

# **E** Environment Committee

For the Metropolitan Council meeting of February 13, 2013

## **ADVISORY INFORMATION**

Date Prepared: January 28, 2013

Subject: Adoption of proposed revisions to the Waste Discharge Rules (WDR) for the Metropolitan Disposal System (MDS)

### **Proposed Action:**

That the Metropolitan Council adopts proposed revisions to the Waste Discharge Rules for the Metropolitan Disposal System.

### **Summary of Committee Discussion / Questions:**

Staff provided an overview of proposed changes. General discussion followed, and no issues were raised. Motion to approve the proposed action was made, seconded and passed unanimously.

## Environment Committee

Meeting date: January 22, 2013

For the Council Meeting of February 13, 2013

### ADVISORY INFORMATION

Date:	January 11, 2013
Subject:	Adoption of Proposed Revisions to the Waste Discharge Rules (WDR) for the Metropolitan Disposal System (MDS)
District(s), Member(s):	All
Policy/Legal Reference:	Waste Discharge Rules for the Metropolitan Disposal System; MN Statutes, Chapter 473; MN Rules, Chapter 7049
Staff Prepared/Presented:	Keith J. Buttlerman 651-602-1015; Leo H. Hermes 651-602-4701
Division/Department:	MCES c/o Leisa H. Thompson 651-602-8101

### Proposed Action

That the Metropolitan Council adopts proposed revisions to the Waste Discharge Rules for the Metropolitan Disposal System.

### Background

The WDR specify standards and requirements which must be met by users of the sewer system, including industrial and commercial permittees, and customer communities. The WDR are required as a component of the federal pretreatment program delegated to the Metropolitan Council to implement and administer. The WDR were last revised in 1998, and the revisions now proposed involve three main categories as follows:

- 1) Incorporation of a wide range of requirements involving customer communities, most of which are existing requirements or procedures. Inclusion in the WDR will serve to consolidate all such requirements into a single document.
- 2) Revisions required by Minnesota Pollution Control Agency (MPCA), resulting from the adoption of "Minnesota Pretreatment Rules" in 2008 (Minnesota Rules, Chapter 7049).
- 3) Other additions, updates and improvements based on current or anticipated conditions, and staff experience in implementing the WDR and the federal/state pretreatment programs.

### Rationale

MCES staff and management believe that the proposed WDR revisions are needed for the continued efficient, economic and safe operation of the MDS. In addition, the proposed revisions will better define and codify requirements related to customer communities served by the MDS. The WDR, if revised, will consist of an Introduction Article, a new Article I - Customer Community Requirements, and existing Articles II through V.

### Funding

The proposed WDR revisions do not specify any additional fees or programs which would result in new revenue for MCES. Further, MCES costs are not projected to increase due to these revisions.

### Known Support / Opposition

The Office of General Counsel has reviewed and approved the proposed WDR revisions, and the MPCA has also given written approval. Attachment A contains the transcript of the Question and Answer segment of the Public Information Meeting held on September 27, 2012. Five comment letters were subsequently received, and MCES responses were sent. Some changes to the draft WDR revisions were made, and staff are unaware of any existing opposition to the proposed WDR revisions.

## **Attachment A - Business Item: 2013-38**

**Meeting Title:** Public Information Meeting – Waste Discharge Rules Revisions

**Date, Time:** 09/27/12, 9:00 a.m.

**Room:** Metro 94 Suite 32 Conference Room

**Attendees:** Eight attendees from Metropolitan Council Environmental Services (MCES), including Leo Hermes, Keith Buttleman, Jason Willett, Bill Moeller. 19 attendees from communities, industries, and the Minnesota Dental Association

### **Transcript of Question and Answer segment**

Request for comments by Keith Buttleman, MCES, after Waste Discharge Rules revisions were presented by Leo Hermes, MCES: "We're interested in hearing any comments that you have now but, as Leo said, not limited to this opportunity. You can come back with additional comments later in any form that you choose – in writing, or e-mails, or phone calls, or that sort of thing. Anybody have a comment now?"

**Question by Van-Anh Thai, University of Minnesota (UofM):** "I have a question – I have many but I'll put it in writing. But just one question for Leo: How do you define surface water and contaminated groundwater? What is surface water?"

**Answer by Leo Hermes:** "Surface water... well, just a general common-language definition, that would be, you know, ponds, lakes, rivers, we do deal with surface water contamination issues. We've got a couple now, actually, that we're dealing with. So surface water would be, I guess, something that you can see, whereas groundwater is -- I mean, you know yourself how we deal with contaminated groundwater. If it's got contaminants in it that would disallow direct discharge, if they're remediating or pumping to remove contaminants, if the level would disallow direct discharge then it's contaminated and our program and our provisions would allow us to accept that with our conditions and treatment requirements."

**Follow up question by Van-Anh Thai:** "So stormwater will not be considered surface water?"

**Answer by Keith Buttleman:** "Yes".

**Follow up answer by Leo Hermes:** "It's a form of surface water, yes, and it would not be acceptable into our system unless it's contaminated."

**Follow up question by Van-Anh Thai:** "How do you determine if it's contaminated groundwater?"

**Answer by Leo Hermes:** "Well, again, the common ones that we deal with are the fuel-type sources - you know, gasoline, diesel, and so forth. So we look at the numbers for what we call BTEX or GROs – gasoline range organics or diesel range organics. Again, the first stop for the person requesting discharges is to see if it's suitable for surface water discharge into receiving waters and if not, then we would look at the numbers too. If they're too high we would require pretreatment, and if they're in a kind of a guidance range that we have then we would accept it without treatment. They'd still have to have the protective phase separator in place most of the time. It's a judgment call in the sense that we don't have exact numbers but it's the first thing that we do, and we've been doing this since the late '70s, in accepting these types of groundwater contaminated remediation sites."

**Comment by Mike Plimi, MCES:** "And most of the time MPCA makes the determination for us. They'll tell us if it's not acceptable for surface water and it has to come to us. If it's acceptable of course we'll accept it."

**Comment by Leo Hermes:** "It's almost like a referral. They do an awful lot of referrals to us

and if we can accommodate them within our system (same with the landfill leachate)... If we can accommodate that, with or without treatment, depending on our requirements, then we take it and it does serve a very good public purpose. There's been an awful lot of underground tank leaks cleaned up. I remember the very first one I dealt with was in Bloomington. I think it was 98th and Lyndale, and that was back in the '70s. That was one of the very first underground tank leaks, and that goes way back. There's been literally hundreds of them since then."

**Question by City of Plymouth representative:** "Leo, you mentioned that you're going to take a look at this one, but in Section 102.04, page 18, Underutilization of MDS, and I know Jason has had a conversation with the City Manager of Plymouth. The concern that we've got, and I understand in talking to Jason that this is... I'm going to say it - it's a Lake Elmo provision where they determined that they didn't want to put as much sewer in as the Met Council's guidelines say they should or not... the density really. But the way I read this is written, I would argue that you could read it and say that, based on information we put into our comprehensive plans, that you could turn around and say "You didn't meet your estimates". Frankly, in our comprehensive plans, they really are estimates. They're economy-based and, as we know, the economy sometimes throws us curveballs that we really can't anticipate. The way I read it is you potentially could use the comp plan and come back to us and say "Well, you didn't have quite the growth that you thought you were going to have. You have to pay us an inefficiency fee". Certainly that concerns us because we put numbers in to the best of our ability but they really are estimates."

**Answer by Keith Buttleman:** "We understand that concern, and I think Jason's come up with some alternative language in an attempt to clarify and show that that's not what we mean – that we do mean it as a Lake Elmo-type situation."

**Follow up answer by Jason Willett, MCES:** "I think we may want to say explicitly this is not on comprehensive planning. We understand that, being part of a regional system, that's a risk we all take in our own ways and so we'll make sure that's not the case. If you enter a voluntary agreement, or court-imposed, that has those kinds of things we just wanted to document the authority to do that. It only applies to Lake Elmo at this point, but, you know, who knows in the future? If the city wanted to encourage us to do something or agreed to something, then this would be the authority to stick with that. We will fix this language, and if you want to send specific suggestions that's fine, otherwise we'll take care of it."

**Response by City of Plymouth representative:** "Okay, thank you."

**Question by Patricia Nauman, Metro Cities:** "Well, I've got two questions, I guess. I'm trying to look at these rules on my phone because I forgot my own copy, but the Article 1, my understanding is that these are... uses language that has been pulled from other places? But it's underlined language so it looks new..."

**Answer by Keith Buttleman:** "It's new to the Waste Discharge Rules."

**Follow up question by Patricia Nauman:** "Right, okay, so where is it now and how did it get here? Now that it's going to be in rule form, how does that change or does it change the Council's enforcement or authority as compared to where that enforcement is right now?"

**Answer by Keith Buttleman:** "As far as I know most of it doesn't change the authority at all. It simply puts it in one convenient place. But there might be... I'm not 100% sure that there's nothing new in there."

**Follow up answer by Leo Hermes:** "Well, there are a few things: the explicit requirement about the jetting and flushing and then the maintenance plan... there's a few things like that that I know we've used in the past but it's..."

**Follow up answer by Bill Moeller, MCES:** "I think that this represents a clarification, a

compilation, maybe an expansion of a variety of terminology, process and procedures that are in different places, most of which was in fact in the 1971 Waste Discharge Rules, but in a very brief kind of commentary. This is expanded on that, and to make it more clear what the expectations are."

**Comment by Leo Hermes:** "I think that's a good word, expectations. We don't intend to, you know, overtly go out and enforce this and check every city's files to see if you maintained your lines according to a plan that you may or may not have and that type of thing. It's an expectation. I have to say, being in a rule, that it does have some enforcement potentially behind it. We have, actually, taken some enforcement against cities and other government entities for a variety of reasons over the years. Some of you may or may not know that we actually permit ourselves: all of our Metro Transit bus garages and facilities are on permit with us, and we sometimes have to take enforcement against ourselves. The Minnesota Pollution Control Agency, the city of St. Paul, the city of Minneapolis, the Port Authority, the U.S. Army, the U.S. Air Force, and Region 5 U.S. EPA are all permittees of ours. They have permits with us now. Many of the cities, just within the last couple years, have gotten permits for discharges from their water supply plants so we have permits in effect already with a lot of public entities that we do enforce. But a lot of this stuff, as Bill said regarding operating your system, is more like an expectation."

**Comment by Bill Moeller:** "And, you know, I should add to that over the last decade or more, the EPA has been pushing towards a whole series of requirements that they have, I guess, talked to us informally about and that we're trying to in fact formalize our approach to dealing with a lot of operation- and maintenance-related issues with the communities... make it clear what the expectations are. So that's one of the primary drivers for that. We're faced with more stringent requirements from the state and from feds and we need to, you know, address that."

**Comment by Leo Hermes:** "It's the whole sanitary sewer overflow thing and the maintenance procedures..."

**Comment by Bill Moeller:** "CMOM..."

**Comment by Leo Hermes:** "CMOM, yeah... City people know what we're talking about. The industry folks might not. It's a big thing for the cities now and us."

**Comment by Jason Willet:** "That said, if there are particular concerns, make sure to point them out. We'll try to work with you and fix it."

**Question by Leo Hermes:** "Could you just briefly mention the flushing and jetting? Because I know that came up."

**Answer by Bill Moeller:** "Over the years, I mean, there's been cases where we see evidence of practices by, you know, some of the cities or, in some cases certainly private entities where those impact our system. You know, I can think of, you know, here in the last couple of years where I'm 99% sure that the activities of either the city or a private contractor, you know, resulted in a backup in our system that we wind up having to experience... you know, have home owners experience sewage in their basements. You know, we want to avoid that and we want people in communities to deal with their cleaning operations in a proper fashion."

**Comment by Keith Buttleman:** "The dental folks had a hand up a second ago."

**Question by Dave Resch, Minnesota Dental Association (MDA):** "Oh, I just... I don't deal with groundwater and surface water a lot, and I was wondering how do you know it's contaminated? Do you look at it? Do you say, "Oh, you have oil in it" – or something like that? Or do you run tests on it? And it seems to me that it would be almost an insurmountable task to test."

**Answer by Leo Hermes:** "Well, again, we're dealing with water that may be requested to be discharged into the sewer system. We're not talking about drinking water per se, so the

level of contaminant that we'd be looking for would be, you know, higher. We test for certain toxic organics, metals, pH, and things like that that are a little bit more conventional, rather than some of the very exotic compounds like you see in rivers, for example, or the aquatic environment where you have to get down to parts per billion and so forth, although we have to get down to parts per billion and for some of them when we discharge it. We are able to treat and remove the oils and the gasolines and the stuff I've mentioned going back into the '70s at the gas stations. I spent a lot of time at gas stations and in the sewers outside of gas stations... I mean, you could smell it. Bill's had his people experience that too."

**Comment by Keith Buttleman:** "Keep in mind that mostly what we're talking about here with regard to these rules are discharges into our system where landowners, or in some cases municipalities, may have had to withdraw groundwater and keep it from spreading, for example - it's been contaminated by something in the past and they need some place to put it. The [Minnesota] Pollution Control Agency has determined that it's contaminated and therefore has to come to us. We also do monitoring of surface water. We have a professional staff doing monitoring of rivers, lakes, and streams in the metro area. We have an analytical laboratory to test those samples. But that's mostly not what we're talking about in these rules."

**Comment by Leo Hermes:** "And, of course, our treatment plants are monitored extensively in terms of the effluent discharge so we know what we're putting into the surface waters."

**Comment by Jason Willett:** "We've got thousands of regulations on our discharge, so that means we really have to have a pretty good analytical."

**Question by Bridgett Rasset (MDA):** "Could you clarify what you're referring to as far as sterilizing amalgam? In the dental..."

**Response by Leo Hermes:** "Peter isn't here... oh, Peter is here. I don't think that shows up in the rules..."

**Question by Peter Berglund:** "Have you seen something that talked about sterilization?"

**Answer by Bridgett Rasset:** "I did, in the original documents that you sent me..."

**Comment by Cindy Kuschel, Metro Dentalcare:** "It's either in 307.01 or 307.02..."

**Comment by Keith Buttleman:** "Anyway, let's... We'll look into that and we'll get back to you on that. Bob, you had a comment?"

**Question by Bob Cockriel, City of Bloomington:** "Yeah, with regards to 103.02, Cleaning and Maintenance Practices, in order for the cities to comply with Section B, "develop and implement a written sanitary sewer operation and maintenance program", would it be possible to get a copy of the Met Council's procedures so that we can use that as a template for our own programs?"

**Answer by Bill Moeller:** "Sure."

**Response by Bob Cockriel:** "We're good, thanks."

**Comment by Keith Buttleman:** "That's an easy one. We've got Xerox machines."

**Comment by Leo Hermes:** "We've got e-mail too!"

**Comment by Keith Buttleman:** "Other comments? While we're looking into the..."

**Response by Leo Hermes:** "Did Peter find that one? Oh, I see, okay, it's here. It's a best management practice, actually. Those terminologies are basically taken... (We're on this dental thing again) ...are taken from a series of, and I'm not sure of the exact source... We had worked on the program earlier. We wanted to ensure that best management practices regarding all different waste sources within the dental clinic are managed properly to prevent spills and releases into the sewer system as well as adoption of the amalgam separator devices to control the mercury discharge. It was part of a kind of package that

we adopted back then. As far as the exact details, Peter could probably get back to you and give you his source documentation on that."

**Comment by Keith Buttleman:** "And if there's still a concern, we can resolve that as a separate item – as part of this review, but basically that's one category of users. So for right now let's say we'll put that on hold and get more detail in a separate conversation with you folks about that. Let's see if there are any other comments from the group as a whole."

**Comment by Leo Hermes:** "If we need to change a word or two, we certainly can."

**Response by Bridgett Rasset:** "I think maybe "sterilization", but we can talk about it."

**Response by Leo Hermes:** "Okay. Sure, absolutely."

**Comment by Keith Buttleman:** "Other comments or questions? Suggestions?"

**Question by Industry Representative:** "Is there a minimum industrial permit fee? Just for discharging in a normal..."

**Answer by Leo Hermes:** "For a company that's on permit, that discharges through the year, we have annual permit fees. The lowest one for that, for this year is \$675. If you have a one-time discharge – you just want to discharge something once – then we have other fees that go down. I think it's \$150 for in the service area and \$300 if it's outside of our service area for the application fee for a one-time special discharge. Am I right on that, Mike? I hope I am."

**Response by Mike Plimi:** "And it's scheduled to increase, isn't it?"

**Response by Leo Hermes:** "Not those, unless Jason tells us to. We also have a minimum... If we get a phone call and somebody wants to discharge a couple hundred gallons of something and we know it's okay (it doesn't require testing or anything, and we've got decades of experience at doing this), then we just handle it informally and there's no charge."

**Comment by Bob Golden, MCES:** "It's 500 gallons."

**Response by Leo Hermes:** "500 gallons or less. We do have general permit fees that are less than the \$675. I mentioned the municipal water supply plants – do you know what they are this year, Mike? Is it at \$275? It's in that range, I think. Bob Pohlman, who knows that, is on vacation this week."

**Comment by Industry representative:** "So I would probably just give Bob a call."

**Question by Leo Hermes:** "Would it be a one-time discharge or an ongoing discharge?"

**Answer by Industry representative:** "Oh, it's just ongoing. It's basically just household stuff."

**Response by Leo Hermes:** "Yeah. Well, we can talk about the details on that. We handle those now so it really isn't related to the rules per se."

**Question by Keith Buttleman:** "Other comments? Questions?"

**Question by Van-Anh Thai:** "Leo... under permit condition? Section 205, page 39, bullet V - requirements for approval for the discharge of non-routine industrial waste? What is non-routine industrial waste?"

**Answer by Leo Hermes:** "That one is new, but it's part of our acceptance program... like batch discharges. You know, if an industry has a batch discharge that they disclosed, or if they didn't disclose it, and they called and they say "Now we're cleaning out our tanks"... we do that now. I mean, if we know a person has a five stage phosphate washing system and we know they're going to dump their main tank twice a year, we put that in that they have to notify us and sample it and precipitate out the heavy solids and things like that. Again, just clarification of existing procedures. This is going into permits so we would already have the application and gone out for an inspection. If need be we would put in

additional requirements. Sometimes we would have to see the data first and let them discharge it. Sometimes we go the other way. It just depends on the circumstances. It's nothing really new, but we want it in there as an allowable permit condition."

**Follow up answer by Keith Buttleman:** "But it's essentially a case where there's a non-, and by using the term non-routine it means once in a while, that they will discharge something different from their day-to-day discharge."

**Response by Van-Anh Thai:** "I used to call it special discharge permits. "

**Response by Leo Hermes:** "Well, for a standard permittee, a connected industry, we might call it a batch discharge or a non-routine discharge. The thing there is those don't get caught in the routine monitoring. We don't see those levels when we're out monitoring, or when you're doing your monitoring for your self-monitoring reports, so that's why we need to know... maybe have a special sample taken, that type of thing."

**Follow up question by Attendee:** "Does that also cover those polluted groundwater discharges?"

**Answer by Leo Hermes:** "Actually, those are a bit more uniform. Once you start pumping groundwater and pumping continuously, we have more frequent monitoring reports. Instead of once a quarter or twice a year, we still make most of them do it once a month or more often if needed. Usually once a month, once we've characterized it initially, is sufficient for those types of discharges."

**Conclusion statement by Keith Buttleman:** "Well, if there are no other comments you'd like to offer now... Again, I don't want to sound like a broken record, but you do have more opportunities if something comes up that you forgot. Or if you'd like to go back and read this document again and decide you really want to get deeper into some of the details, you can give us additional comments through the deadline... You can see here on the screen how you can get your comments to us. That's in addition to just catching Leo while he's running during lunchtime. Yell out the window at him "I got a comment on something"."

**Comment by Leo Hermes:** "Yeah, no, people do that. If you offer us more comments that's tremendous. Again, we don't think this is major policy change. It really isn't. The comments received so far are very useful. If you offer more, that's great, and in return we will offer you more donuts as you leave. We do appreciate your attendance and thank you for your time and attendance. With that I think we can close."

**Conclusion by Keith Buttleman:** "We'll wrap up. Thank you for coming."

**Conclusion of Meeting: 10:09am**