

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA

Report to the Minnesota Legislature on Rulemaking Initiative



Minnesota Department of Natural Resources

January 2014



Statutory Authority

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Laws of Minnesota 2013, Chapter 137, Article 2, Section 22.

MISSISSIPPI RIVER CORRIDOR CRITICAL AREA REPORT.

By January 15, 2014, the commissioner of natural resources shall submit a report to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over natural resources finance and policy and the clean water fund on the status of the rulemaking authorized under Minnesota Statutes, section 116G.15

Mississippi River Corridor Critical Area (MRCCA) Rulemaking Legislative Report

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I. Introduction and Background

A. Purpose

This report has been prepared for the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over natural resources finance and policy and the clean water fund pursuant to Laws of Minnesota 2013, Chapter 137, Article 2, Sec. 22. The purpose of this report is to provide a status update on the rulemaking for the Mississippi River Corridor Critical Area (MRCCA) authorized under Minnesota Statutes, section 116G.15.

B. History of the MRCCA

The Mississippi River Corridor Critical Area (MRCCA) was established over 35 years ago to protect and preserve the unique natural, recreational, transportation, and cultural features of the section of the Mississippi River flowing through the Minneapolis-St. Paul Metropolitan Area. It comprises 72 miles of river and 54,000 acres of surrounding land in some 30 LGUs.

The MRCCA was designated in 1976 by Executive Order following passage of the Minnesota Critical Areas Act of 1973. The Critical Areas Act (Minn. Stat., sec. 116G) provides a general regulatory framework for protecting specific areas of the state that possess important historic, cultural, or aesthetic values or natural systems through a defined local-regional planning and regulation process. The MRCCA was the first and remains the only critical area in the state. Following is a brief history of the MRCCA.

- 1973** Minnesota passes Critical Areas Act of 1973 (Minn. Stat., sec. 116G). EQB adopts rules to implement Act (MN Rules, parts 4410.8100 – 4410.9910).
- 1976** Mississippi River and adjacent corridor designated a state critical area by Governor Wendell Anderson (Executive Order No. 130).
- 1979** Designation continued by Governor Albert Quie (Executive Order 79-19). Metropolitan Council acts to make designation permanent (Resolution 79-48).
- 1988** Mississippi National River and Recreational Area (MNRRA) established by Congress as unit of National Park Service (MNRRA shares same boundary as the MRCCA).
- 1991** MNRRA designated a state critical area per Critical Areas Act (Minn. Stat., sec. 116G.15).
- 1995** Responsibility shifts from EQB to DNR by Governor Arne Carlson (Reorganization Order 170).
- 2007** Legislature directs DNR to prepare report on the MRCCA, completed January 2008).
- 2009** Legislature amends Minn. Stat., sec. 116G.15 and directs DNR to conduct rulemaking for the Mississippi River Corridor Critical Area (MN Laws 2009, Chapter 172, Article 2, Section 5.e.).
- 2011** DNR develops draft rule after participatory stakeholder process, but rulemaking authority lapses.
- 2013** Legislature directs DNR to resume rulemaking process in consultation with local governments (Laws of Minnesota 2013, Chapter 137, Article 2, Sec. 22).

C. Overview & Regulatory Framework

The MRCCA includes 30 communities (21 cities, 5 counties, 4 townships) and several quasi-governmental entities. Most have adopted critical area plans and ordinances.

Executive Order (EO) 79-19 establishes four land use districts and establishes performance standards and guidelines for each (Figure 1):

- Rural Open Space
- Urban Open Space
- Urban Developed
- Urban Diversified

Local government units (LGUs) administer and enforce a variety of regulations to meet the performance standards, which has led to concern regarding consistency and adequacy of these regulations to protect key resources and features.

The critical area is cooperatively managed:

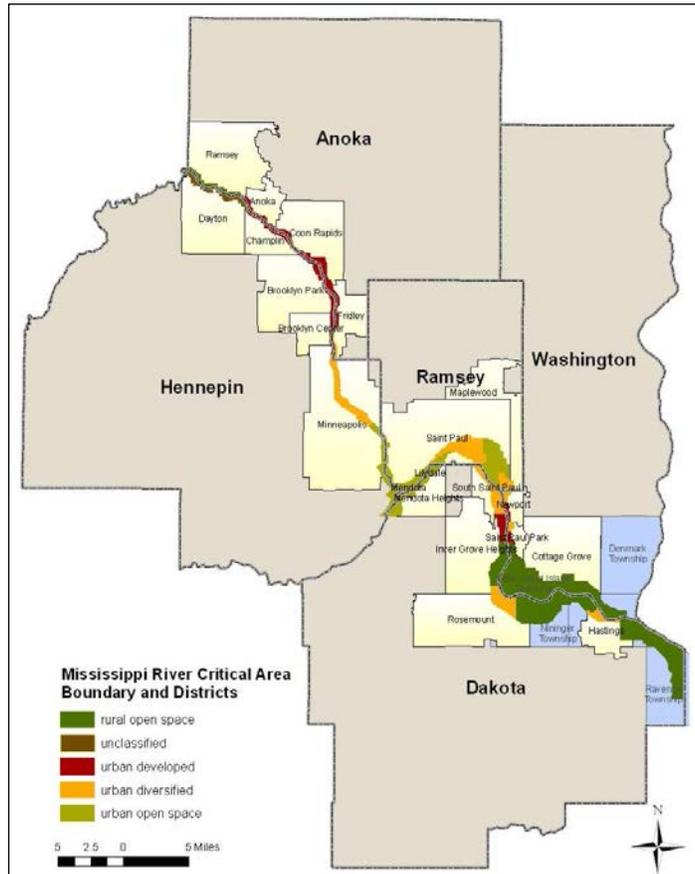
DNR Role: Reviews/approves plans and ordinances, and may review actions requiring a public hearing.

Metropolitan Council Role: Reviews plans for consistency with regional policies, EO 79-19, and MNRRA policies and submits recommendation to DNR; and provides planning assistance to local governments.

National Park Service (NPS) Role: Has provided funding to local, regional, and state agencies; encourages local governments to incorporate voluntary MNRRA policies into plans; and provides stewardship, education, and historical/cultural resource protection.

LGU Roles: Adopt DNR-approved plans and ordinances, and administer and enforce them.

Figure 1: EO 79-19 Districts



D. Recent Legislative Direction/Rulemaking

In 2009, the Legislature revised Minn. Stat., sec. 116G.15 and directed the DNR to develop MRCCA rules consistent with the revisions, and specifically with three key additions to the statute to establish: 1) new districts with consideration of the intent of the original districts included in EO 79-19; 2) minimum standards and criteria to guide development in the districts; and 3) a map to define bluffs and bluff-related features.

In response to this direction, the DNR undertook an extensive civic engagement process from 2009-2010. As part of this process, the DNR:

- established a project website and mailing list;
- notified all 30 LGUs in the MRCCA of the rulemaking and requested their assistance in notifying residents and identifying stakeholders;
- published the Request for Comments;
- met with staff and officials from each LGU to learn from their experience in administering the MRCCA program;
- convened four geographically defined advisory groups comprised of LGU, property owner, business and environmental groups to provide input during rule development; and
- held two public open houses and worked with other agencies to get feedback on draft districts and standards.

The DNR’s rulemaking authority lapsed in 2011 before the rulemaking process was completed; however, the DNR did complete a draft rules package in 2011 based on feedback received during the civic engagement process.

In 2013, the Legislature revised Minn. Stat., sec. 116G.15 and directed the DNR to resume rulemaking. Key changes to Minn. Stat., sec. 116G.15 included the following:

- directed the DNR to consult with LGUs before adopting rules;
- added the “redevelopment” of a variety of urban uses and “recreational” uses to the existing list of multiple resources for which the corridor is to be managed;
- modified the considerations for creating new districts, de-emphasizing those river features in existence in 1979 and the intent of the districts in EO 79-19 and emphasizing both the natural character and existing development of the river corridor, as well as potential for new commercial, industrial, and residential development;
- added commercial, industrial, and residential resources to the existing list of resources that must be protected or enhanced through guidelines and standards; and
- eliminated the 2009 requirement to establish regulatory bluff maps, although bluff protection continues to be a priority.

II. Current Rulemaking Process

A. Schedule and Overview

The DNR resumed rulemaking in 2013, building on the 2009-2010 civic engagement process and the 2011 draft rules package (Fig. 2). Between August and September 2013, the DNR met with LGUs and other groups in the MRCCA to review and get feedback on the 2011 draft rules. The result of these meetings is described in detail in Section III. Specifically, the DNR:

- established a new project website;
- developed a mailing list (~1,400 subscribers) and sent an email describing project status;
- met with staff and officials from each LGU to get feedback on the 2011 draft rules;
- convened two meetings hosted by Metro Cities and the League of Minnesota Cities to discuss the rulemaking effort; and

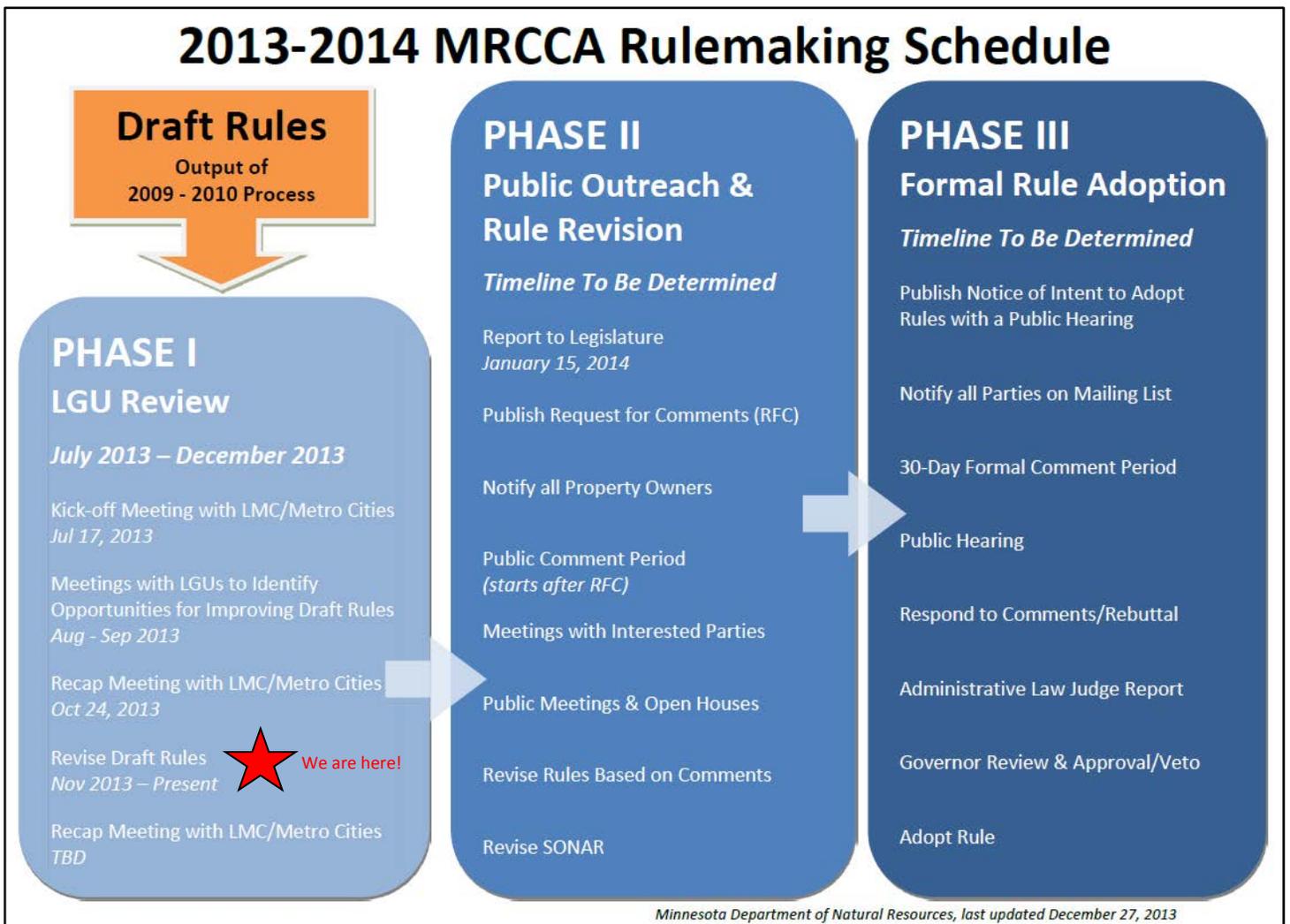
- met with the NPS and environmental groups for feedback on the 2011 draft rules.

There will be numerous other opportunities to engage the public as provided in the next section.

B. Project Status and Next Steps

The DNR is continuing to follow the rulemaking project schedule shown in Figure 2. We are currently revising the 2011 draft rules to reflect feedback received from LGUs (Phase I). Once the draft revisions are complete, the DNR will share them with Metro Cities. With feedback from these meetings, a final revised draft of the rules will be prepared to move on to Phase II.

Figure 2: Rulemaking Project Schedule



Phase II is the informal public outreach and rule revisions phase. It will begin with publishing the Request for Comments (RFC) which will include the final revised draft of the rules. These rules will be the basis of discussion and comment at public and other interested stakeholder meetings in Phase II. The DNR will notify all property owners of the RFC and inform them how they can participate in the process. Based on comments received in Phase II, the rules and SONAR (started in 2010) will be revised in preparation for Phase III.

Phase III is the formal rule adoption phase. This phase begins with publication of the Notice of Intent to Adopt Rules with a Public Hearing. The DNR will again notify all parties on the mailing list and encourage interested parties to comment during the 30-day comment period. After this period, an administrative law judge (ALJ) will preside over a public hearing to consider the rules. After the hearing, the DNR will respond to comments and the ALJ will issue a report with recommendations. The Commissioner and Governor will review the recommendations and make a decision. The decision options include approving the rules, approving the rules with modifications, or vetoing the rules.

III. Issues and Future Direction of Rules

A. Overview

The DNR resumed rulemaking in 2013 guided by the 2013 statutory changes. These changes (described in Section I.D of this report) are affecting rule development in the following ways:

- Changes to the districts and district boundaries developed in the 2009-2010 civic engagement process are needed to consider “existing development and the potential for new commercial, industrial, and residential development.” The district boundaries developed in 2009-10 were created to consider the intent of the EO 79-19 districts, a provision that was removed in 2013.
- Changes in standards and guidelines are needed to recognize, afford protection to or enhance commercial, industrial, and residential resources.
- Greater consultation with LGUs is needed to ensure that adopted rules can be administered.

B. Rulemaking Goals

The DNR is pursuing rulemaking guided by the following goals or principles:

Maintain and improve water quality and habitat

This goal is aligned with the DNR’s core mission of protecting the state’s natural resources. Towards this goal, we seek to develop regulations and policies that advance the use of best management practices and technology to protect water quality and aquatic and terrestrial habitat. Protection of these resources is considered a high priority in developing the rules and administering the program.

Better recognize existing and planned development

The 2013 changes to Minn. Stat., sec. 116G.15 emphasized the recognition of existing commercial, industrial, and residential development and the importance of redevelopment and reinvestment in land

within the corridor. Consideration of communities' underlying zoning will be an important strategy for recognizing these resources and opportunities.

Increase flexibility for LGUs

Designing rules that can adapt to evolving physical and economic conditions is important to balance the broad range of uses and stakeholder needs in the corridor. Thus, transparent and well defined processes will be built into the rules to allow administrative changes to district boundaries and to allow local governments to propose alternate standards that provide an equal level of resource protection.

Limit rules to those that can better achieve resource protection

This goal recognizes that there are limits to what state land use regulations can practically achieve within the statutory framework for local planning and zoning and the policy guidance of Minn. Stat., sec. 116G.15. The rules will focus more on measures to protect shore and bluff impact zones and other primary conservation areas within the MRCCA, because these measures best protect and enhance water quality and aquatic and terrestrial habitat and can be administered cost-effectively. The rules will focus less on land use, building height, lot size, and visibility of structures; while these measures are still important, they are not as important from a resource protection standpoint and are better left to the expertise in each local government, particularly in areas that are already intensively developed.

Simplify administration and clarify DNR evaluation criteria

This goal is aligned with the Governor's goal to reform state government to make it better, faster, simpler, and more efficient for people. Toward this goal, the DNR seeks to reduce the complexity and cost of administering the MRCCA by revising administrative procedures and standards to reduce DNR discretion. Too much discretion results in a lack of consistency and predictability over time, and can lead to distrust between the DNR and LGUs. Ultimately, this negatively affects implementation and resource protection.

C. Problems with Executive Order 79-19

EO 79-10 contains a variety of inherent problems that rulemaking seeks to resolve.

EO 79-19 Can't be Changed or Updated

There is no mechanism for revising an executive order, short of issuing a new executive order. Executive orders are not desirable methods for developing regulations that affect local land use. State rulemaking offers a transparent process that includes opportunities for public participation and provides an appropriate foundation for local land use regulation.

EO 79-19 Gives the DNR too much Discretion in Approving LGU Plans and Ordinances

The Standards and Guidelines in EO 79-19 are written as "performance standards," which describe a goal or desired end state. Performance standards lack specificity and therefore require significant discretion to administer.

This type of broad, performance-based language gives the DNR insufficient guidance and criteria for approving plans and ordinances. This creates opportunities for uncertainty, inequity, and inconsistency

in the approval process over time, and the potential for distrust between LGUs and DNR. Examples in EO 79-19 include:

Provision C.1.a. (7). This provision dealing with vegetation management states that “each local unit of government shall, with the assistance of the Metropolitan Council and state agencies prepare *regulations* for management of vegetative cutting.”

Provision C.2.b. This provision states that “structure site and location shall be *regulated* to ensure that riverbanks, bluffs and scenic overlooks remain in their natural state, and to minimize interference with views of and from the river, except for specific uses requiring river access.”

In both of these examples, the performance standards simply state that “regulations” must be prepared or something must be “regulated.” To be accepted as legitimate, regulations need to be developed in an open and transparent process that considers the impacts on a variety of stakeholders. Absent that process, the DNR must rely on its discretion to approve or deny a LGU’s plans and regulations that address these standards.

EO 79-19 Limits Redevelopment and Reinvestment

EO 79-19 applies one of four districts to all land in the corridor. The main purpose of the districts was to regulate land use as a major means for achieving the EO’s protection goals. These districts were defined based on land use in 1976. Because executive orders cannot be updated, the land use restrictions put in place in 1976 still govern development activity. This has limited the ability of communities to redevelop and encourage reinvestment.

A good example is in the City of Champlin. Champlin is interested in redeveloping the area at the Hwy 169 bridge crossing, known as the Gateway, as well as a parcel to the west. This land is all currently in the Urban Developed District. Champlin is pursuing redevelopment of these areas as walkable mixed-use neighborhoods with high density housing and new commercial buildings up to 5 stories in height with reduced setbacks from the river. This plan deviates considerably from the 35’ height limit that currently applies to the Urban Developed District, and from the management purpose of the Urban Developed District, which is “to maintain the largely residential character, and to limit expansion of commercial use.” Prohibiting this development because it conflicts with a management purpose and height restrictions developed in 1976 limits the city’s ability to achieve more sustainable development patterns and a stronger tax base.

MRCCA is Costly and Complex to Administer

The MRCCA regulatory program is costly and complex to administer for a number of reasons. Unlike all other shoreland protection programs¹ which are governed by Minn. Stat. sec. 103F, the MRCCA program requires LGUs to adopt a plan in addition to a zoning ordinance, and it requires the administration and oversight of two state agencies – the DNR and Metropolitan Council – instead of just one. Much of the program’s administrative cost is due to inefficiencies experienced by both agencies in performing tasks outside their core functions. Plan review and approval is a core function of the Metropolitan Council.

¹ Shoreland, Wild and Scenic River, and Lower St. Croix River.

Other than MRCCA ordinances, the Council does not typically review local government ordinances. Ordinance review and approval is a core function of the DNR in administering all other shoreland protection programs. Other than MRCCA plans, the DNR does not typically review local land use plans.

The procedures laid out in Minn. Stat., secs. 116G.07 -.10, and subsequently Minn. Rules 4410 and EO 79-19, also contribute to administrative costs and complexity. This statute and these rules lay out the process by which local plans and ordinances are reviewed and approved: the Metropolitan Council is responsible for reviewing plans and ordinances and making recommendations to the DNR, and the DNR is then responsible for reviewing and approving plans and ordinances based on the Council's recommendations. Written in 1973, these procedures were intended to apply to any designated critical area in the state and thus apply generically to any "regional development commission." There is no flexibility to adapt the administrative procedures to specific regional development commissions like the Metropolitan Council. Until Minn. Stat., sec. 116G is changed to recognize the Metropolitan Council and its unique planning authority and administrative procedures, and to allow for a more coordinated review process, the MRCCA will continue to be administered per a lengthy, sequential review and approval process between the Metropolitan Council and DNR. The prescribed process is inefficient and makes it difficult to align MRCCA plan review and approval with the Council's current process for regular comprehensive plan updates every 10 years, and amendments made thereto.

A byproduct of the complexity, cost, and inefficiencies of the review process is poor service to LGUs. Review and approval times for local plans and ordinances can be significant. There are instances where communication between the DNR, a LGU, and the Metropolitan Council is inconsistent, creating confusion and frustration among all parties.

Poor Resource Protection due to Vague and Outdated Language

Many resources are not adequately protected by EO 79-19 because the Standards and Guidelines are too vague to effectively implement. Examples of words or phrases that are too vague to interpret and implement or outdated are italicized below.

Provision C. 2.a (1). This provision dealing with site plans states that "new development and expansion shall be permitted only after the approval of site plans which *adequately assess and minimize adverse effects and maximize beneficial effects.*"

Provision C.2.e (2). This standard dealing with existing development requires that "local plans and regulations shall include provisions to *amortize* non-conforming uses." (Amortization of most nonconforming uses is no longer allowed under state statute.)

Provision C. 2.e (4). This provision dealing with existing development states that "local plans and ordinances shall include provisions to provide for the screening of existing development which constitutes *visual intrusion*, wherever appropriate."

Provision C.6.f. This standard dealing with maximizing the creation of open space and recreation areas, states that "In the development of residential, commercial, and industrial subdivisions,

and planned development, a developer shall be required to dedicate to the public *reasonable portions of appropriate riverfront access land or other lands in interest therein.*"

No Resource Protection Priority

Neither Minn. Stat., sec. 116G.15 nor EO 79-19 prioritizes resources for protection. Both call for the protection of a list of natural, cultural, historical, scenic, recreational, and economic resources in the corridor, all of which are presented as equal in terms of protection. Priorities are important for guiding rulemaking that achieves meaningful resource protection, and to help resolve conflicts during rulemaking and in ongoing program administration.

D. Feedback from LGUs on the 2011 Draft Rules

The DNR met with each LGU in the MRCCA between July and October 2013 to review and gather feedback on the 2011 draft rules and proposed new districts. Following is a summary of the top concerns raised by local governments.

Districts

The 2011 rules proposed seven districts, as opposed to the current four districts. The purpose of the new districts is to recognize existing development patterns and manage development activity that maintains the river corridor's character. This is primarily accomplished by regulating the distance by which structures are set back from the water and bluffs, and structure height. Minimum lot size and width standards are also used to manage development in the proposed rural and undeveloped land district (CA-2). The minimum lot size and width for all other districts are governed by underlying zoning.

Overall, LGUs believed that the proposed districts better reflect existing and proposed development than the districts required by EO 79-19. LGUs also liked the proposed provision to allow districts and district boundaries to be changed administratively instead of through rulemaking. LGUs also supported the creation of a new district (CA-5) with more flexible standards for non-riparian land that is visually and physically separated from the river by distance, topography, or major road corridors.

Some LGUs are concerned that the structure setbacks from the river and bluffs as well as the height, and minimum lots sizes in rural districts will create nonconformities. The DNR is re-evaluating these standards in each district, and in some cases re-aligning district boundaries or changing district assignments to address concerns.

Nonconformities

In addition to changing district boundaries or districts to limit the creation of new nonconforming structures, the DNR is also proposing language to explicitly allow LGUs to permit the expansion of nonconforming structures without a variance, if the expansion does not encroach further into the setback. A number of communities already successfully deal with nonconforming structures in this manner. In addition, the DNR is proposing reduced setbacks for existing development.

Subdivisions & Land Dedication

Regulating land at the time of subdivision is one of the most effective methods for protecting natural resources. The 2011 draft rules included a number of requirements for subdivisions of three or more

lots. The most significant of these was a requirement to designate a specified amount of open space and to protect primary conservation areas. The open space and primary conservation areas were to be protected through conservation easements. An additional standard required the dedication of land during the subdivision process to improve river access.

LGUs found many of the subdivision provisions to be problematic. The three lot subdivision was considered too small to compensate for the cost of reviewing and approving small developments or managing easements. Additionally, the open space standards were complex and confusing to many and unrealistic in the amount of land required. The dedication requirement was seen as duplicating similar requirements found in local ordinances. Another problem identified by LGUs is that the proposed standards focused only on new subdivisions and did not consider opportunities for resource protection and restoration through redevelopment.

In response to these issues, the DNR is proposing to apply protection standards to both subdivisions and redevelopment sites, but only to those larger than 20 acres. The standards would require the protection of a specified amount of primary conservation areas on each development site. If there are no resources or areas in need of conservation, then restoration of a specified amount of land to defined standards would be required. The land dedication requirement is being revised to encourage the dedication of river access through existing LGU dedication requirements.

Vegetation

Protecting vegetation is important for sustaining bird and other animal habitat and for stabilizing soils in order to prevent erosion and subsequent sediment and nutrient pollution in the river. LGU staff and officials understand this and generally support vegetation management provisions that protect habitat and water quality. LGUs expressed concerns with vegetation management language that was vague, unenforceable, or seemed to impose an aesthetic standard at odds with their vision of the corridor. In recognition of these concerns, the DNR is revising or eliminating vague language and focusing vegetation management standards on protecting habitat and water quality.

In addition, many LGUs have requested specific information on vegetation native to or appropriate for the MRCCA. This information is desired to help guide restoration activities for individual homeowners as well as for large developments and redevelopments. The MRCCA provides important bird habitat. Parts of the corridor are suffering from erosion problems and are in need of re-vegetation. The DNR would like to develop a software tool for the restoration of native plant communities specifically designed to guide the restoration of appropriate bird habitat and native plants that stabilize eroding shores and bluffs. The tool would show for each parcel in the MRCCA existing native plant communities, or if no communities are present, the native plant community that would be appropriate. The tool would take into account soil, slope and other site conditions to recommend plant material appropriate for ground, shrub and tree layers. The tool would build on the DNR's Native Plant Community Inventory currently available as a GIS layer.

DNR Discretion

The amount of discretion afforded to the DNR in applying the rules and in allowing divergence from the rules (“flexibility”) was of concern to a number of LGUs. Participants recommended new standards that are more specific, including criteria by which the DNR evaluates and approves local ordinances, flexibility requests, and district boundary changes. Having clear evaluation standards will benefit both the DNR and LGUs by providing better guidance for DNR staff administering the program, and increased consistency and predictability for LGUs.

IV. DNR Identified Issues and Needs

A. Streamline MRCCA Administration

Administration of the MRCCA is currently governed by Minn. Stat., secs. 116G.07-.10. These provisions were written to govern initial plan and ordinance development after a critical area was designated, and were written for a generic “regional development commission.” Today, all MRCCA communities have plans and all but two have approved ordinances. The statutory provisions do not recognize the 35-year duration of the MRCCA program or the existence of the Metropolitan Council with its own statutory authority for planning and procedures for plan review and approval. The DNR recommends changes to Minn. Stat., sec. 116G.15 in 2014 to exempt the MRCCA from the procedures in Minn. Stat., secs. 116G.07 -.10. This would allow the DNR to develop specific administrative procedures for the MRCCA through the current rulemaking process.

B. Strengthen and Integrate MRCCA Plans

MRCCA plans that local governments are required to prepare under Minn. Stat., sec. 116G.07 are reviewed by the Metropolitan Council similar to other elements of comprehensive plans, but are not treated as a required component of local comprehensive plans under Minn. Stat., sec. 473.859. As a result, MRCCA plans are often considered in isolation from other comprehensive plan elements. Amending Minn. Stat., sec. 473 to incorporate the MRCCA plans as a required comprehensive plan component for corridor communities would give the MRCCA plans more weight and ensure a higher level of integration. It would also help ensure that MRCCA plans are updated on the same cycle as other plan components. DNR staff is discussing this issue with the Metropolitan Council, League of Minnesota Cities, and Metro Cities.

C. Consider Potential to Consolidate Shoreland Programs

The MRCCA is similar in purpose to other DNR-administered shoreland protection programs (Shoreland, Wild and Scenic River, Lower St. Croix Riverway) in preserving and protecting surface water quality and in conserving the economic and environmental values of shoreland areas. All programs regulate land development activity in near shore areas through local zoning ordinances that are approved by the DNR for consistency with state regulations. While all the programs share similar purposes, each has its own specific standards and administrative procedures, making them complex and costly to administer, especially for communities covered by more than one program. The specific standards and administrative procedures of each program do not provide better resource protection for the state’s

shoreland areas, only additional complexity and cost. There are significant opportunities to reduce costs to state and local government, while maintaining resource protection, by consolidating the state's shoreland protection programs. Achieving these opportunities will require revisions to Minn. Stat., sec. 103F and Minn. Stat., sec. 103G to renew rulemaking authority.

D. Develop Native Plant Communities Restoration Tool

Many communities have requested specific tools and resources to restore native plant communities in the MRCCA. The DNR is exploring options to address these needs and opportunities with the NPS.

V. Anticipated Costs of Rule-Making

A. Short-Term Costs to Complete Rulemaking (FY14 –15)

In 2013, the Legislature appropriated \$100K in Clean Water funds to the DNR to complete the MRCCA rulemaking; however, due to increased involvement by local governments and other stakeholders, it is anticipated that the total costs will be closer to \$175K.

As of the date of this report, the DNR is still in Phase I of the rulemaking project and has spent over \$50K. Costs incurred so far include salary and expenses for 0.8 FTE (portions of three existing staff) serving on the project team. It does not include the time of DNR area hydrologists and other staff attending meetings with LGUs and providing input on the draft rules. DNR estimates it will cost an additional \$125K to complete Phases I, II, and III. The scope of work in Phase I has grown to include revisions to the draft rules prior to publishing the Request for Comments in Phase II. This was not initially planned for, but is necessary given concerns expressed by LGUs. In the second half of FY14, the DNR intends to add 0.6 FTE of staff to help the existing project team coordinate public outreach and make final revisions to the draft rules and SONAR in Phase II, and coordinate the formal comment period and hearing process in Phase III. In Phase III there will be additional costs associated with publishing the Notice of Intent, holding public hearings, and ALJ review.

It should be noted that LGUs and the Metropolitan Council are also incurring costs through their staff participation in the rulemaking project.

B. Mid-term Costs to Develop Model Ordinances & Schedule (FY15-16)

Once the rules are promulgated, DNR estimates it will cost approximately \$75- \$100K over a 1 year timeframe for DNR staff time to develop model ordinance modules and other tools to aid local implementation, and to work with Metropolitan Council staff to develop and implement a notification schedule, internal procedures and tools, and a tracking system for local plan and ordinance updates.

C. Long-term Costs for Local Implementation (FY16 – 18)

DNR anticipates that local notification and adoption will be phased over a minimum 3 year timeframe, and that there will be costs to LGUs, DNR, and Metropolitan Council. Based on survey feedback in 2010, LGUs estimated that updates to local plans and ordinances to comply with the rules would average \$5K

per community. DNR anticipates that these costs will be higher in the future, likely closer to \$7-10K per community. For 30 communities, this is a total cost of approximately \$200-\$300K.

In addition, DNR will have estimated costs of approximately \$75K - \$100K/year for staff time working with Metropolitan Council staff to review and approve local plans and ordinances, monitor and track progress, and provide additional support as needed. These are rough estimates; however, it is clear that there will be costs beyond those incurred for the rulemaking to effectively implement the new rules.

Table 1: Summary of Costs	DNR	LGUs
Rulemaking Phases I - III (FY14-15)	\$175K	TBD
Model Ordinances & Notification Schedule (FY15-16)	\$75-\$100K	
Local Implementation (FY16-18)	\$225-\$300K	\$200-\$300K
Total	\$475-\$575K	\$200-\$300K