



PUBLIC WORKS

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Washington County Comments on Preliminary Draft WCA Rule Posted on BWSR Website


Thank you for including Washington County in the preliminary draft Wetland Conservation Act rule changes. The Washington County Public Works and Public Health and Environment Departments have the following comments on the Preliminary Draft Rules dated 11/12/2024.

1. Sec. 75. Minnesota Statutes 2022, section 103G.005, subdivision 14d, is proposed to be amended to remove the word "sole" in "sole purpose". We are supportive of this change as it clarifies that the restriction applies even when the gaining of additional exemptions was not the sole purpose for splitting a project into components or phases.
2. Sec. 76. Minnesota Statutes 2022, section 103G.005, subdivision 17b, proposes changes to add an option under the definition of wetland type to use the HGM classification system. This is a positive change that has potential to make impact and replacement easier to manage.
3. Sec. 77. Minnesota Statutes 2023 Supplement, section 103G.005, subdivision 19, is proposed to be amended to add deep water habitats to the wetland definition but excludes protected waters (PWI). We support this change from the context of potential future 404 assumption. Some of these areas are currently regulated by the 404 program. We suggest providing rules clarifying that deepwater habitat impacts are categorized the same as adjacent wetlands and to clarify impacts to deepwater habitat as fill and excavation only. Water level changes should also not be identified as adverse impacts.
4. Sec. 80. Minnesota Statutes 2022, section 103G.2241, subdivision 2, is amended to remove the drainage exemptions for Type 1 wetlands or up to 5 acres of Type 2 or 6 wetlands in the benefitting area of public drainage systems and removes the exemption for draining of Type 1, 2, 6, and 7 for repairs of legal drainage systems. The 25-year rule would apply to all wetlands and deepwater habitats. The proposed rule also eliminates exemptions for repairs of private drainage systems. We are not supportive of this rule change. Managing ditch systems is a critical function of a Public Works Department critical to reducing potential flooding to private properties. This revision is adverse to drainage authorities ability to manage legal ditch systems. It adds significant costs to ditch system management. The language is poorly worded i.e. "wetlands

that have existed". There is no technical method to document and map wetland boundaries in the past, i.e. 24 years ago vs 26 years ago.

Thank you, the County looks forward to working with the BWSR on these updated rules.

Sincerely,



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