

Comments and Responses on 2022 Proposed Rule Revisions

Comment Period October 24, 2022 through December 7, 2022

Rule Reference	Commenter/Affiliation	Comment	Response
Financial assurances; Rule 12.0	Curt Brekke, C Alan Homes	Just some constructive feedback. Your Escrow amounts are ridiculous. Residential home at 6u6 Ridgeway Rd was around \$18,000. It didn't even come close to that amount to build the raingarden. Just some constructive criticism (Feedback). Some of the NMC engineers (I won't mention any names) think they are the right hand of God. NMC needs to work with builders. Not be the up hill battle enemy with our Soil engineer and Storm Water Engineer. You have a great staff but I think some of your policies need to be more end user friendly	NMCWD will take the comment under consideration outside of this rulemaking process. NMCWD annually reviews its permit fees and financial-assurance rates at its annual business meeting in January and will discuss financial-assurance rates for single-family home projects.
General	Lori Haak, City of Eden Prairie	Thank you for the opportunity to comment on the Revision to the Rules proposed by the Nine Mile Creek Watershed District (NMCWD). The City discussed the NMCWD proposed rule changes internally and determined that we do not have comments on any of the proposed housekeeping language.	Thank you for reviewing.
Wetland Buffers; Rule 3.4	Lori Haak, City of Eden Prairie	[The city] do[es] have concerns about some of the rule language in the immediate vicinity of the proposed changes. Rule 3.4 regarding wetland buffers (as proposed) states that "Any activity for which a permit is required under District rule 2.0, 4.0, 6.0, 7.0 or 8.0 or subsection 3.2.1 of this rule must provide buffer around the entirety of wetlands disturbed by the activity and on the portion of any wetlands downgradient from the activity, in accordance with the following criteria..." The City is concerned this could lead to the establishment of wetland buffers within right of way or City parks that would provide minimal to no benefit to the downgradient wetland(s). Additionally, it may be unnecessarily punitive to applicants who are taking measures to avoid even temporary wetland impact (e.g., directionally drilling utilities instead of using open trenches). The City requests that NMCWD consider an exemption to this rule for temporary impacts to land upgradient from wetlands. The City further requests a distance threshold over which a wetland buffer would not be required (e.g., A wetland buffer is not required if the wetland is greater than ___% of the minimum average buffer width from the land disturbing activity.). There is a specific instance within the City of Eden Prairie that demonstrates the impacts of this provision of the rule and possible alternatives for addressing it. The details are difficult to outline in writing, but I am happy to go over that scenario with you if it would be helpful. If you would like to request a meeting or have questions regarding the above, please do not hesitate to contact me.	As you acknowledge, NMCWD is not proposing any changes to the scope, extent or substantive requirements of its wetland-buffer provisions, and does not find reason in the comment to re-initiate the review process to incorporate changes to the buffer requirements. While the city's comments will be preserved for consideration in the rulemaking to be undertaken in 2023 (noted in the response to the city's comment on the topic below), we encourage review in the meantime of the specific provisions in place for right-of-way and wetland-disturbance exemptions. NMCWD also takes exception with the characterization of any provision of its rules as "punitive"; the rules have been carefully drafted and subject to public review to ensure that they balance protection of water resources and mitigation of flood risk against burden on property owners. NMCWD staff will certainly make themselves available to address specific circumstances of a city project that may present particular complexities or difficulties with regard to compliance with NMCWD buffer requirements or other rules provisions.
Linear Projects; Rule 4.2.4	Lori Haak, City of Eden Prairie	Finally, although the proposed rule revisions do not perfectly align NMCWD rules for linear projects with the provisions of the NPDES Phase II Municipal Separate Storm Sewer System (MS4) permit, the City anticipates a rule revision to that end in the near future. Please keep us informed as you begin that process.	NMCWD staff have begun analyzing options for harmonizing the NMCWD requirements for road projects with the state's requirements. Staff will take the time necessary to draft effective changes for proposal in a subsequent amendment while proceeding with the other changes already drafted and reviewed by the Technical Advisory Committee. We will be sure to reach out to the city when we start the process.
General	Joe Mulcahy, Metropolitan Council Environmental Services	The Metropolitan Council has no comments on the proposed revisions to the District's Rules. Thank you for the opportunity to review them. Please let me know if you have questions or concerns.	Thank you for reviewing
General	Jeff Berg, Minnesota Department of Agriculture	I have reviewed the proposed revisions to the NMCWD rules. MDA has no comments.	Thank you for reviewing
General	Chad Donnelly, City of Richfield	Staff with the City of Richfield's engineering department has reviewed the proposed amendments and revisions to Nile Mile Creek Watershed District's Rules and Regulations. We find the changes to be in-line with the goals and objectives maintained by the City for stormwater management, as well as meeting the standard of care in the industry for land development and environmental protection. We appreciate the opportunity to review these changes and we look forward to working with the Watershed District in the future.	Thank you for reviewing
General	Jessica Wilson, City of Edina	Thank you for the opportunity to comment now as well as earlier in the process. My feedback has already been captured and I have no further comments.	Thank you for reviewing