 3.(a) Rate control requirements in existing rules are sufficient and do not need updated (in reference to requiring rate control at each point of site discharge). Can the rule be revised to allow for an increase in one area if the ultimate receiving water is the same, providing there is an adequate conveyance? | Clarifying language has been added to accommodate this request. |
| 27 | MnDOT | 3.(a) Peak Runoff Rates – Says “Peak runoff rates for the developed condition shall not exceed pre-development peak runoff rates at each point of site discharge for the 2-year, 10-year and 100-year critical duration flood events.” Linear projects have numerous points of site discharge. Can averaging of runoff rates within each drainage area be allowed for linear projects? | See response to comment #26. |
| 28 | PL, SV | 3.(b) Volume control requirements in existing rules are sufficient and do not need updated to require volume control at each point of site discharge. Changing the rule eliminates flexibility for unique site topographical features. Can the rule be revised to allow for an increase in one area if the ultimate receiving water is the same? | “at each point of site discharge” has been removed from the criteria. |
| 29 | MnDOT | 3.(b) Stormwater Volume – Can averaging of volume control within each drainage area also be allowed for linear projects. | See response to comment #28. |
| 30 | SC, [SC] | 3.(b) Why 1.1” and 0.55” in the respective categories for development, redevelopment and linear? These are different than other entities. Provide rationale and need. [Documentation of “need” is still not addressed. While MIDS is an option for compliance under the MS4 there is no preference given to this standard.] | 1.1” and 0.55” has been revised to 1.0” and 0.5”, respectively, to be consistent with the Draft MS4 Permit language dated 5.7.2019. |

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| 31 | PL, SV, SP, SC, [SC] | 3.(b)(i) Changing this rule is inconsistent with local jurisdictions and rationale for change is not provided. [Documentation of “need” is still not addressed. While MIDS is an option for compliance under the MS4 there is no preference given to this standard.] | This paragraph has been revised to be consistent with the Draft MS4 Permit language dated 5.7.2019. |
| 32 | PL, SV | 3.(b)(i) Keep 0.5-inch volume control requirement for sites creating less than 1-acre of new impervious. | Savage and Prior Lake have this provision, Shakopee does not. The PLSLWD Board is of the opinion that stormwater management standards should remain high for new development. |
| 33 | PL, [SC] | 3.(b)(ii) Remove this rule and reference MS4 Permit requirements. Rationale for change has not been provided. [Documentation of “need” is still not addressed. While MIDS is an option for compliance under the MS4 there is no preference given to this standard.] | The PLSLWD Board has provided clear direction to staff to provide flexibility to Redevelopment (which per existing rule is treated as new development) but not to relax stormwater standards to NPDES standards. |
| 34 | SV | 3.(b)(ii) Remove rule and allow local permitting authorities to enforce their current standards. Consider a lower threshold for sites less than 1 acre. | See response to comment #32. |
| 35 | PL, [SC] | 3.(b)(iii) Remove this rule and reference MS4 Permit requirements for linear projects. Rationale for change has not been provided. [Documentation of “need” is still not addressed] | The PLSLWD Board has provided clear direction to staff to provide flexibility to Linear Projects (which per existing rule is treated as new development) but not to relax stormwater standards to NPDES standards. |
| 36 | SP, [SC] | 3.(b)(iii) Too complicated, reconsider volume calculation to 1-inch over impervious area triggered by area. [Documentation of “need” to follow MIDS standards is still not addressed.] | 1.1” and 0.55” has been revised to 1.0” and 0.5”, respectively, to be consistent with the Draft MS4 Permit language dated 5.7.2019. |
| 37 | PL | 3.(c) Delete this section and replace with reference to MPCA Stormwater Manual. | This section has been has been revised to reference the Minnesota Stormwater Manual. |
| 38 | SC, [SC] | 3.(d) – Why would iron or other additives affect volume? [Response is still confusing as the title of this section is “Alternative Volume Control Criteria” (emphasis added).] | The section title and language has been revised to clarify intent. |

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| 39 | SP, SC, [SC] | 3.(e)(i) Unclear if additional water quality requirements/analysis beyond volume reduction requirement is needed. Consider adding clarifying language. Are the proposed reductions based on existing or reduction of proposed loading? [Suggest clarifying that volume infiltrated counts as being treated.] | The intent of this criteria is to maintain the same level of water quality treatment for New Development, by requiring treatment of the 2-year, 24-hour event. Clarifying language has been added. |
| 40 | SC, [SC] | 3.(e)(ii) – Is this additional treatment beyond volume and water quality? Also, is sediment (TSS) a documented problem in the PLSLWD that this is required? [Second half of our comment has not been addressed.] | This is a minimum performance measure if applicant cannot meet stormwater management standards onsite. |
| 41 | SC, [SC] | Item 3.(f) – Given all the other volume and runoff regulation, is this still needed? [Volume control not being realized on-site has not been our experience.] | Yes, volume control may not be realized onsite and these bounce and inundation standards are commonly referenced by municipalities and watershed districts to minimize impacts on wetlands. |
| 42 | PL | 3.(f) Modify wetland bounce and inundation table to remove 100-year event. | Consistent with other watershed district rules, the 100-year event criteria is proposed to remain. |

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| 43 | PL, SC, [SC] | <p>3.(g) Remove the first paragraph and table. Start the second paragraph by saying, "All projects, curve numbers..."</p> <p>[Response does not make sense since the language in the Rule is that the policy stated in the Rules is to "Require that peak runoff rates for new development not exceed pre-development conditions and the capacity of downstream conveyance facilities." (emphasis added), not "pre-settlement". Additionally, the language in criteria 3(a) also states pre-development, not pre-settlement, and definitions includes one for pre-development (given as the condition prior to the proposal) but not pre-settlement. So why are runoff curve numbers that more closely reflect pre-settlement being used? As for comparison with the County's numbers the point was that ours are intended to be pre-settlement, not pre-development. Plus, the County numbers (based on Scott WMO standards) were intended for unincorporated areas where there is more space with the type of development planned, ability to meet pre-settlement, and we don't operate a stormwater utility. The Scott WMO does not force cities to use pre-settlement because they have stormwater utilities and more active management of stormwater infrastructure and were less likely to experience problems that the county was having with drainage systems being natural, largely private, and frequently cobbled together to support agriculture. If it is the intent of the District to go pre-settlement then use consistent language, and if the numbers are close to what the county uses why not just use the same ones?]</p> | <p>This would result in departure from the goal of pre-settlement rates for New Development. Curve numbers have been revised to match Scott WMO standards. Could consider further revision to apply these curve numbers only to New Development in unincorporated areas but arguably there is plenty of space in New Development in incorporated areas, especially those areas that will be annexed.</p> |
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| 44 | SC, [SC] | <p>3(g) (last paragraph) – Proof of need? Already using pretty low Curve Numbers. What if the starting condition is ag.?</p> <p>[Response does not address our comment or concerns. This requirement seems to double down to create a very restrictive standard. The table already has very low curve numbers such that applicants are forced to show very low runoff amounts pre-development (or pre-settlement?) and then forced to go to artificially higher curve number because of the soil group criteria for the proposed condition. We suggest if you are making them go to pre-settlement as reflected in the curve number in the table that is already pretty restrictive, piling more on top of that is probably not effective. In addition, with respect to our question about agriculture it is well documented that soils over the long term exposed to repeated row crop agriculture tend to lose organic matter, and can become compacted or development a hard pan, or lose some of their structure. Plus, there is not vegetation for a good portion of the year. Development of agricultural lands as rural residential presents an opportunity to establish year around vegetation that over time can improve soil and infiltration. This particular transition should be recognized and embraced, not penalized with curve number adjustments as it will improve soils over time.]</p> | <p>Last paragraph recognizes the impact of grading on soil structure (i.e. compaction) and the last sentence has been amended to acknowledge the impacts of agriculture on soil structure.</p> |
| 45 | PL | <p>3.(h) Per the Flood Study results, this rule should exempt properties within the floodplain of Prior Lake based on model assumptions and other areas where stormwater modeling can show no adverse impacts.</p> | <p>This has been clarified to exempt the floodplain of Prior Lake.</p> |

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| 46 | PL, SP, SV, [SC] | 3.(i) Delete this section and replace with referenced to MPCA Stormwater Manual, relating to stormwater infiltration feature design considerations. [Please justify the need for this additional analysis. Provide an analysis of general cost and time increase to developers to have this analysis done, the number of times the district has run into this problem, and the benefit that will be gained.] | The additional cost is negligible (\$300) to the insight gained and pitfalls avoided by assuming infiltration performance based on soil borings alone. |
| 47 | SC | 3.(i)(i) – Exact location for boring is impracticable. | Changed "exact" to "at the". The intent is to indicate to the applicant that site specific borings at the location of the proposed BMP is required. |
| 48 | SC | 3.(k)(iii) – Which type of waterbodies, public? | Any that would impact the performance of the wet pond by regularly inundating the water quality storage of the NURP basin rendering it ineffective. |
| 49 | SC, [SC] | 3.(l) – How are regional and local being defined? Language regarding landlocked basin for the overflow elevation and runoff elevation being different is confusing. 2ft for low floor freeboard under 100 yr. regional elevations has safety factor built in, so why the need for 2' instead of a lesser amount? [Please clarify these terms in the table.] | Regional is FEMA based or in absence of FEMA flood elevation, District SWMM model elevation. 2-ft is from existing rule, no proposed change. Footnote has been added to clarify. |
| 50 | PL | 3.(o) Add a Fee in Lieu option for projects that have no space for BMPs. | Fee in Lieu has been added to Section (q). |
| 51 | SC | Item 3.(o) – What if the overall zoning by the land use authority is resulting in reduction over time? What are the limitations for areas the credits can be transferred within? | If land use decision reduce runoff volume, all the better, but applicants are still responsible for meeting stormwater volume standards under developed conditions. Limits for credit transfer will be defined when approved, but generally speaking credits will be transferable within three areas – 1) tributary to Prior Lake, 2) the Prior Lake Outlet Channel, or 3) other areas not tributary to 1 or 2 (i.e. Cates Lake drainage area, other landlocked areas, etc.). |

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| 52 | SC, [SC] | <p>3.(p) – Overall this does not seem to be an efficient use of public dollars. [Please provide an example of the amount of calculations and analysis that would need to be shown to gain approval by the Board for this requirement. How often do other watershed districts with this type of regulation approve a cost cap project? What information will the Board be considering in setting the cost cap each term?]</p> | <p>This came at the request of the road authorities and is not intended to be onerous. If a municipality were to exercise this option, the District would lean on other watershed districts that have been implementing this cap for years for guidance.</p> |
| 53 | MnDOT | <p>3.(p) Please allow for the unit costs for the various project components to be developed by the applicant and approved by the Watershed District Engineer, not set by the Board. MnDOT uses past project average bid unit cost prices in our project cost estimates.</p> | <p>Paragraph 3.(p) has been revised to accommodate this request.</p> |
| 54 | PL, SC, [SC] | <p>3.(r) It is not realistic to expect as-built drawings to be completed within 35 days of substantial completion of construction. [The County defers to the experience and recommendation of the City of Prior Lake.]</p> | <p>The District is open to an alternate timeframe – please suggest timeframe with 45-day review comments.</p> |
| 55 | MnDOT | <p>4. Allow an MS4 to use its' SWPPP instead of preparing a separate maintenance schedule.</p> | <p>This is acceptable, Paragraph 4(i) has been clarified.</p> |
| 56 | SC, [SC] | <p>4. Flowage and drainage easements that are recorded will be reviewed by the County Surveyor, why does District need them? D&U Easements go to the cities or townships. [Then please limit the review to the cases the PLSLWD is the recipient of the easement. Otherwise this is additional redundant review. In unincorporated areas of the County, the townships accept the D&U easements, but they are reviewed by the County Surveyor (who is licensed) as part of signing off on plats. Also note Conservation Easements are not the same as flowage and drainage easements.]</p> | <p>This is not always the case. Duplication it not the District's intent. This is language that predates these proposed revision.</p> |

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| 57 | SC | Item 5 – “Applicant” is used under Maintenance; however, D & U easements go to the cities and townships. Suggest something accepting Developers Agreement approved by cities and twps. | This is for privately maintained BMPs. |
| 58 | SC | 8.(e) – Consider removal of the word "gravel". What portion of the road needs to treat areas that directly discharge into a wetland? Could you define "direct discharge" and "rural section"? Would vegetation in the road ditch count as credit? | Paragraph 8.(e) has been revised as, “The reconstructed impervious surface of a road that will remain rural-section that is bordered downgradient by vegetated open space or a vegetated filter strip with a minimum width of 5 feet with a slope less than 2 percent is exempt from the requirements of Paragraph 3(b)(iii).” |
| 59 | SC, [SC] | 8.(g) Consider the inclusion of accessory structures, pools, additions, etc. These would typically be smaller in disturbance area and impervious surface than single family homes. PUDs can go as low as 1 acre in unincorporated areas of the watershed can this be lowered to 1 acre size lots? [We recommend not making this about a home and accessories, but the base zoning. That it would be exempt if a Rural Residential Lot developed in conformance with county requirements, or PUD developed in conformance with approved plans. If this approach is not acceptable to the District we will send over a variety of typical permit applications we get in the rural area requesting District interpretation of how the Rules would be applied to these various cases.] | Paragraph 8.(g) has been revised as, “Land zoned as RR-1 Rural Residential Reserve District developed in conformance with County requirements.” |
| 60 | ST | 8. Exemption for rural roadways with swale/ditch systems. These types of roadways do not present a point discharge or collection system that can be treated in one location. | See response to comment #58 and also note that there is flexibility added for roads in Sections 3 (b), (d), (e)(ii), and (m) thru (q). |

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| 61 | ST | 8.(g) Exemption for rural parcels; the initial low threshold for impervious surface increases on individuals lots is geared more towards urban development and should be exempt to account for the current zoning of rural residential nature (larger lots means longer driveways, larger homes, outbuildings, etc.). Revise Exception 8.g to cover all land zoned as rural residential. This would take out parcel size requirements as well as the activities/structures associated. This would help to keep the exemption more clearly defined as it is applied in the future. | See response to comment #59. |
| 62 | MnDOT | 8.(h) Please keep the fence, signs, posts and poles in as exceptions to Rule D. These areas should not be counted as impervious surfaces. | This exception has been unstricken. |
| 63 | SP | Appendix D.1 Reference the table in the stormwater manual instead of including here. Design rates do not follow the guidance in the stormwater manual and it is not clear why that would be needed. | Design rates are per the state stormwater manual with the exception of SM soils, which is predominant in PLSLWD and often misclassified in the field. The additional soil analysis recommended and corresponding supplementary design infiltration rate table is highly recommended given the wide range of potential infiltration rates. |

- PL City of Prior Lake
- SV City of Savage
- SP City of Shakopee
- SC Scott County
- MnDOT Minnesota Department of Transportation (comments made after the 10/10/18 TAC meeting)
- [SC] Scott County comments made after the 10/10/18 TAC meeting
- ST Stantec, on behalf of Spring Lake Township (comments made after the 10/10/18 TAC meeting)