



Request for Council Action

TO: Mayor and City Council
THROUGH: Tim Murray, City Administrator
FROM: Mark DuChene, City Engineer
MEETING DATE: January 22, 2019
SUBJECT: Approve Letter Opposing Proposed Amendment to Minnesota Rules Governing Environmental Review

Background:

The Minnesota Environmental Quality Board (EQB) is made up of nine state agency heads and eight citizen members that provides coordination and cooperation among state agencies on environmental issues in Minnesota, and advises the governor and legislature on environmental legislation and issues. EQB programs include: environmental review, state water planning and coordination, and strategic energy and environmental planning. A significant part of their duties is to review Environmental Assessment Worksheets (EAW) prepared by state and local agencies when development or public projects reach a certain threshold of environmental impact.

The EAW is a document designed to lay out the basic facts of a project necessary to determine if an Environmental Impact Statement (EIS) is required for the proposed project. In addition to the legal purpose of the EAW in determining the need for an EIS, the EAW also provides permit information, informs the public about the project, and helps identify ways to protect the environment. The EAW is not meant to approve or deny a project, but instead act as a source of information to guide other approvals and permitting decisions.

Under the State's continuing ongoing effort to streamline agency processes, the MN EQB is proposing a contradictory EAW rule change that significantly reduces the threshold of wetland impact limits of a project to require preparation of an EAW document, thereby increasing the number EAW's (and costs) that will need to be prepared statewide. This goes against the State's streamlining goals. Additionally, the proposed rule change does not increase environmental protection because it duplicates environmental review efforts already required by state and federal regulations governing work in wetlands and public waters.

If the EQB receives 25 or more objections from state and local agencies, the MN EQB is required to hold a public hearing on the matter. The deadline to submit an objection to the EQB is February 4, 2019.

Recommendation:

Approve motion to authorize the Mayor and City Administrator to sign the attached letter objecting to the proposed rule changes by the EQB.

Attachments:

- Draft Letter



January 22, 2019

Erik Cedarleaf Dahl
Planning Director
Environmental Quality Board
520 Lafayette Road North
St. Paul, MN 55155

Re: **Proposed Amendment to Rules Governing Environmental Review, *Minnesota Rules*, 4410.0200, 4410.0500, 4410.4300, 4410.4400, 4410.5200, 4410.7904, 4410.7906, 4410.7926, 4410.4600**

Dear Mr. Cedarleaf Dahl,

Thank you for the opportunity to review the proposed amendment listed above. The City of Faribault is in favor of reducing regulatory duplication and applauds you in this effort. Based on the review of the proposed amendments, we request a public hearing regarding the proposed changes to **Part 4410.4300, subpart 27. Wetlands and public waters, Part B.**

B. For projects that will ~~change or diminish the course, current, or cross-section of 40 percent or more or five or more acres of types 3 through 8 wetland of 2.5 acres or more cause an impact, as defined in part 8420.0111, to a total of one acre or more of wetlands, excluding public waters wetlands, if any part of the wetland is within a shoreland area, a delineated flood plain floodplain, a state or federally designated wild and scenic rivers district, the Minnesota River Project Riverbend area, or the Mississippi headwaters area, the local government governmental unit shall be~~ is the RGU.

The City of Faribault strongly opposes this proposed revision. In summary, the proposed revision to item B would significantly increase the number of projects that trigger preparation of an EAW due to wetland impacts with no tangible benefit to the environment. This proposed revision does not meet the Environmental Quality Boards' (EQB) stated goal of streamlining. A more practical means of streamlining EQB rules may be to delete subpart 27 Part B altogether, due to its duplication of state and federal laws, rules and permitting programs for work in wetlands.

Currently, when impacts to wetlands are proposed with a project, a Technical Evaluation Panel, which includes representation from the Local Governing Unit, Department of Natural Resources, the local soil and water conservation district, Board of Water and Soil Resources and the U.S. Army Corps of Engineers, is convened to evaluate the sequencing and justification for the proposed impact. This process is established through the Wetland Conservation Act and serves as a precise and detailed review of the impacts to the effected water bodies. The proposed rule, in expanding triggers for a mandatory EAW based solely on area of wetland impacts, would now enlist a full review of the cumulative potential effects to land use, natural resources (wetlands, forest, grassland, etc.), geology, soils and topography, water resources, hazardous materials,

fish/wildlife/plant communities, sensitive ecological resources, air, historic properties, noise, transportation, and other local permits.

There are many projects in which EAW's are a necessary and useful tool, a simple project with only wetland impacts is not one of those cases.

Sincerely,

Kevin F. Voracek, Mayor
City of Faribault

Timothy C. Murray, City Administrator
City of Faribault