

Rice Creek Watershed District

Policies and Procedures Under the Data Practices Act for Public Access to Documents

Policy adopted January 22, 2003; adopted as amended June 25, 2014

In accordance with **Minnesota Statutes chapter 13 (Data Practices Act; DPA)**, the Rice Creek Watershed District adopted the following data practices policies regarding the dissemination and retention of information. The DPA states that data of public bodies are to be available to the public unless specifically exempted under the law in cases where individual privacy would be violated or where other valid concerns outweigh the interest in public availability. The RCWD recognizes the public interest in open access to its data as well as the public interest that requires that certain types of data not be made available to the public. It is the intent of the RCWD to comply fully with the DPA and, where the DPA allows for the exercise of judgment, to exercise that judgment consistent with the public interests underlying the law.

This policy is adopted pursuant to section 13.025, subdivision 2, and section 13.03, subdivision 2, of the DPA, which state that every public body shall establish procedures to implement the DPA. *The RCWD has adopted and maintains a Records Retention Schedule, which is an index of the records and data maintained by the RCWD and includes private or confidential data on individuals collected by the RCWD in compliance with section 13.025, subdivision 1.* This policy includes procedures to ensure that data on individuals are accurate and complete, and to safeguard the data's security under section 13.05, subdivision 5, as well as procedures to guarantee the rights of data subjects in compliance with section 13.025, subdivision 3. This policy is accompanied by a document setting forth the rights of data subjects under the DPA.

Access to RCWD Documents:

All requests to inspect or receive copies of RCWD data, and all other inquiries regarding the DPA, must be in writing and sent by U.S. Mail, addressed to the "Data Practices Compliance Official," at the following address:

Rice Creek Watershed District
4325 Pheasant Ridge Drive NE #611
Blaine, MN 55449-4539

The RCWD administrator is designated as the Data Practices Compliance Official and the Responsible Authority.

Requests to inspect or obtain copies of RCWD data must be in writing to ensure that the RCWD's response is timely and complete. In the case of an individual who wishes to inspect RCWD data, the Data Practices Compliance Official will help to ensure that documents of interest have been gathered, that documents to be withheld from inspection pursuant to the DPA have been segregated, and that someone is available to assist the requesting individual. The RCWD will provide requested data for inspection at the RCWD office, or other location to be specified by the Data Practices Compliance Official.

The DPA requires that individuals be permitted to inspect or copy data within a reasonable time of a request. The RCWD will respond to requests as quickly as possible. RCWD office hours

are from 8:00 AM to 4:30 PM, Monday through Friday, except holidays. Individuals are encouraged to call in advance to set a time to meet with staff to inspect RCWD data to ensure that the right person is available to provide assistance. RCWD staff will make every effort to accommodate the schedule of those requesting information so that citizens may enjoy convenient review of RCWD information. For large requests, the RCWD staff will, again, do their best to respond to the request as soon as reasonably possible. The response time will vary depending on the breadth of the request and the completeness and accuracy of the request. Original RCWD files may not be removed from the District offices.

If the RCWD determines that certain data cannot be made available for inspection or copying, it will inform the individual of the classification of the data in question under the DPA and the legal basis for denial of access.

Fees:

As stipulated by the Data Practices Act, no fee will be charged for inspecting data or for classifying data. Fees will be charged if copies are requested according to the following:

If document copies are requested, the requesting individual will be charged 25 cents per page for up to 100 standard-sized black-and-white printed copies, except that there is no charge for delivery by email of less than 100 pages or the equivalent (as determined by the RCWD) of data. Standard charges will apply for re-delivery of data in the event of failure of email delivery resulting from incapacity of the recipient's email system. Copies of documents will not be certified as true and correct copies unless certification is specifically requested. The fee for certification is \$1 per document.

With respect to oversize copies, tapes, electronic data, photographs, slides and other unusual formats, the requesting individual will be responsible for the actual cost incurred by the RCWD to make the copy itself or to use a vendor, except that there is no charge for electronic delivery of less than 100 pages of data or the equivalent (as determined by the RCWD). Other specific copy charges are as follows:

Text

Up to 11" x 17", 20 paper copies or less: No charge.

Up to 11" x 17", more than 20 copies: 20¢/copy plus time to create copies at \$20/hour.

Color Maps

8.5" x 11" maps, 5 paper copies or less: No charge.

8.5" x 11" maps, more than 5 copies: 40¢/copy plus time to create copies at \$20/hour.

11" x 17" maps: \$3/copy plus time to create copies at \$20/hour. Larger maps: \$5/copy plus time to create copies at \$20/hour.

Electronic Copies

CDs: \$2/disc plus time to create copies at \$20/hour.

An individual requesting copies or the electronic transmittal of more than 100 pages of data is responsible to pay the RCWD the actual cost, including the cost of staff time spent searching for and retrieving data and to make, certify, compile and transmit copies. Staff costs will be assessed based upon established hourly rates.

If an individual so asks, before copies are made the RCWD will advise of the approximate number of pages of documents responsive to a request or the likely cost of responding to a request. Payment may be made by check. The RCWD may require payment in advance.

When an individual asks for a copy of data that have commercial value and were developed with a significant expenditure of public funds by the RCWD, the RCWD may charge a reasonable fee that relates to the actual cost of developing the data. As a condition of making certain commercially valuable data available, the RCWD may, at its discretion, require execution of a license agreement defining allowed use or further distribution.

Rice Creek Watershed District
Protection of Private and Confidential Data on Individuals

The Rice Creek Watershed District (RCWD) establishes the following to protect and ensure the accuracy of non-public data on individuals (i.e., private and confidential data).

Accuracy and Currency of Data

Employees of the RCWD are requested, and given appropriate forms, to annually provide updated personal information for the RCWD as necessary for RCWD recordkeeping, tax, insurance, emergency notification and other personnel purposes. Other individuals who provide private or confidential information (e.g., managers) are also encouraged to provide updated information when appropriate.

Data Safeguards

Private and confidential information is stored in secure files and databases that are not accessible to individuals who do not have authorized access. Private and confidential data on individuals is accessed only by individuals who are both authorized and have a need to access such information for RCWD purposes. (An individual who is the subject of data classified as private may access such data for any reason.)

The RCWD administrator, as Responsible Authority, reviews forms used by the RCWD to collect data on individuals and ensures that the RCWD collects private or confidential data only as necessary for authorized RCWD purposes.

Only managers and employees of the RCWD whose work for the RCWD requires that they have access to private or confidential data may access files and records containing such information. Employees' and managers' access is further governed by the following requirements:

- Private or confidential data may be released only to persons authorized by law to access such data;
- Private or confidential data must be secured at all times and not left in a location where they may be accessed by unauthorized persons;
- Private or confidential data must be shredded before it is disposed of.

When a contract with an outside entity requires access to private or confidential information retained by the RCWD, the contracting entity is required by the terms of its agreement with the RCWD to use and disseminate such information in a manner consistent with the DPA and the RCWD's Policies and Procedures Under the Data Practices Act for Public Access to Documents. RCWD agreements include language for the purposes substantially similar to that shown in Exhibit A to this protocol.

EXHIBIT A

Agreement DPA Terms

XX. Data Practices: Confidentiality

If CONSULTANT receives a request for data pursuant to the Data Practices Act, Minnesota Statutes chapter 13 (DPA), that may encompass data (as that term is defined in the DPA) CONSULTANT possesses or has created as a result of this agreement, it will inform the RCWD immediately and transmit a copy of the request. If the request is addressed to the RCWD, CONSULTANT will not provide any information or documents, but will direct the inquiry to the RCWD. If the request is addressed to CONSULTANT, CONSULTANT will be responsible to determine whether it is legally required to respond to the request and otherwise what its legal obligations are, but will notify and consult with the RCWD and its legal counsel before replying. Nothing in the preceding sentence supersedes CONSULTANT's obligations under this agreement with respect to protection of RCWD data, property rights in data or confidentiality. Nothing in this section constitutes a determination that CONSULTANT is performing a governmental function within the meaning of Minnesota Statutes section 13.05, subdivision 11, or otherwise expands the applicability of the DPA beyond its scope under governing law.

CONSULTANT agrees that it will not disclose and will hold in confidence any and all proprietary materials owned or possessed by the RCWD and so denominated by the RCWD. CONSULTANT will not use any such materials for any purpose other than performance of the Services without RCWD written consent. This restriction does not apply to materials already possessed by CONSULTANT or that CONSULTANT received on a non-confidential basis from the RCWD or another party. Consistent with the terms of this section 11 regarding use and protection of confidential and proprietary information, CONSULTANT retains a nonexclusive license to use the materials and may publish or use the materials in its professional activities. Any CONSULTANT warranty under this agreement does not extend to any party other than the RCWD or to any use of the materials by the RCWD other than for the purpose(s) for which CONSULTANT is compensated under this agreement.

Rice Creek Watershed District
Private and Confidential Data – Rights of Data Subjects

In accordance with the Minnesota Data Practices Act, Minnesota Statutes chapter 13 (DPA), the following protocols and information are established by the Rice Creek Watershed District (RCWD). This information is provided to you, as the subject of private or confidential data collected by the RCWD to explain how (1) the RCWD assures that all data on individuals collected by the RCWD are accurate, complete and current for the purposes for which they were collected, and (2) to explain the security safeguards in place for RCWD records containing data on individuals.

Rights to Access Government Data

Minnesota law gives you, as the subject of private or confidential data collected by the RCWD, and all members of the public the right to see data collected and maintained by the RCWD, unless state or federal law classifies the data as not public. In addition, the DPA gives you and all members of the public the right to have access to or, if you wish, to copy any public data for any reason, as long as the data are not classified as not-public or copyrighted.

You have the right to:

- be informed, upon request, as to whether you are a subject of RCWD data and how that data is classified;
- know what the RCWD's procedures are for requesting government data;
- inspect any public data that the RCWD collects and maintains at no charge;
- see public data that the RCWD collects and maintains without telling the RCWD who you are or why you want the data;
- have public data that the RCWD collects and maintains explained to you;
- obtain copies of any public RCWD data at a reasonable cost to you;
- be informed by the RCWD in writing as to why you cannot see or have copies of not-public RCWD data, including reference to the specific law that makes the data not-public;
- receive a response from the RCWD to a data request in a reasonable time.
- contest the accuracy and completeness of public or private data the RCWD has on you and appeal a determination by the RCWD as to whether the data are accurate and complete;
- to ask the RCWD, if you are under 18 years old, to withhold information about you from your parents or guardian;
- consent or revoke consent to the release of information the RCWD has on you;
- release all, part or none of the private data the RCWD has on you.

Security of Private and Confidential Data

State law protects your privacy rights with regard to the information the RCWD collects, uses and disseminates about you. The data the RCWD collects about you may be classified as:

- Public – anyone can see the information;
- Private – only you and authorized RCWD staff can see the information;
- Confidential – only authorized RCWD staff can see the information.

When the RCWD asks to you provide data about yourself that are private, the RCWD will give you a notice called a Tennessee warning notice. This notice determines what the RCWD can do with the data collected from you and the circumstances under which the RCWD can release the data. The RCWD will ask for your written permission before using private data about you in a way that is different from what is stated in the Tennessee notice you receive. The RCWD also will ask for your written permission before releasing private data about you to someone other than those identified in the notice.

State law requires that the RCWD protect private and confidential data about you. The RCWD has established appropriate safeguards to ensure that your data are not inadvertently released or wrongfully accessed. *The RCWD disposes of private, confidential and other not-public data in accordance with its Records Retention Schedule, adopted December XX, 2012.* Printed data are disposed of by shredding or other method sufficient to prevent the data from being ascertainable. Electronic data are destroyed or erased from media in a manner that prevents the data from accessed or read. Data-storage systems in RCWD computers are erased in the process of recycling.

Rice Creek Watershed District
Data Practices Advisory / Tennessean Warning

Some or all of the information you are being asked to provide on the attached form is classified by state law as either private or confidential data. Private data is information that generally cannot be given to the public, but can be given to the subject of the data. Confidential data is information that generally cannot be given to either the public or the subject of the data.

The Rice Creek Watershed District's purpose and intended use of the information is:

You are / are not legally required to provide the information.

Your failure or refusal to supply the information will have the following consequences:

Other persons or entities who are authorized to receive the information include:
