

# Minnesota Department of Natural Resources

## Division of Waters

### REQUEST FOR COMMENTS

#### **Possible Rules Governing the Mississippi River Corridor Critical Area, *Minnesota Rules, Chapter 6120 and Chapter 4410.***

**Subject of Rules.** The Minnesota Department of Natural Resources requests comments on possible rules governing the Mississippi River Corridor Critical Area (MRCCA). The Department is considering rules that will establish districts within the MRCCA and establish minimum guidelines and minimum standards for development within the districts. The rulemaking will primarily develop new language in Chapter 6120, but also may modify existing language in Chapter 4410 (parts 4410.8100 to 4410.9100) if determined necessary to facilitate administration.

The rules will provide for management of the MRCCA as a multi-purpose resource in a way that: conserves scenic, environmental recreational, mineral, economic, cultural, and historic resources and functions; maintains the river channel for transportation including barging and fleeting areas; provides for continuation and development of a variety of urban uses, including industrial, commercial and residential; uses the river for water supply and receiving water for properly treated sewage, stormwater, and industrial waste effluents, and protects biological and ecological functions of the corridor.

Rulemaking will determine the appropriate number and constitution of districts; in establishing districts, the Department will consider existing plans and policies, existing ordinances and conditions, identified resources and features, and a number of additional factors identified in the law authorizing the rulemaking.

The proposed rules will establish minimum guidelines and standards for development in the districts; and will clarify the intent of each district. The guidelines and standards will address a number of key resources and features specified in the authorizing statute: floodplains; wetlands; gorges; areas of confluence with key tributaries; natural drainage routes; shorelines and riverbanks; bluffs; steep slopes and very steep slopes; unstable soils and bedrock; significant existing vegetative stands, tree canopies, and native plant communities; scenic views and vistas; publicly owned parks, trails, and open spaces; cultural and historic sites and structures, and water quality. The Department may provide exceptions for a number of developments, including but not limited to infrastructure, hydropower, and water access. The rulemaking may address additional items related to the overall authorized scope if the need is identified during rule development.

At the outset of rulemaking, the Department is directed to develop a preliminary map of bluffs and blufflines based on guidelines in the authorizing statute. Following the rulemaking, the Department will prepare a final map of bluff-related features as listed in statute and defined in rule.

**Persons Affected.** The rules would likely affect the following persons and organizations within the MRCCA: most property owners, institutions, developers, and businesses; recreational facility users; water-oriented businesses, facilities, and navigation interests on the Mississippi River; utility providers; all local governmental units (cities, towns, and counties); state and regional agencies and institutions with facilities or property interests (such as the Metropolitan Council, Department of Natural Resources,

Department of Transportation, Metropolitan Airports Commission, University of Minnesota, Saint Paul Port Authority, Minnesota Historical Society, and federal agencies such as the National Park Service, and U.S. Army Corps of Engineers.

**Statutory Authority.** *Minnesota Statutes*, section 116G.15 (2009), and Laws 2009, Chapter 172, Article 2, Section 5(e), require the Department to adopt rules for administration of the Mississippi River Corridor Critical Area. The Department must commence rulemaking by January 15, 2010.

**Public Comment.** Interested persons or groups may submit comments or information on these possible rules in writing until 4:30 p.m. on March 22, 2010. In addition to the 90-day public comment period announced in this notice, the Department plans to appoint one or more advisory committees to comment on the possible rules during rule development. The Department anticipates advisory committee(s) would meet 2-4 times over a 9-month period from March to December 2010. Advisory committee(s) will be selected from persons and parties known to the Department as potentially affected by or interested in the rulemaking, persons recommended by local governmental units, and persons who request to participate by contacting the agency contact person listed below. The Department will select advisory committee members to balance a variety of interests, viewpoints, and geographic perspectives.

**Rules Drafts.** The Department has not yet prepared a draft of the possible rules. When available, preliminary rule drafts and other information regarding the rulemaking will be available on the Division of Waters website <http://mndnr.gov/waters>, or can be obtained by contacting the agency contact person provided below.

**Agency Contact Person.** Written comments, questions, requests to receive a draft of the rules when it has been prepared, requests for more information on these possible rules, and requests to participate on a possible rulemaking advisory committee(s) should be directed to: Jeffrey Berg at Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4032, 651-259-5729 (phone), 651-296-0445 (facsimile), and [MRCCArulemaking@dnr.state.mn.us](mailto:MRCCArulemaking@dnr.state.mn.us). TTY users may call the Department at 651-296-5484, or toll-free at 1-800-657-3929.

**Alternative Format.** Upon request, this Request for Comments can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

**NOTE:** Comments received in response to this notice will not necessarily be included in the formal rulemaking record submitted to the administrative law judge if and when a proceeding to adopt rules is started. The agency is required to submit to the judge only those written comments received in response to the rules after they are proposed. If you submit comments during the development of the rules and you want to ensure that the Administrative Law Judge reviews the comments, you should resubmit the comments after the rules are formally proposed.

November 30, 2009

/s/ Mark Holsten, Commissioner  
Department of Natural Resources