

## CHAPTER 103G

### WATERS OF THE STATE

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#### 103G.005 DEFINITIONS.

*[For text of subs 1 to 13a, see M.S.1994]*

Subd. 14. **Ordinary high water level.** "Ordinary high water level" means the boundary of waterbasins, watercourses, public waters, and public waters wetlands, and:

(1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;

(2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and

(3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*[For text of subs 14a to 19, see M.S.1994]*

**History:** 1995 c 218 s 3

#### 103G.105 COOPERATION WITH OTHER AGENCIES.

Subdivision 1. **Commissioner may cooperate with other states and federal government.** The commissioner may cooperate and enter into agreements with the United States government, a state department, or a state or country adjacent to this state to implement this chapter and chapter 103F. The commissioner may cooperate with departments of the government of the United States in the execution of surveys within the state.

Subd. 2. **State and local officials must cooperate in enforcement.** Personnel of the pollution control agency, the health department, and county and municipal governments must cooperate with the commissioner in monitoring and enforcing water permits. County attorneys, sheriffs, and other peace officers and other officers having enforcement authority must take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of the provisions, rules, standards, orders, or permits specified in this chapter and chapter 103F.

**History:** 1995 c 218 s 4

#### 103G.111 REPRESENTATION OF STATE IN WATER ISSUES.

Subdivision 1. **Commissioner to appear in federal water issues.** The commissioner may appear, represent, and act for the state in any matter relating to an application to be made to the federal government relating to waters of the state or their use and may act in a manner to protect the interests of the people of the state consistent with this chapter and chapter 103F.

*[For text of subd 2, see M.S.1994]*

**History:** 1995 c 218 s 5

#### 103G.121 COMMISSIONER'S AUTHORITY TO INVESTIGATE AND CONSTRUCT PROJECTS.

Subdivision 1. **Surveys and investigations.** The commissioner may conduct surveys, investigations, and studies, and prepare maps of the waters of the state and topography of the state to implement this chapter.

*[For text of subs 2 and 3, see M.S.1994]*

**History:** 1995 c 218 s 6

### 103G.135 ENFORCEMENT OF COMMISSIONER'S ORDERS.

Upon application of the commissioner, the district court of a county where a project is entirely or partially located may by injunction enforce compliance with, or restrain the violation of, an order of the commissioner made under this chapter or chapter 103F, or restrain the violation of this chapter or chapter 103F.

**History:** 1995 c 218 s 7

### 103G.2365 CONTROL OF NOXIOUS WEEDS.

Noxious weeds, as defined in section 18.77, subdivision 8, must be controlled on wetlands as required in section 18.78.

**History:** 1995 c 186 s 30

### 103G.245 WORK IN PUBLIC WATERS.

*[For text of subs 1 and 2, see M.S.1994]*

**Subd. 3. Permit application.** Application for a public waters work permit must be in writing to the commissioner on forms prescribed by the commissioner. The commissioner may issue a state general permit to a governmental subdivision for classes of activities having minimal impact upon public waters under which more than one project may be conducted under a single permit.

*[For text of subd 4, see M.S.1994]*

**Subd. 5. Delegation of permit authority to local units of government.** The commissioner may adopt rules to identify classes of activities in waterbasins and classes of watercourses where the commissioner may delegate public waters work permit authority to the appropriate county or municipality or to watershed districts or watershed management organizations that have elected to assert local authority over protected waters. The public waters work permit authority must be delegated under guidelines of the commissioner and the delegation must be done by agreement with the involved county, municipality, watershed district, or water management organization and in compliance with section 103G.315.

*[For text of subs 6 to 12, see M.S.1994]*

**History:** 1995 c 218 s 8,9

### 103G.271 APPROPRIATION AND USE OF WATERS.

*[For text of subd 1, see M.S.1994]*

**Subd. 2. Permits must be consistent with state and local plans.** A water use permit may not be issued under this section unless it is consistent with state, regional, and local water and related land resources management plans if the regional and local plans are consistent with statewide plans.

*[For text of subs 3 to 7, see M.S.1994]*

**History:** 1995 c 218 s 10

### 103G.275 INSTALLATION FOR WATER USE.

**Subdivision 1. Permit required.** The owner of an installation for appropriating or using waters of the state may not increase the pumping capacity or make any major change in the installation without first applying in writing for, and obtaining, the written permit of the commissioner.

*[For text of subs 2 and 3, see M.S.1994]*

**History:** 1995 c 218 s 11

### 103G.295 IRRIGATION OF AGRICULTURAL LAND.

*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. **Class B permit requirements.** (a) Class B groundwater use permit applications are not complete until the applicant has supplied:

(1) a summary of the anticipated well depth and subsurface geologic formation expected to be penetrated by the well, including for glacial drift aquifers, the logs of test holes drilled to locate the site of the proposed production well;

(2) the formation and aquifer expected to serve as the groundwater source;

(3) the maximum daily, seasonal, and annual pumpage expected;

(4) the anticipated groundwater quality in terms of the measures of quality commonly specified for the proposed water use;

(5) the results of a pumping test supervised by the commissioner or a designee of the commissioner, conducted at a rate not to exceed the proposed pumping rate for not more than 72 continuous hours for wells under water table conditions and not more than 24 continuous hours for wells under artesian conditions; and

(6) when the area of influence of the proposed well is determined, the location of existing wells within the area of influence that were reported according to section 103I.205, subdivision 9, together with readily available facts on depths, geologic formations, pumping and nonpumping water levels, and details of well construction as related to the water well construction code.

(b) The commissioner may in any specific application waive any requirements of paragraph (a), clauses (4) to (6), or (c) if the necessary data are already available.

(c) Before, during, and after the pumping test required in paragraph (a), clause (5), the commissioner shall require monitoring of water levels in one observation well located at a distance from the pumping well that the commissioner has reason to believe may be affected by the new appropriation. The permit applicant is responsible for costs of the pumping tests and monitoring in the observation well. The applicant is responsible for the construction of one observation well if suitable existing wells cannot be located for this purpose. If the commissioner determines that more than one observation well is needed, the commissioner shall instruct the applicant to install and monitor more observation wells. The commissioner shall reimburse the applicant for these added costs.

*[For text of subd 5, see M.S.1994].*

**History:** 1995 c 218 s 12

### 103G.301 GENERAL PERMIT APPLICATION PROCEDURES.

*[For text of subd 1, see M.S.1994]*

Subd. 2. **Permit application fees.** (a) An application for a permit authorized under this chapter, and each request to amend or transfer an existing permit, must be accompanied by a permit application fee to defray the costs of receiving, recording, and processing the application or request to amend or transfer.

(b) The application fee for a permit to appropriate water, a permit to construct or repair a dam that is subject to dam safety inspection, a state general permit, or to apply for the state water bank program is \$75. The application fee for a permit to work in public waters or to divert waters for mining must be at least \$75, but not more than \$500, in accordance with a schedule of fees adopted under section 16A.128.

*[For text of subs 3 to 7, see M.S.1994]*

**History:** 1995 c 218 s 13

**103G.315 DENIAL AND ISSUANCE OF PERMITS.**

*[For text of subs 1 to 11, see M.S.1994]*

Subd. 12. **Permit not issued until fees are paid.** Except for field inspection fees related to monitoring, the commissioner may not issue a permit until all fees required by section 103G.301 relating to the issuance of a permit have been paid. The time limits prescribed by section 103G.305, subdivision 1, do not apply to an application for which the appropriate fee has not been paid. Field inspection fees relating to monitoring of an activity authorized by a permit may be charged and collected as necessary at any time after the issuance of the permit.

*[For text of subs 13 and 14, see M.S.1994]*

Subd. 15. **Rules for issuance and denial of permits.** The commissioner shall adopt rules prescribing standards and criteria for issuing and denying water use permits and public waters work permits.

**History:** 1995 c 218 s 14,15

**103G.511 PUBLICLY OWNED DAM REPAIR.**

*[For text of subs 1 to 11, see M.S.1994]*

Subd. 12. **Priority list of dams needing repair.** After reviewing examinations of dams owned by the state and political subdivisions, the commissioner shall prioritize the state and political subdivision dams in need of repair, reconstruction, or removal and report by June 1 of each odd-numbered year to the legislature. The commissioner must prioritize projects considering danger to life, damage to property, and the factors listed in subdivision 6.

**History:** 1995 c 218 s 16

**103G.515 EXAMINATION AND REPAIR OF DAMS AND RESERVOIRS.**

*[For text of subs 1 to 4, see M.S.1994]*

Subd. 5. **Removal of hazardous dams.** Notwithstanding any provision of this section or of section 103G.511 relating to cost sharing or apportionment, the commissioner, within the limits of legislative appropriation, may assume or pay the entire cost of removal of a privately or publicly owned dam upon determining that continued existence of the structure presents a significant public safety hazard, or prevents restoration of an important fisheries resource, or that public or private property is being damaged due to partial failure of the structure, and that an attempt to assess costs of removal against the private or public owner would be of no avail.

**History:** 1995 c 218 s 17

**103G.611 WATER AERATION SAFETY.**

*[For text of subs 1 and 2, see M.S.1994]*

Subd. 3. **Publication of notice.** Advance public notice of the commencement of any aeration system, authorized by a water aeration permit from the commissioner during periods of ice cover on public waters, must be given by the permittee. Minimum notice consists of publication of the location and date of commencement of the aeration system in a newspaper of general circulation in the area where the system is proposed to be operated at least two times between five and 60 days before aeration is started.

*[For text of subs 4 to 6, see M.S.1994]*

**History:** 1995 c 218 s 18