

Wetland Conservation Act Rulemaking July 1, 2008

Scope

1. Changes included in the exempt rule.
2. Statutory changes not included in the exempt rule: exemption noticing.
3. Changes identified in the WCA Assessment and Wetland Mitigation MOU not included in the exempt rule.
4. Other changes identified by BWSR staff and Stakeholders.
5. Organizational/formatting changes intended to improve clarity and understanding.

Rulemaking Goals

Proposed rule changes will be reviewed according to the following goals:

- Consistent with the purpose of WCA.
- Simplify.
- Implementable.
- Clarify.
- Tangible Result.
- Improve Accountability.

Other considerations of proposed rule changes are:

- LGU workload.
- Limit unintended consequences.
- Balance public costs and benefits.
- Stakeholder support.

Overall Schedule

August 6, 2007	Publish request for comments in State Register
September 20, 2007	Comment period closes
Oct.-Nov. 2007	Informational/input meetings with stakeholder organizations
January 2008	Permanent Rule Advisory Committee begins meeting
October 2008	Permanent Rule Advisory Committee ends rule participation
November 2008	Wetland Committee reviews rule and SONAR, makes recommendation to Board (meets periodically throughout process)
December 2008	Board reviews and adopts rule and SONAR
December 2008	Rule submitted to Office of the Revisor of Statutes
January 2009	Submit request to Office of Administrative Hearings to schedule a rule hearing(s)
January 2009	Publish notice of hearing, notify Legislature and interested persons
February/March 2009	Hearing(s)
March 2009	Comment period closes
April 2009	Administrative law judge (ALJ) completes report on the proposed adoption of the rules
May 2009	BWSR reviews ALJ report, consider and/or makes changes based on comments and/or ALJ report
June 2009	Submit rules to chief ALJ
July 2009	Office of Administrative Hearings files approved rules with Secretary of State
July 2009	Revisor of Statutes prepares a notice of adoption
July 2009	Submit notice of adoption to State Register
August 2009	Rule published in the State Register

WCA PERMANENT RULE SCHEDULE

	BWSR Staff Team	Technical Review Committee	Permanent Rule Advisory Committee	BWSR Wetland Committee
November 2007	<u>Issue Group A</u> <ul style="list-style-type: none"> ▪ LGU Duties ▪ Noticing – all procedures ▪ Boundary/Wetland Type/TEP procedures 			
December 2007	<u>Issue Group A</u> (Continued)			
January 2008	<u>Issue Group B</u> <ul style="list-style-type: none"> ▪ Exemptions/No-Loss ▪ Sequencing 	<u>Issue Group A</u> <ul style="list-style-type: none"> ▪ LGU Duties ▪ Noticing – all procedures ▪ Boundary/Wetland Type/TEP procedures 	<u>Issue Group A</u> <ul style="list-style-type: none"> ▪ LGU Duties ▪ Noticing – all procedures ▪ Boundary/Wetland Type/TEP procedures ▪ Scope 	Review\Advise on specific rule issues
February 2008	<u>Issue Group C</u> <ul style="list-style-type: none"> ▪ Replacement ▪ Actions Eligible for Credit ▪ Banking 	<u>Issue Group B</u> <ul style="list-style-type: none"> ▪ Exemptions/No-Loss ▪ Sequencing 	<u>Issue Group A</u> <ul style="list-style-type: none"> ▪ Application Requirements ▪ No-loss ▪ Exemptions 	
March 2008	<u>Issue Group C</u> (Continued)	<u>Issue Group C</u> <ul style="list-style-type: none"> ▪ Replacement ▪ Actions Eligible for Credit ▪ Banking 	<u>Issues Group B/C</u> <ul style="list-style-type: none"> ▪ Sequencing ▪ Replacement ▪ In Kind ▪ Exemption Reporting 	Review\Advise on specific rule issues
April 2008	<u>Issue Group C</u> (Continued)	<u>Issues</u> <ul style="list-style-type: none"> ▪ Replacement ▪ Actions Eligible for Credit ▪ Banking 	<u>Issues</u> <ul style="list-style-type: none"> ▪ Replacement ▪ Exemption Reporting 	Review\Advise on specific rule issues

WCA Rule Timeline/Schedule/Participants
July 1, 2008

	BWSR Staff Team	Technical Review Committee	Permanent Rule Advisory Committee	BWSR Wetland Committee
May 2008	<u>Issues</u> <ul style="list-style-type: none"> ▪ Monitoring ▪ Appeals ▪ Enforcement ▪ Other-wetland plans, mining, etc. 	<u>Issues</u> <ul style="list-style-type: none"> ▪ Actions Eligible for Credit ▪ Banking 	<u>Issues</u> <ul style="list-style-type: none"> ▪ Actions Eligible for Credit 	
June 2008	<ul style="list-style-type: none"> ▪ Support Technical Review and Stakeholder Advisory Committees 	<u>Issues</u> <ul style="list-style-type: none"> ▪ Wetland Planning ▪ High Priority Areas ▪ Wetland Preservation Areas ▪ Enforcement, Appeals, ▪ Penalty for LGU Failure to Apply Law ▪ Mining and Calc. Fens ▪ Monitoring 	<u>Issues</u> <ul style="list-style-type: none"> ▪ Banking ▪ Monitoring ▪ Appeals ▪ Enforcement ▪ Penalty for LGU Failure to Apply Law ▪ Wetland plans ▪ Mining and calcareous fens 	
July 2008	<ul style="list-style-type: none"> ▪ Prepare Consolidated Draft Rule 	<ul style="list-style-type: none"> ▪ No Meeting 	<ul style="list-style-type: none"> ▪ No Meeting 	Review Draft Rule
August 2008	<ul style="list-style-type: none"> ▪ Support Technical Review and Stakeholder Advisory Committees ▪ Develop SONAR 	<ul style="list-style-type: none"> ▪ Review Consolidated Draft Rule 	<ul style="list-style-type: none"> ▪ Review Consolidated Draft Rule 	
September 2008	<ul style="list-style-type: none"> ▪ Support Technical Review and Stakeholder Advisory Committees ▪ Develop SONAR 	<ul style="list-style-type: none"> ▪ Review Consolidated Draft Rule 	<ul style="list-style-type: none"> ▪ Review Consolidated Draft Rule 	

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July 1, 2008

	BWSR Staff Team	Technical Review Committee	Permanent Rule Advisory Committee	BWSR Wetland Committee
October 2008	<ul style="list-style-type: none"> ▪ Support Technical Review and Stakeholder Advisory Committees ▪ Develop SONAR 	<ul style="list-style-type: none"> ▪ Review Consolidated Draft Rule 	<ul style="list-style-type: none"> ▪ Review Consolidated Draft Rule 	Review Draft Rule
November 2008				Review Draft Rule <ul style="list-style-type: none"> ▪ Board Recommendation

WCA RULE AMENDMENT PARTICIPANTS

1. Wetland Committee: Review and advise on the rule process and the development of the rule language. Make recommendation to the Board on rule adoption.

Members: LuAnn Tolliver, Chair (WD); Paul Brutlag (Citizen); Bob Burandt (SWCD); Brian Kletscher (County); Brian Napstad (County); Ken Robinson (WD); Gene Tiedermann (WD); Larry Kramka (DNR); Joe Martin (MDA); Paul Eger (PCA).

2. WCA Permanent Rule Advisory Committee: A forum for stakeholders to provide input and advice on proposed changes to the WCA rule. Each organization listed below will be allowed one member and one alternate to participate in the development of the WCA permanent rule. The meetings are open to the public; however, participation will be limited to the member, or alternate in the absence of the member.

Agriculture

1. Mn Agri-Growth Council- Declined.
2. Mn Corn Growers Association-
Doug Albin/Warren Formo.
3. Mn Farm Bureau-
Chris Radatz/Staci Bohlen.
4. Mn Farmers Union-
Jim Tunheim/Thom Peterson.
5. Mn Soybean Growers Association-
Lawrence Sukalski.
6. Mn Wheat Growers Association-
Bruce Kleven.

Business

7. Builders Association of Mn-
Lisa Frenette.
8. Builders Assoc. of the Twin Cities-
Drew Budelis/James Vagle.
9. Mn Association of Realtors-
Susan Dioury.
10. Mn Chamber of Commerce-
Keith Hanson/Tony Kwilas.
11. Mn Forest Industries-
Wayne Brandt.
12. Utilities - Blake Francis.
13. Mining Industry Association of Mn
14. Aggregate Ready-Mix Assoc. of Mn
Mike Caron/Fred Corrigan.

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Environment/Conservation

- 15. Audubon Mn – Susan Solterman.
- 16. Izaak Walton League of America - Mn Division - Bill Barton/Dell Erickson.
- 17. Mn Center for Environmental Advocacy- Janette Brimmer/Henry Van Offelen.
- 18. Mn Conservation Federation- Gary Botzek.
- 19. Mn Fish and Wildlife Legislative Alliance
- 20. Mn Outdoor Heritage Alliance
- 21. Mn Waters – Declined.
- 22. Sierra Club - North Star Chapter- Mollie Dean/Bill Barton.

Local Government

- 23. Association of Mn Counties- Duanne Bakke/Harlan Madsen.
- 24. League of Mn Cities
- 25. Metropolitan Inter-County Assoc.- Keith Carlson.
- 26. Mn Assoc. of Soil and Water Conservation Districts – Sheila Vanney.
- 27. Mn Association of Townships – Dave Fricke/Dan Greensweig.
- 28. Mn Assoc. of Watershed Districts- Roger Lake.
- 29. Mn County Engineers Association – Doug Fischer/Tom Tri.
- 30. Mn Rural Counties Caucus- Todd Beckel/Wade Pavleck.

Others

- 31. Mn Viewers Association- Kurt Deter/Jim Weideman.
- 32. Wetland Professionals Association- Allyz Kramer/Andi Moffat.
- 33. Minnesotans for Wetlands- Mary Mueller/Mike Whitt.
- 34. Mn Association of Professional Soil Scientists - Peter Miller/Kelly Bopray.

Federal Government

- 35. U. S. Army Corps of Engineers- Marita Valencia.
- 36. U.S. Fish and Wildlife Service- Tony Sullins.
- 37. USDA Natural Resources Conservation Service - Sid Cornelius.

State Government

- 38. Department of Agriculture- Joe Martin.
- 39. Department of Natural Resources- Doug Norris/Julie Ekman.
- 40. Department of Transportation – Frank Pafko/Sarma Straumanis
- 41. Pollution Control Agency- Dave Richfiel

3. Technical Review Committee: Evaluate the administrative, scientific, and ecological aspects of proposed rule changes.

Members: BWSR Staff Rule Team; Jason Naber (WD-Rice Creek/EOR); Eric MacBeth (City-Eagan); Kane Radel (SWCD-Redwood); Brian Watson (SWCD-Dakota); Robin Poppe (SWCD-Pine); Josh Stromlund (County-Lake of the Woods); Tim Grant (County-Blue Earth); Mark Kjolhaug (Consultant-Kjolhaug Env.); and Matt Volbreck (Consultant-Westwood).

4. BWSR Staff Rule Team: Responsible for developing rule amendments and presenting and interacting with the Technical Review Committee and WCA Permanent Rule Advisory Committee on assigned sections of the rule.

Members: Les Lemm; Dan Girolamo; Keith Grow; Jim Haertel; Steve Hofstad; Dale Krystosek; Jeremy Maul; John Overland; Ken Powell; Dave Weirens.

STAFF WCA RULE ISSUE ASSIGNMENTS

1. Misc., LGU Duties, etc. – Les Lemm – A
2. Noticing – comprehensive, all procedures incl. Exemption/No-loss – Ken Powell – A
3. Boundary/Type, TEP procedures – Keith Grow– A

4. Exemptions/No-Loss – John Overland – B
5. Sequencing – Jeremy Maul – B

6. Replacement – Jeremy Maul – C
7. Actions Eligible for Credit – Dale Krystosek – C
8. Banking – Dan Girolamo – C

9. Monitoring – Ken Powell - D
10. Appeals – Jim Haertel - D
11. Enforcement – Jim Haertel - D
12. Other (wetland plans, mining, etc.) – Les Lemm - D